POLICY & PROCEDURE

STURGEON BAY POLICE DEPARTMENT

SUBJECT: **BIASED-BASED POLICING**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedures Manual

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INDEX AS: Biased-Based Policing
Race-Based Generalizations
Racial Epithets
Racial Profiling

PURPOSE: The purpose of this Policy & Procedure is to define biased-based policing or racial profiling and to clearly mandate a prohibition on racial profiling by members of the Sturgeon Bay Police Department. This Policy & Procedure also defines Department and supervisory responsibility in the investigation of alleged violations.

This Policy & Procedure consists of the following numbered sections:

I. POLICY

II. DEFINITIONS

III. PROCEDURES

I. POLICY

A. The Sturgeon Bay Police Department does not condone, nor will it tolerate race-based generalizations and acts, racial profiling, or racial epithets. Therefore, it is the policy of the Department to prohibit any employee from using race or ethnicity as the basis for investigation or selective enforcement of any law, ordinance, or rule.

II. DEFINITIONS

A. ACTIVITY REPORT: The following may be considered a form of activity report: Event number/update, Incident report, DWI report, Motor Vehicle Crash report, Uniform Traffic citations, Municipal citations and/or warning citations.

B. BIAS BY PROXY: Bias by proxy occurs when an individual calls the police and makes false, bias-based, or ill-informed claims about persons/groups they dislike or whom they are implicitly or explicitly biased against.

C. BIASED BASED POLICING, also known as RACIAL PROFILING: Any law enforcement-initiated action which relies upon race, ethnicity, national origin, or gender of an individual rather than the behavior of that individual, or information that leads law enforcement personnel to a particular individual who has been identified as being engaged in or having been engaged in criminal activity.

Two corollary principles follow from adopting this definition of racial profiling:

1. Law enforcement personnel may not use racial or ethnic stereotypes as factors in selecting whom to stop and whom to search.

2. Law enforcement personnel may use race or ethnicity to determine whether a person matches a description of a particular suspect.

D. CRIMINAL PROFILING: An investigative method in which law enforcement personnel, through observation of activities and environment, identifies suspicious behavior by individuals and develops a legal basis, consistent with the Fourth Amendment, to stop them for questioning.

E. NON-DISCRETIONARY ACTIVITY: Assignments/Stops where law enforcement personnel were called to service by an assignment from dispatch, shift supervisor, commanding officer and/or fellow officer.

F. POSITIVE CONTACT: An initiative by the Sturgeon Bay Police Department encouraging law enforcement personnel to develop a rapport with its citizens and visitors by random contacts. These random contacts occur during his or her tour of duty and while him or her is conducting patrol activities.

G. PROACTIVE PATROL: 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.

H. RACE-BASED GENERALIZATIONS: Broad, stereotypical conclusions about a person based on race or ethnicity.

I. RACIAL EPITHETS: Derogatory phrases and terms, which are used to describe a person's race or ethnicity.

J. 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 law enforcement combined with his or her training and experience, and/or reliable information received from credible outside sources.

K. SELF-INITIATED ACTIVITY: Assignments/Stops are where law enforcement personnel have a high amount of discretion. (i.e. traffic stops)

III. PROCEDURES

A. Fair and Equal Treatment

1. Bias-based policing is prohibited both in enforcement of the law and the delivery of law enforcement services.

2. Investigative detentions, traffic stops, arrests, searches, and property seizures by law enforcement personnel will be based on a policy of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests nonconsensual searches, and property seizures.

3. Officers may not use race, ethnic background, gender, gender identity, sexual orientation, religion, economic status, age, or cultural group as the sole criteria for determining when or how to take enforcement action or provide police services.

4. Officers must be able to articulate specific facts and inferences drawn from those facts that establish reasonable suspicion or probable cause to take any enforcement action.

5. Officers shall take equivalent enforcement actions and provide equivalent services to all persons in the same or similar circumstances.

6. Officers who cannot make objective judgments uninfluenced by prejudicial views or attitudes, intolerance to or preference for certain individuals that are unrelated to the situation at hand shall, as soon as reasonably possible, request that another officer assume responsibility for the matter.

7. Nothing in this policy prohibits officers from using the traits and characteristics of persons, such as race, ethnicity, or national origin in *combination* with other facts to assist in establishing reasonable suspicion or probable cause in the same manner that officers would use hair color, height, weight, or gender for

such purposes.

B. Criminal Profiling

1. Law enforcement officers are required to be observant, to identify unusual occurrences and law violations, and to act upon them. Proactive enforcement keeps our citizens free from crime and our streets and highways safe to drive upon.

2. Criminal profiling is a legitimate tool in the fight against crime. Criminal profiling is an investigative method in which an officer, through observation of activities and environment, identifies suspicious behavior by individuals and develops a legal basis, consistent with the Fourth Amendment, to stop them for questioning.

