

REVISION DATE	EFFECTIVE DATE	DISTRIBUTION	NUMBER
June 30, 2009	September 1, 2003	All Personnel	114
<b>CROSS REFERENCE: 101 – Philosophy of Enforcement; 311 – Complaint Processing; 454 – Officer Conduct with Traffic Violators; Discriminatory Conduct</b>		<b>TITLE: RACIAL PROFILING</b>	

114.001	Purpose	114.004	Definitions
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114.003	Policy	114.20	Complaints of Racial/Ethnic Profiling

**114.001 Purpose** –Biased based profiling in the Clearwater Police Department is totally unacceptable. This policy will provide guidelines for employees to prevent such occurrences, and to protect employees of the Department when they act within the dictates of the law and policy from unwarranted accusations.

**114.002 Discussion** – A fundamental right guaranteed by the Constitution of the United States to all who live in this nation is the right 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 the 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 depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers. The Clearwater Police Department 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 the business, employees 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 the Clearwater Police Department in accomplishing our 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.

**114.21 Policy** – It is the policy of the Clearwater 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.

Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions (field contacts), traffic stops, arrests, nonconsensual searches, search warrants, and in asset seizure and forfeiture efforts.

**114.004 Definitions** – The following definitions shall be used throughout this policy:

- (1) **Racial Profiling** – The detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics.
- (2) **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/her training and experience, and/or reliable information received from credible outside sources.

- 114.10 Procedure** – 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. 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 strongly recommended that consent searches only be conducted with written consent, using the appropriate form (CPD 6). 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.
- 114.11 If the police cruiser is equipped with a video camera, 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 is released and resumes his or her journey, in accordance with Standard Operating Procedure 462.20 (4).
- 114.12 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.
- 114.13 The deliberate recording 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 a cause for disciplinary action, up to and including dismissal.
- 114.14 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. Absent some better approach, the following is recommended, in the order specified below:
- (1) Radio the stop indicating the following information:
    - (A) Location of the stop.
    - (B) Tag number and state of issue of the violators vehicle.
    - (C) Make, model, and color of the vehicle.
    - (D) Description of the person being detained, if available.
    - (E) Reason for the stop, e.g. traffic, suspicious, BOLO, etc.
  - (2) Greet the violator with an appropriate title and in a courteous manner. (“Good morning, ma’am,” “Good-evening, sir.”)
  - (3) Identify yourself.
  - (4) Politely inform the violator what traffic law he/she has violated; the violator should not be kept in suspense. (Describing the actions of the vehicle rather than personalizing the action to the driver tends to reduce tension; for example, “I stopped you because I saw your vehicle come through the stop sign at that last intersection without coming to a complete stop.”)

- (5) Politely ask the violator for driver's license, vehicle registration and proof of insurance, and accept only these forms; obtain another document of identification if the driver has no driver's license.
- (6) Ask the violator to discuss the violation; giving 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.
- (7) Complete the forms required for the enforcement action, if any, and explain the to the violator what he/she must do in response to the action taken.
- (8) Have the violator sign the citation and return the violator's driver's license, registration, proof of insurance, a copy of the citation and the court information envelope.
- (9) 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.
- (10) Assist the violator in safely re-entering the traffic flow.

114.21 The department's concentrated traffic enforcement efforts will be directed toward areas where there is the highest likelihood that crashes will be reduced and/or crimes prevented through proactive patrol, or in response to traffic complaints. This in no way implies that officers should refrain from proactively enforcing traffic regulations within their assigned areas.

114.151 Officers will receive periodic training in proactive traffic enforcement tactics, particularly those officers whose primary responsibility is traffic enforcement. This training shall include officer safety, courtesy, cultural diversity, search and seizure laws, and interpersonal communication skills. This training may be accomplished in in-service or through regularly scheduled mandated training. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.

114.152 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.

**114.20 Complaints of Racial/Ethnic Profiling** – 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, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

114.21 Any employee contacted by a person who wishes to file such a complaint shall have the citizen either contact the on-duty supervisor or have the citizen contact the Office of Professional Standards. The employee shall notify the on-duty supervisor of the complaint.

114.211 Supervisors receiving such a complaint shall forward it to the Office of Professional Standards Section; all such complaints shall be reviewed and the complaint acknowledged to the complainant in writing. 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 reviewed according to Office of Professional Standards policy 311.

114.2110 On an annual basis, the Office of Professional Standards Commander will conduct an administrative review of agency practices involving bias-based profiling. This administrative review will encompass, at a minimum, the

areas of asset forfeiture, traffic contacts, and search warrants. The Office of Professional Standards Commander will provide this administrative review to the Chief of Police.

- 114.212 On an annual basis, the department shall make public a statistical summary of all profiling complaints for the year, including the findings as to whether they were sustained, unfounded, or exonerated.
- 114.213 Supervisors shall review profiling complaints, periodically review a sampling of in-car video of stops, review reports filed on stops by officers, and respond at random to backup officers on vehicle stops. Supervisors shall be particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or squads. Supervisors shall take the appropriate corrective action whenever it appears that this policy is being violated, which may include additional training or disciplinary action, up to and including termination. All profiling complaints shall be forwarded to the Professional Standards Section to be logged and investigated.
- 114.214 Community Education/Awareness – The Community will be made aware of this bias based profiling policy, by the placing of the policy on the Department web site, instruction in the Citizen Police Academy, and through the “How to Make a Complaint” brochure that is available in police department facilities.

END.