

# WINDERMERE POLICE DEPARTMENT

## GENERAL ORDER



Effective Date: October 3, 2022	<input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Amends 6.6 (October 1, 2013)	Number: 6.6
SUBJECT: Biased-Based Profiling		Print Date: 10/03/22
Distribution: All Personnel	Review Month: October	

This order consists of the following:

1. Purpose
2. Policy
3. Definitions
4. Procedures

### 1. Purpose

The purpose of this policy is to unequivocally state that biased-based profiling is a totally unacceptable practice in any law enforcement activity including, but not limited to, traffic contacts, field contacts; and in asset seizure and forfeiture efforts. It is also the purpose of this policy to provide guidelines for members to prevent such occurrences, and to protect members when they act within the dictates of the law and policy from unwarranted accusations. [FS 166.0493]

### 2. Policy

It is the policy of the Windermere Police Department to patrol in a proactive manners, to aggressively investigate suspicious persons and circumstances, and to actively enforce the law, while insisting that citizens will only be stopped or detained when there exists reasonable to suspicion to believe that an infraction of the law has been committed or is about to be committed.

### 3. Definitions

- A. Biased-Based Profiling – Biased-based profiling is the selection of an individual based solely on a trait common to a group for enforcement action. This includes, but is not limited to race, color, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. [2.06M-(C)]
- B. Reasonable Suspicion – Knowledge sufficient to induce an ordinarily prudent and cautious officer to believe criminal activity is at hand. It must be based on specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant intrusion.

#### 4. Procedures

##### A. Constitutional Rights

A fundamental right guaranteed by the Constitution of the United States, to all who live in this nation, is to have equal protection under the law.

##### B. Equal Protection of Rights

The Windermere Police Department is charged with protecting the rights of all citizens, regardless of race, color, ethnicity, gender, sexual orientation, physical handicap, religion, or other belief system.

##### C. Proactive Law Enforcement

Because of the nature of law enforcement, members are required to be observant, to identify unusual occurrences and law violations, and to act upon them. It is this proactive enforcement that keeps citizens free from crime, streets and highways safe to drive upon, and that detects and apprehends criminals.

##### D. Departmental Practices

###### 1. Assignment to priority areas

###### 2. Training

- a. Members will receive initial and ongoing training in accordance with Florida Statutes, in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the laws governing search and seizure, and interpersonal communications skills. [2.06M-(A)]

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

3. Management supervision

Traffic enforcement will be accompanied by consistent, ongoing supervisory review to ensure that members do not go beyond the parameters of reasonableness in conducting such activities.

4. Criteria for traffic stops

- a. Reasonable suspicion

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.

- b. Notification responsibilities

Each time a motorist is stopped, the member shall radio to the dispatcher the location of the stop, the tag number, description of the vehicle and if possible, a description of the occupants. At the conclusion of the traffic stop, members shall document action taken with either a courtesy notice, a uniform traffic citation, or via the prescribed data terminal section call notes when a verbal warning is given.

- c. Biased-based profiling prohibited

A person's race, ethnicity, gender, sexual orientation, or any combination of these, shall not be factors in determining probable cause for an arrest or reasonable suspicion for a stop in the absence of a specific, credible report containing a physical description.

5. Appropriate enforcement actions

Appropriate enforcement action should always be completed. This is generally in the form of a warning, citation, or arrest.

6. Searches and detainment

- a. No motorist, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity.
- b. 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.
- c. In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and its results.
- d. It is strongly recommended that consent searches only be conducted with written consent, using the proper department form.
- e. If the individual indicates that they will consent to a search but refuses to sign the form, the form shall be filled out and noted, "Consented to search but refused to sign." The member's initials and the signature of any witness shall be placed in the signature block.

7. Video recording

If the officer is equipped with a body worn camera, the camera shall be activated once a decision is made to stop a vehicle. The camera shall remain activated until the person is released and has left the scene of the traffic stop.

8. Distribution of information

If the agency provides public information pamphlets to members regarding the purposes of proactive enforcement, members may distribute the pamphlet to each person subjected to such activities whenever it is deemed appropriate by the member.

9. Disciplinary action

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 cause for disciplinary action up to, and including, dismissal.

E. Traffic stop procedures

1. Greeting

A greeting shall be given such as “Good morning, ma’am” or “Good morning, sir”, etc.

2. Identification of member

The member shall identify himself / herself with a statement such as “I am Officer Jones of the Windermere Police Department”.

3. Reason for stop

The reason for the stop or detainment shall be given such as “I stopped you because I saw your vehicle come through the stop sign at that 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).

4. Request for required documents

Required documents shall be asked for in a polite manner.

5. Opportunity for explanation

It may defuse tension to ask a motorist if there was some reason for the violation. This gives them the opportunity to “have their say” and often leads to an admission that the violator realized they were in violation, and precludes a defendant from offering a different reason at trial. If the member does not ask but the motorist wishes to give a reason, the member should listen politely and give the motorist ample opportunity to tell their story.

6. Explanation of action taken

After completing any necessary paperwork, the driver or pedestrian shall be informed 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 traffic court hearing, etc.

7. Ending the traffic stop

An appropriate closing shall be given such as “Thank you for your cooperation” if the motorist was cooperative. Trite expressions are inappropriate in these circumstances.

8. Driver safety

The member shall ensure that the driver is able to merge safely back into the traffic stream.

F. Biased-based profiling complaints [2.06M-(F)]

1. Opportunity to file a complaint

Any person may file a complaint with the agency if they feel they have been stopped or searched based on biased-based profiling. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

2. Citizen statement

Any member contacted by a person who wishes to file a biased-based profiling complaint shall place the citizen in contact with the on-duty supervisor at the earliest possible moment. The supervisor shall determine if the citizen wishes to file a formal complaint. The supervisor shall assist the citizen in filling out a statement.

3. Complaint administrative process

All such complaints shall be reviewed and forwarded to the Chief of Police via chain of command. The Chief of Police will review the complaint and determine if a formal investigation is warranted. All subsequent reports, with disciplinary or policy recommendations attached, shall be forwarded to the Chief of Police for final review and action. The complainant shall be

informed of the disposition of the agency's review within a reasonable period of time. [2.06M-(B)]

4. Public dissemination of information

- a. On an annual basis, the department shall make available to the public, upon request, a statistical summary of all profiling complaints for the year, including the findings as to whether they were sustained, not sustained, or exonerated.
- b. The agency's annual statistical summary of all profiling complaints shall be made available on the agency's web site.
- c. The web site shall also cite the agency's position on biased-based profiling.
- d. At the end of each calendar year, the Deputy Chief shall conduct a review of traffic stop procedures related to fair and impartial policing. This review will include any citizen concerns with regards to bias-based profiling by the department. A written record of this review shall be kept on file at the agency. [2.06M-(E)]

5. Supervisory review

- a. Supervisors may pull a video of traffic stops, reports filed on stops by members, and respond at random to assist members on vehicle stops in order to assist in detecting any profiling complaints.
- b. Supervisors shall be alert to any pattern or practice of possible biased-based profiling and shall take appropriate action whenever it appears that a member is in violation of this policy.

G. Court and traffic stop information

The following guidelines may be used to document information on a traffic stop that can be further utilized in court proceedings. This information can be documented on a court information sheet and / or the pink copy of the officer's Uniform Traffic Citation.

- a. Record the citizen's general demeanor such as angry, argumentative, cooperative, etc.

- b. Note the weather conditions such as cloudy, clear, rainy, etc.
- c. Record the pertinent circumstances leading up to the traffic stop and any significant information about the stop.



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Chief David A. Ogden

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