

**GARLAND COUNTY SHERIFF'S DEPARTMENT
OFFICE OF THE SHERIFF
GENERAL ORDER**

BIAS-BASED POLICING

DATE: 02/03/2020	CATEGORY: Legal	DISTRIBUTION: Office	REPLACES: Biased Based LE practices	NUMBER: 902.1
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Applicable Arkansas Statutes: A.C.A. § 1-2-503 (2011), 1-2-504

Purpose: Members of this department shall not violate the constitutional rights of persons, regardless of race, ethnicity, national origin, religion, color, creed, gender, age, sexual orientation, disability or any other belief system. This policy serves to (1) reaffirm this department's commitment to unbiased law enforcement practices, (2) further clarify the circumstances in which officers may consider race or ethnicity when making enforcement decisions, and (3) reinforce procedures that assure the public this department is providing service and enforcing laws in an equitable and lawful fashion.

Policy: It is the policy of this department to respect the rights of all persons. As such, this department will work diligently to ensure the following:

- 1 Law enforcement officers of this department shall not violate citizens' equal protection rights. Toward this end, members are prohibited from engaging in racial/bias profiling in any aspect of law-enforcement activity as defined by this policy.
 - 1.1 It shall be the policy of this department that officers base pedestrian or motor vehicle stops, detentions, investigative activities, searches, property seizures, or arrests of a person upon a standard of reasonable suspicion or probable cause in compliance with the United States and Arkansas Constitutions as well as federal and state law.
 - 1.2 Law enforcement officers of this department shall be prohibited from utilizing race, ethnicity, national origin, or religion to any degree in making law enforcement decisions, except to determine whether a person matches the description of a particular suspect.
 - 1.3 The statements of policy and definitions contained herein shall not be construed or interpreted to be contrary to the Arkansas Rules of Criminal Procedure or the Constitutions of the United States or the State of Arkansas.

Definitions: These definitions are subject to federal and state court interpretation and other applicable law.

- 2 **Probable Cause** means that set of facts or circumstances based on reliable information or personal knowledge or observation by an officer, which reasonably shows and would warrant an ordinary prudent person in believing that a particular person has committed, is threatening, or is about to commit some criminal violation of the law.
 - 2.1 **Reasonable Suspicion** means suspicion based on facts or circumstances which of themselves do not give rise to the probable cause requisite to justify a lawful arrest, but which give rise to more than a bare suspicion; that is, a suspicion that is reasonable as opposed to an imaginary or purely conjectural suspicion.
 - 2.2 **Reasonable Cause to Believe** means a basis for belief in the existence of facts, which, in view of circumstances under and purposes for which the standard is applied, is substantial, objective, and sufficient to satisfy applicable constitutional requirements.
 - 2.3 **Reasonable Cause to Believe** means a basis for belief in the existence of facts, which, in view of the circumstances under and purposes for which the standard is applied, is substantial, objective, and sufficient to satisfy applicable constitutional requirements.
 - 2.4 **Reasonable Belief** means a belief based on reasonable cause to believe.
 - 2.5 **Racial profiling** means the practice of a law enforcement officer relying, to any degree, on race, ethnicity, national origin, or religion in selecting which individuals to subject to routine investigation activities, or in deciding upon the scope and substance of the law enforcement activity following the initial routine investigation activity, except that racial profiling does not include reliance on the criteria in combination with other identifying factors when the officer is seeking to apprehend a

specific suspect whose race, ethnicity, or national origin is part of the description of the suspect, and the description is thought to be reliable and locally relevant.

Procedure:

3 Field Officer Responsibilities:

- 3.1 Members of this law enforcement agency, whether sworn, civilian, or volunteer, will treat every person with courtesy and respect when interacting with the public and will conduct all law enforcement duties in a professional manner.
- 3.2 Deputies will base all pedestrian and motor vehicle stops, detentions, investigative activities, or arrests on a *standard of reasonable suspicion or probable cause* and in doing so shall not violate this policy.
- 3.3 Upon initial contact, each law enforcement officer will provide his or her full name, jurisdiction, and the reason for the pedestrian or motor vehicle stop to the accused, and when feasible and reasonable to do so provide written identification if requested.
 - 3.3.1 If asked for a badge number (for those without a badge number they will provide the unit number assigned to them) by the pedestrian or driver of a motor vehicle, the law enforcement officer shall oblige by providing such information again when feasible and reasonable to do so.
- 3.4 When stopping a pedestrian or a driver of a vehicle for an alleged violation, each law enforcement officer will take into account circumstances associated with each individual pedestrian or motor vehicle stop and will use discretion in determining whether to issue a verbal warning, a written warning, or a citation.
- 3.5 In an effort to minimize conflict during interactions with accused violators when stopping and or detaining persons, it is recommended that officers attempt, where feasible and reasonable, to:
 - a. Extend a customary greeting to each person.
 - b. Identify themselves by name. For Instance: I am Deputy Smith with the Garland County Sheriff's Department
 - c. Explain the reason for the stop or detention
 - d. Listen politely and give the accused ample opportunity to tell his or her story and explain his or her behavior when feasible.
 - e. Politely ask for identification and any required documents
 - f. Complete paperwork and advise driver or pedestrian as to what action is being taken and what, if anything, the person must do as a result, such as pay a fine, obtain a court hearing, etc..
 - g. Make sure the driver is able to merge safely back into traffic
 - h. Remain courteous and project a professional demeanor during the interview, questioning, or contact.
 - i. Deputies shall refrain from participating in or encouraging any actions or statements that could be reasonably perceived as racial/bias-related profiling, including, but not limited to, racial slurs or derogatory references about a minority group.
 - j. Deputies shall report any acts of racial/bias-related profiling to their immediate supervisor as is more specifically defined herein.

