

PROFESSIONAL VEHICLE and PEDESTRIAN STOP PROTOCOL

Directive 6.75

A. Policy

The purpose of this policy is to unequivocally state that racial and ethnic profiling in law enforcement **is** totally unacceptable, to provide guidelines for officers, to prevent such occurrences, and to protect our officers when they act within the dictates of the law and policy from unwarranted accusations.

B. Discussion

A fundamental right guaranteed by the Constitution of the United States to all who live in the 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 on our 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, from the depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.

The Wilmington Department of Police 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 our business, law enforcement officers are required to be observant, to identify unusual occurrences and law violations, and 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 our officers in accomplishing this total mission in a way that respects the dignity of all persons and yet send a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police.

C. Policy

It is the policy of this Department to patrol in a proactive manner, to aggressively investigate suspicious persons 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.

D. Definitions

Racial profiling: The detention, **interdiction**, or other disparate treatment of any person based solely on the basis of their race, ethnic status, or characteristics.

Reasonable suspicion: Suspicion that is **more** than a mere hunch, but is based on a set of articulate 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 experiences, and/or reliable information received from **credible** outside sources.

E. Procedure

The Wilmington Department of Police efforts will be directed toward assigning officers to those areas where there is the highest likelihood that collisions will be reduced and/or crimes prevented through proactive patrol.

Officers will receive initial and ongoing training in proactive enforcement tactics, including training

in officer safety, courtesy, cultural diversity, the laws of governing search and seizure **and asset forfeiture**, and interpersonal communications skills.

Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.

Traffic enforcement will be accompanied by **consistent**, ongoing supervision oversight to ensure that officers do not go beyond the parameters of reasonableness in conducting such activities.

Motorists and pedestrians shall only be subjected to stops, seizures or detentions upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction. Each time a motorist **or pedestrian** is stopped, the officer shall radio to the dispatcher the location of the stop, the description of the person or vehicle being detained if possible and the statute number violated or other reason for the stop, and this information shall be logged via the Computer Aided Dispatch system.

The **D**epartment recognizes that with experience, individual officers may develop individualized approaches that they find work best for them in minimizing conflict during officer/violator contacts. Given some better approach, the following is recommended in the order specified below;

1. Give a greeting such as "Good morning Ma'am", "Good evening Sir", etc.
2. Identify yourself "I am Officer _____ of the Wilmington Police Department."
3. State the reason why the person is being stopped or detained. "I stopped you because I saw your vehicle come through the stop sign at the last intersection without coming to a complete stop." (Describing the actions of the vehicle rather **than** personalizing the action to the driver tends to reduce tension.) Some officers have expressed a concern about revealing the

reason for the stop before obtaining the necessary information. This is understandable and can be addressed by informing the violator that you will explain the reason for the stop after they have obtained and handed over the required information.

4. It may defuse the tension to ask the motorist if there was some reason for the violation. This gives them the opportunity to "have their say."
5. Politely ask for identification and any required documents.
6. After completing any necessary paperwork, inform the driver or pedestrian as to what action is being taken and what, if any, the person must do as a result, such as how to pay any fine involved, obtain a court hearing, etc.
7. Give an appropriate closing such as "Please drive carefully", etc.
8. Make sure the driver is able to merge safely back into the traffic stream.

Appropriate enforcement 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 of 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 (crime report), including the legal basis for the search, and the

results thereof. It is strongly suggested that consent searches only be conducted with written consent, using the proper departmental form. If the individual indicates that they will consent to the 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.

If the police vehicle 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 resume their journey.

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.

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.

F. Complaints of Racial/Ethnic Profiling

Any person may file a complaint with the **D**ePARTMENT 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.

Any officer contacted by a person who wishes to file such a complaint, shall record the person's name, address, and telephone number in his/her **D**ePARTMENTAL notebook and report the contact to his/her immediate supervisor. The contacted supervisor should immediately initiate an investigation and forward the report to the Office

of Professional Standards for review and further investigation.

The complainant shall be informed of the results of the **D**epartment's review within a reasonable period of time. The report and the reviewer's conclusion shall be filed with the Commanding Officer of the Office of Professional Standards, and shall contain findings and any suggestions for disciplinary action or changes in policy, training, or tactics.

On an annual basis, the **D**epartment shall make public a statistical summary of all profiling complaints for the year, including the findings as to whether they were substantiated, not substantiated, or exonerated. This will be included in the annual report submitted by the Office of Professional Standards.

Supervisors shall review profiling complaint reports filed on stops by officers, and respond at random to back up officers on vehicle stops, and shall take appropriate action whenever it appears that this policy is being violated. Supervisors shall be particularly alert to any **pattern** or practice of possible discriminatory treatment by individual officers or squads.

The Communications Division Commander shall inform the Commanding Officer of the Office of Professional Standards of what data is available on the race of persons stopped. After consultation with this Commander, he/she shall produce periodic reports on traffic stops **and pedestrian stops** by race and gender.

Any officer who violates this policy will face disciplinary action under Chapter 7, specifically under section 7.1 (G) Standards of Conduct and/or 7.2(B) Impartial Attitude.