



# College Station Fire Department Operations Manual

Section: 700 - Prevention Procedures

Effective Date: February 13, 2019

Reference Number: 700.02.70

Reviewed Date: February 13, 2019

## ***Policy***

### **Bias-Based Policing**

The College Station Fire Marshal's Office is committed to constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, national origin, ethnicity, age, or religion. All people carry biases: in law enforcement, however, the failure to control our biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of our department. Most importantly, actions guided by bias destroy the trust and respect essential for our mission to succeed. We live and work in communities very diverse in population: respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions, particularly stops of individuals (for traffic and other purposes), investigative detentions, arrests, searches and seizures of persons or property, shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

All departmental orders are informed and guided by this directive. Nothing in this order limits non-enforcement contacts between officers and the public.

#### **PURPOSE:**

The purpose of this policy is to reaffirm the College Station Fire Marshals Office's commitment to unbiased policing in all its encounters between officer and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

#### **DEFINITIONS:**

Most of the following terms appear in this order. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

- a. **Bias**: Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.
- b. **Biased policing**: Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- c. **Ethnicity**: A cluster of characteristics which may include race but also cultural characteristics or traits



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- which are shared by a group with a common experience or history.
- d. Gender: Unlike sex, a psychological classification based on cultural characteristics or traits.
  - e. Probable cause: Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.
  - f. Race: A category of people of a particular decent, including Alaska native / American Indian, Black, White, Hispanic or Latino, and Pacific Islander. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
  - g. Racial profiling: A law-enforcement initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity
  - h. Reasonable suspicion: Articulable, objective facts which lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."
  - i. Sex: A biological classification, male or female, based on physical and genetic characteristics.
  - j. Stop: The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is an investigative detention.

### **PROCEDURES:**

#### **1. General responsibilities**

- a. Officers are prohibited from engaging in bias based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes.
- b. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports when applicable.
- c. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
  - i. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.



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- ii. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
  - d. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
    - i. Personnel shall facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
    - ii. All personnel shall courteously accept, document, and forward to the Fire Marshal or designee any complaints made by an individual against the department.
  - e. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel shall thank him or her for cooperating.
  - f. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.
  - g. All personnel are accountable for their actions. Personnel shall justify their actions when required.
- 2. Supervisory responsibilities**
- a. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
  - b. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
  - c. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
  - d. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
  - e. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
  - f. Supervisors shall facilitate the filing of any complaints about law enforcement service.
- 3. Disciplinary consequences**
- a. Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.



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### **4. Training**

- a. Officers shall complete all training required by state law regarding bias based profiling.

### **5. Complaints**

- a. The department's complaint process and its bias based profiling policy will be posted on the department's website.
- b. Complaints alleging incidents of bias based profiling will be fully investigated by the Fire Marshal
- c. Complainants will be notified of the results of the investigations when such investigation is completed.

### **6. Record Keeping**

- a. The department will maintain all required records on traffic stops where a citation is issued or where an arrest is made subsequent to a traffic stop pursuant to state law.
- b. The information collected above will be reported to the city council annually.
- c. The information will also be reported to TCOLE in the required format.

### **7. Data Collection & Reporting**

- a. An officer is required to collect information relating to motor vehicle stops in which a citation is issued and/or arrests made as a result of those stops. This information collected must include:
  - i. The race or ethnicity of the individual detained;
  - ii. Whether a search was conducted and, if so,
  - iii. Whether it was a consent search or a probable cause search; and  
*Note: It is strongly recommended that consent searches only be conducted with consent documented in writing or through the audio/video recording.*
  - iv. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual
- b. Required by March 1st of each year, the Fire Marshal shall submit a report of the information collected from the preceding calendar year to:
  - i. Texas Commission on Law Enforcement
  - ii. The governing body of the municipality served by the agency.
- c. The report will include:
  - a. collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
    - i. The race or ethnicity of the individual detained;
    - ii. Whether a search was conducted and, if so, whether the individual detained consented to the search; and
    - iii. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual

### **8. Use of Video/Audio Recording Equipment**

- a. Each full time officer, is equipped with body worn audio/video recording equipment.



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- b. The College Station Fire Marshal's Office shall retain the video and audio or audio documentation of each motor vehicle stop in accordance with the retention guidelines found in CSFD Policy 700.02.50.
- c. If a complaint is filed with this department alleging that a peace officer employed by the department has engaged in racial profiling with respect to a motor vehicle stop, the department shall retain the video and audio or audio record of the stop until final disposition of the complaint.
- d. The Fire Marshal shall review all video from all motor vehicle traffic stops. A log will be maintained by the Fire Marshal reflecting the review of each recording. The following information will be captured on the log:
  - i. Date/Time the review conducted
  - ii. Supervisor conducting the review
  - iii. Officer being reviewed
  - iv. Date/Time of the motor vehicle stop(s) being reviewed
  - v. Number of motor vehicle stops reviewed
  - vi. Findings related to the reviewed
- e. If the equipment used to record audio and/or video of a motor vehicle stop is malfunctioning or otherwise not operable, the officer shall report the malfunction to his/her supervisor without delay.