

1.8.5 Governing Bias

I. POLICY

It is the policy of the Johnstown Police Department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all personnel whether drivers, passengers or pedestrians.

Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Pennsylvania constitutions are equal protection under the law and freedom from unreasonable searches and seizures by the police. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

II. PURPOSE

This policy is to reaffirm the Johnstown Police Department's commitment to unbiased law enforcement in all its encounters between an 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 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 police and the law.

III. DEFINITIONS

1. Racial Profiling: 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. Profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts.

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as a part of an actual description of a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include, but are not limited to the following:

- a. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.
- b. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
- c. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.
 - i. The Department can derive at two principles from the adoption of this definition of racial profiling:
 1. Officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while officers may use race in conjunction with other known factors of the suspect.
 2. Officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial

profiling is not relevant as it pertains to witnesses, complainants, or other citizen contacts.

2. Race or Ethnicity: Of a particular decent, including Caucasian, African, Hispanic, Asian or Native American.
3. Pedestrian Stop: An interaction between an officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.
4. Traffic Stop: An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

IV. PROCEDURE

A. Complaint Investigation

1. The Johnstown Police Department will accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic, or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.
2. Any officer who receives an allegation of racial profiling, including the officer who initiated the stop shall record the persons name, address and telephone number and forward the complaint to the Captain of Police. Any officer contacted shall provide to that person information regarding the procedure of filing a complaint. All officers will report any allegation of racial profiling to their superior before the end of their shift.
3. At the direction of the Chief of Police, a complaint shall be investigated in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive a disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the Chief of Police. When applicable, findings and/or suggestions for disciplinary action, retraining or changes in policy shall be filed with the Chief of Police.
4. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action up to and including termination.

5. If there is a police video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and upon written request of the accused officer, this department shall promptly provide a copy of the recording to that officer; i.e.: processing room.

B. Public Education

This department will inform the public of its policy against racial profiling. Methods that may be utilized to inform the public are the news media, radio, service or civic presentation and/or the Internet.

C. Citation Data Collection and Reporting

1. The officer is required to collect information relating to traffic stops in which a citation issued. The citation must include:
 - a. The violator's race or ethnicity
 - b. Arrest for this cited violation or any other violations.
 - c. Upon request a breakdown of the citations may be done by race or ethnicity and also include the number of citations resulting in a custodial arrest for the cited violation.

D. Collection and Reporting Information Gathered from Traffic and Pedestrian Stops

An officer 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 record and report the following information in his/her incident report.

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 as stated by the person or as determined by the officer to the best of his/her ability.
2. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.

3. Whether the officer conducted a search as a result of the stop and if so whether the person detained consented to the search.
4. Whether probable cause or reasonable suspicion to search existed and if so the fact[s] supporting the existence of that probable cause or reasonable suspicion.
5. Whether any contraband was discovered the course of the search and if so the type of contraband discovered.
6. Whether the officer made an arrest as a result of the stop and/or search along with the offense charged.
7. Whether the officer issued a written warning or a citation as a result of the stop.

E. Training

Officers will receive refresher training on this policy and bias based policing issues approved by the Chief of Police at least once every three [3] years.

Effective:

Date: November 3, 2017

By Order Of:

A handwritten signature in black ink that reads "Robert F. Johnson". The signature is written in a cursive style with a large initial 'R' and 'J'.

Robert F. Johnson
Chief of Police