

## **NIAGARA FALLS POLICE DEPARTMENT**

### **General Order**

<b>DATE:</b> 03/12/2014	<b>SUBJECT:</b>  <b>CITIZEN ENCOUNTERS</b>	<b>NUMBER:</b> 319.00
<b>RESCINDS:</b> 12/18/2013		<b>NUMBER OF PAGES:</b> 4

**I. Purpose:**

The purpose of this policy is to reaffirm the Niagara Falls Police Department's commitment to unbiased policing, and to reinforce procedures that serve to assure the public that the members of the NFPD are providing services and enforcing laws in a fair and equitable manner. To this end, enforcement action must be based solely upon statutory law, department policy, probable cause and articulable facts.

**II. Definitions:**

- A. **Citizen Encounters:** Citizen encounters in reference to enforcement action includes, but is not limited to, investigative detentions, traffic stops, arrests, searches and seizures, and the application of force by officers.
- B. **Biased Based Policing:** the unequal treatment of any person including stopping, questioning, searching, detention, or arrest on the basis of their racial or ethnic characteristics, religion, gender, sexual orientation or socio-economic status.
  - 1. Biased Based Policing refers to any law enforcement initiated action (such as stopping/detaining, patting down, arresting, etc.) that relies upon the selection of individuals based solely on a common trait or group.
  - 2. This includes, but is not limited to, race, ethnicity, gender, sexual orientation, religion, national origin, or any other identifiable trait or group. This broad definition of bias-based policing includes racial and other profiling.
  - 3. Under federal and state law, agency policy and law enforcement ethics, officers must avoid bias-based policing.
  - 4. Examples of racial or other profiling:

- a. An officer stops a person and conducts a pat down on the belief that a person of that race, ethnicity or national origin is more likely to possess contraband.
- b. An officer asks for consent to search a vehicle on the belief that a person of that race, ethnicity or national origin is more likely to be in possession of contraband.
- c. An officer, during a routine traffic stop, asks for the identification of passengers in the vehicle who were overheard speaking a foreign language, on the belief that a person of that race, ethnicity, or national origin is more likely to have violated a federal or state law.

C. Reasonable Suspicion: A reasonable suspicion exists when a reasonable person under the circumstances, would, based upon specific and articulable facts, suspect that a crime has been or may be committed.

D. Probable Cause: Reasonable cause to believe that a person committed an offense exists when evidence or information which appears reliable, discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment and experience that it is reasonably likely that such offense was committed and that such person committed it. (Note: This does not say "police officer")

E. Terry v. Ohio: In *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968), the U.S. Supreme Court ruled that the Fourth Amendment to the U.S. Constitution permits a law enforcement officer to stop, detain, and frisk persons who are suspected of criminal activity without first obtaining their consent, even though the officer may lack a warrant to conduct a search or Probable Cause to make an arrest. Now known as a Terry stop, this type of police encounter is constitutionally permissible only when an officer can articulate a particularized, objective, and reasonable basis for believing that criminal activity may be afoot or that a given suspect may be armed and dangerous.

III. Policy:

A. Biased Based Policing is strictly prohibited and will not be tolerated by the Department. Traffic stops, field contacts, vehicle searches, asset seizures/forfeitures, and enforcement actions shall be conducted in accordance with existing laws and Department rules and regulations.

1. Officers may take into account the reported race, ethnicity or national origin of a specific suspect or suspects based on credible, reliable,

locally relevant information that links a person of a specific race to a particular criminal incident or links a specific series of crimes to a group of individuals of a particular race/ethnicity.

IV. Procedure:

A. Professionalism in Citizen Encounters:

1. In a continued effort to exhibit professionalism and prevent perceptions of biased law enforcement, officers shall use the following strategies in citizen encounters:
  - a. Be courteous, polite, and professional.
  - b. Introduce yourself and explain to the citizen the reason for the stop/encounter as soon as practical, unless providing this information will compromise the safety of officers or others.
  - c. Ensure that the length of detention is no longer than required.
  - d. Answer questions that the citizen may have, including explaining options that they may have.
  - e. Provide a name and badge number verbally or in writing/on a business card if asked to do so by the individual.
  - f. Apologize and/or explain if the reasonable suspicions for the encounter were unfounded.
2. To avoid bias-based policing of any kind, including racial and other profiling, officers must use and follow the Fourth Amendment standards of reasonable, articulable suspicion when stopping/detaining individuals, and probable cause when conducting a search of a person and/or property or making an arrest.
3. Preventing perceptions of bias-based policing.
  - a. Be courteous at all times.
  - b. Provide an introduction of him/herself to the individual and state the reason for the stop/detention/questioning/etc. as soon as practical.

- c. Ensure that no seizure of person or property is longer than necessary to take appropriate action and provide information to the individual about any reasonable delays.
  - d. Answer questions the individual may have.
  - e. Provide an appropriate verbal closing to the situation
- 4. Consequences of Bias-Based Policing:
  - a. Unsuccessful prosecution
  - b. Complaint against that Officer
  - c. Civil liability
  - d. Criminal liability
  - e. Departmental discipline

B. Supervisor's Responsibility:

- 1. It will be each individual supervisor's responsibility to ascertain that this policy is complied with.
- 2. Written documentation is required for all violations in accordance with NFPD procedure.
- 3. Supervisors shall ensure that all personnel are familiar with the content of this policy.

C. All new recruits shall receive Citizen Encounters training within 90 days of completion of field training.