3.6 Supervisor Responsibilities

- 3.6.1 Each Supervisor is responsible for ensuring that all personnel under their command fully understand the content of this policy and are operating in compliance with the procedures therein.
- 3.6.2 Each Supervisor shall be responsible for making contact, when possible, with any known complainant alleging biased law enforcement practices by his or her field officers, either on the scene or by telephone and document it in writing using department approved forms.
 - 3.6.2.1 If the complaint is not resolved, and the forms have not already been filled out, the Supervisor shall offer to provide the complainant a **Citizen Complaint Form.** Which may be found on the Garland County Sheriff's Department web site or picked up at the Sheriff's Department located at 525 Ouachita.
 - 3.6.2.2 The supervisor shall further provide guidance to the complainant, as needed, in completing and filing the complaint as well as explaining the department's policy and in particular the investigative process.

3.6.3 Upon receipt of a complaint, each Supervisor will address the matter in a timely manner by doing the following:

3.6.3.1 Evaluate, provide a written report, and process each **Citizen Complaint Form** alleging biased law enforcement practices to the Sheriff or his/her designee.

3.6.3.1.1 The written report should be completed within twenty-four (24) hours of filing by complainant.

4. **Allegations of Biased Law Enforcement Practices**

4.1 When accused of biased law enforcement practices, the field deputy shall first contact their immediate supervisor for advice on the situation.

4.1.1 When practical to do so, the supervisor shall report to the scene to mediate the situation.

4.1.2 Field deputies shall provide complainant(s) with the full name of his or her immediate supervisor, the phone number to the Garland County Sheriff's Office and the contact name of the Sheriff or his or her designee.

4.1.3 Field deputies shall complete a written report detailing the incident, the allegation(s) made, the purpose for the pedestrian or motor vehicle stop, detention, investigative activity or arrest, and submit the report to his or her supervisor.

4.1.4 All allegations of biased law enforcement practices shall be investigated by the department in a like and consistent manner.

5. **Department Review**

5.1 Management of this department shall implement a systematic review process to generate quarterly analyses of the statistical Information collected from the complaint form.

5.1.1 These analyses shall identify allegations specific to biased law enforcement practices.

5.1.2 If a pattern is identified, the Sheriff or his or her designee shall be responsible for conducting an investigation to determine whether officers of the department have violated the provisions of this policy and/or other department policies or procedures.

5.1.3 Deputies found to have engaged in biased law enforcement practices shall receive counseling, remediation, corrective training, timely assistance and/or discipline, including but not limited to termination, in a timely manner.

6. **Documentation and Record Keeping**

6.1 Any deputy who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall document the stop with the following information, if a citation, arrest, or written warning:

6.1.1 A physical description of each person detained as a result of the stop, including:

a. the person's gender

b. the person's race or ethnicity

6.1.2 The traffic law or ordinance alleged to have been violated or the suspected offense

6.1.3 Whether the officer conducted a search as a result of the stop, and if so, the basis for that search: consent of the person detained, existence of probable cause, frisk for weapons, or other;

6.1.4 Whether any contraband was discovered in the course of the search and the type of contraband discovered;

6.1.5 Whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

6.1.6 The street address or approximate location of the stop

6.1.7 The date and time of the stop

6.1.8 Whether the officer issued a warning or a citation as a result of the stop.

6.2 This department shall also compile data on individual officers to be used in evaluation and as an early warning system for possible racial/bias profiling.

6.3 The data and documentation collected pursuant to this general order shall not constitute prima facie evidence of racial profiling or any other violation of civil rights or of state or federal law.

7. **Training**

7.1 Training shall comply with state law and regarding this policy. This training shall include:

- a. Training of all current and future department employees as to this policy and the prohibition against racial/biased profiling;
- b. Annual in-service training stressing the understanding and respect for racial, ethnic, national, religious and cultural differences and development of effective and appropriate methods of carrying out law enforcement duties;
- c. Specific lesson plans for patrol deputies, supervisors, etc.;
- d. A review of the agency's operating procedures that implement the prohibition against racial profiling and the affirmation by department employees that they have copies of, understand, and are following the policy; and,
- e. If necessary and possible, foreign language instruction to ensure adequate communication with residents of a community.

7.2 Further, training shall be planned and completed in compliance with the standards designed by the Commission on Law Enforcement Standards and Training ("CLEST").

8. **Communication to the Community of this Policy**

8.1 This department shall be responsible for providing public information relating to the agency's efforts to comply with government mandates on racial profiling. This will include public education relating to the agency's complaint process. Avenues for this information may be, but not limited to, any of the following:

8.1.1 Located on the Garland County Sheriff's Department web site.

8.2 Where appropriate to meet the goals of this policy, communication of this policy with the community shall be available in English.

9. **Retaliation**

9.1 No member of this law enforcement agency, regardless of rank or stature, shall retaliate against fellow officers, officials, civilians, or volunteers for reporting incidents of biased law enforcement practices or for participating in or cooperating with the investigation of those incidents.

9.1.1 Actions or behaviors found to constitute retaliation shall be immediately addressed and such actions or behaviors may lead to dismissal.

10. **Legislative Audit Requirements**

10.1 To the extent that state law mandates local law enforcement agencies to file reports with Legislative Audit, this order/policy shall be included in the annual report that the department submits to the Division of Legislative Audit

11. **Public Inspection**

11.1 A copy of this policy shall be kept on the Garland County Sheriff's Department web site for public inspection.

12. **Application**

12.1 This order constitutes department policy and it is not intended to enlarge the employee's existing civil or criminal liability in any way. It shall not be construed as the creation of an additional cause of action by either the employee or any third party.

