

	<b>Biased Based Profiling</b>		JPD Policy #
			<b>320.07</b>
	<b>Chapter 3- Law Enforcement Operations</b>		Distribution: ALL
Effective Date:	<b>Section 20- Patrol Functions</b>		Review Date:
	<b>Authorized by:</b>	Mark A. Vieira	Biennial/ As Needed

## **I. PURPOSE**

The purpose of this policy is to reaffirm the Johnston Police Department’s commitment to unbiased policing. It is also the purpose of this policy to clarify the circumstances in which officers may consider group characteristics when making law enforcement decisions, thus reinforcing procedures that assure the public that this agency adheres to equitable enforcement of all laws.

## **II. POLICY**

Bias based profiling involves the selection of individuals based on characteristics common to a particular group. This includes, but is not limited to, race, ethnicity, gender, sexual orientation, religion, economic status, age, cultural background, or any other identifiable group trait. The Johnston Police Department prohibits the use of biased base profiling in traffic contacts, field contacts, asset seizure, and forfeiture efforts. The Department recognizes that biased based profiling undermines legitimate law enforcement efforts and may lead to allegations of constitutional rights violations. Biased based profiling also alienates citizens, violates the mission statement of the Johnston Police Department relating to fair and equitable treatment of the citizens it serves, fosters distrust within the community, and invites media scrutiny, legislative action, and judicial intervention. Citizens shall only be stopped or detained when there exists reasonable suspicion supported by specific, articulable facts that they have committed, are committing, or are about to commit an infraction of the law.

## **III. DEFINITIONS**

A. [RIGL, §31-21.2-5 Racial Profiling](#)- Unless there exists reasonable suspicion or probable cause of criminal activity, no operator of a motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation.

1. Nothing in the legislation prohibits the detention of a motor vehicle for a reasonable amount 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/operator of a motor vehicle shall be asked to consent to a search by law enforcement officers of his/her vehicle which has been stopped solely for a traffic violation, unless there is reasonable suspicion or probable cause to believe there is criminal activity.

3. Any evidence seized resulting from a search as defined in subsection B shall be inadmissible in any judicial proceedings. Nothing contained herein shall be constructed to preclude any search otherwise based on any legally sufficient cause.

B. [Bias Based Profiling](#)- The selection, detention, stopping, or searching of a motor vehicle, or any other disparate treatment of an individual based solely on the common traits of a specific group. This includes, but is not limited to, race, ethnicity, gender, sexual orientation, religion, economic status, or cultural group.

1. Bias Based Profiling includes racial profiling, which is defined in [RIGL, §31-21.2-3](#) as “The detention, interdiction, or other disparate treatment of an individual on the basis, in whole or in part, of race or ethnic status 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, which the description is timely and reliable.”

#### **IV. PROCEDURE**

A. Officers shall not consider group characteristics as the only source of information in establishing probable cause or reasonable suspicion. Officers shall not consider group characteristics as the only source of information in their decision to initiate non-consensual encounters that amount to only minimal police interference, such as motor vehicle stops. Officers are not to use group characteristics as the sole source of information in the decision to request a consensual search of a motor vehicle.

1. [U. S. v. Brignoni-Ponce, 873, 1975](#) – The United States Supreme Court held that the police could not stop motorists based solely on their racial or ethnic appearance to include the investigation of illegal aliens.
2. [Whren et. al. v. United States, 517 U. S. 806, 1996](#) – The United States Supreme Court held that an officer’s underlying motive for stopping a vehicle is irrelevant when the operator violates the law. The Court also noted that conducting selective enforcement based on race is prohibited, as is making a pretext stop when race is the underlying factor, which is prohibited by the **14th Amendment’s “Equal Protection Clause.”**
3. Officers shall not consider group characteristics as motivating factors in making any law enforcement decisions.

## **B. Consent Searches**

1. Officers are prohibited from asking vehicle operators or passengers for consent to search a vehicle when the stop was solely for traffic violations unless there exists reasonable suspicion or probable cause.
2. When reasonable suspicion or probable cause exists to justify asking an operator or passenger for consent to search their vehicle, the investigating officer shall advise headquarters by requesting a **“signal seven”** to request approval from a supervisor **prior** to asking for any consent.
3. Investigating officers **are not required to wait for the arrival of a supervisor if there is reasonable suspicion or probable cause, or if officer safety is a concern.**

## **C. Corrective Measures**

1. Supervisors shall continuously monitor sworn personnel under their command and ensure that corrective measures are taken when it is determined that an officer has engaged in racial/bias based profiling.
2. Corrective/disciplinary measures for violation of this policy may include, but is not limited to:
  - a) Counseling
  - b) Remedial training

- c) Formal discipline
- d) Dismissal

3. The processing of civilian complaints related to racial/bias based profiling shall be the responsibility of the Division of Professional Standards (DPS) Officer, who shall investigate every such complaint. Disciplinary actions that result from an internal investigation shall be consistent with applicable provisions enumerated in [General Order #130.01, Professional Standards.](#)

#### **D. Provisions**

1. The Traffic/Special Services Commander shall conduct a documented annual review of Department practices related to bias based/racial profiling and forward a report to the Chief of Police.
2. Department practices related to bias based/racial profiling may include, but are not limited to:
  - a) Citizen concerns
  - b) Division of Professional Standards investigations
  - c) Motorist data collection information
  - d) In-service training

#### **E. Training**

1. The Administrative Division Commander will ensure that all sworn members are trained initially upon hiring and annually thereafter regarding bias based/racial profiling, to include legal aspects.
2. Additional diversity and sensitivity training will be designated for members with sustained bias based/racial profiling complaints or other sustained discrimination complaints filed against them.

*Per order,*

*Chief Mark A. Vieira*

Mark A. Vieira  
Chief of Police