3. However, illegal profiling refers to a decision by an officer to stop, detain, interdict, or search an individual based on the race, color, ethnicity, national origin, or sexual orientation. This Department prohibits illegal profiling as a law enforcement tactic and will not tolerate or condone its use by any of our members.

4. It is the Sturgeon Bay Police Department's philosophy to assist law enforcement in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong message to actual and potential lawbreakers that if they break the law, that behavior will not be tolerated and they will likely encounter law enforcement personnel.

C. Officer Responsibilities

1. Traffic stops and proactive patrols are vital law enforcement tools. In addition to deterring motor vehicle violations, they provide law enforcement visibility and deter more serious crimes. An officer may stop a motor vehicle upon a reasonable suspicion that the driver or an occupant committed a motor vehicle violation or other offense. Such stops shall conform to Department Policies and Directives.

2. Each time a motorist / pedestrian is stopped; the officer will radio to the dispatch center the location of the stop and other pertinent information.

3. In an effort to prevent inappropriate perceptions of biased law enforcement, each officer shall do the following when conducting pedestrian and vehicle stops:

   a) Be courteous and professional.

   b) Introduce him/herself to the citizen (providing name and agency affiliation), and state the reason for the stop as soon as practical, unless providing this information will compromise officer or public safety. In vehicle stops, the officer shall provide this information before asking the driver for his or her license and registration.

c) Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the citizen understands the purpose of reasonable delays.

d) Answer any questions the citizen may have, including explaining options for traffic citation disposition, if relevant.

e) Provide his or her name and badge number when requested, in writing or on a business card.

f) Apologize and/or explain if he or she determines that the reasonable suspicion was unfounded (e.g., after an investigatory stop).

4. No motorist or pedestrian, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity or other legal or factual basis for detention. No person or vehicle shall be searched in the absence of a search or arrest warrant, a legally recognized exception to the warrant requirement, or a person's voluntary consent.

5. Officers are encouraged and expected to stop and help motorists in apparent need of assistance (e.g., occupied, disabled vehicles, moving vehicles with items on the roof, vehicles leaking substances, etc.).

6. Whenever there is a stop or search of a vehicle or individual and the individual alleges the stop or search was made because of "racial or illegal profiling," the officer shall immediately notify his/her supervisor.

a) Upon completion of the stop or search of a vehicle or individual, the officer will submit a report to his/her commanding officer. A copy of the report will be submitted to the Chief of Police. The report shall contain the facts, circumstances, and conclusions, which support the traffic, stop, detention, and/or search.

7. Officers shall not deliberately record misleading information related to the race, color, ethnicity, national origin, or sexual orientation of a person stopped for investigative or enforcement purposes.

D. An Officer responding to calls for service should evaluate each call to determine if the bias of the complainant is influencing the reason for the complaint/police response. An Officer should constantly be evaluating and applying fair and impartial training and decision making skills in an effort to identify biased based (bias by proxy) calls for service. An Officer should draw upon his/her training and use his/her critical decision-making skills to assess whether he/she is being subjected to the complainant's bias when carrying out his/her duties.

An Officer should determine whether there is evidence of criminal misconduct/reasonable suspicion or if there is a legitimate need to engage in a

community caretaking function. If the complaint is anonymous, ambiguous, or the legitimacy/reasoning for the call is unclear, the Officer should consider if the call is potentially bias-based (bias by proxy). In these cases, the Officer should contact the complainant prior to taking action. If the complainant can't offer further, articulable facts to support reasonable suspicion for police contact, then the complainant should be advised that police intervention and contact is not legitimate. An Officer may still independently assess the situation or behavior from a distance. If no suspicious criminal behavior is observed, the officer can clear the call as "no police service needed".

If the actions, statements or behavior of a complainant requires an Officer to make contact, and it is then determined that the call was likely a biased based (bias by proxy) call for service, the officer shall work to de-escalate and utilize active listening to ensure the scene is safe. The officer should inform the subject of the biased based call and the reason for the contact. The officer shall follow-up with the complainant and advise that police contact was not legitimate.

E. Supervisor Responsibilities

1. Supervisors should ensure that all officers under their supervision are familiar with the spirit and intent of this policy in dealing professionally, ethically and respectfully with the public, and officers are complying with this Policy & Procedure.

2. Supervisors should monitor activity reports for evidence of improper practices and patterns.

3. 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.

4. Supervisors should conduct spot-checks and regular sampling of radio transmissions, and in-car computer and central communications records to determine if both formal and informal communications are professional and free from racial bias and other disrespect.

5. A road supervisor or higher-ranking officer shall promptly respond when advised that a person is making a complaint alleging, "illegal or racial" profiling.

6. The road supervisor or higher-ranking officer shall discuss the incident with the complainant.

7. Supervisors shall be particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or squads and take appropriate action.

8. Supervisors shall review profiling complaints and respond at random to observe officers on vehicle and person stops.

F. Complaints

1. Any person may file a complaint with the department if they feel they have been stopped or searched based on racial or ethnic 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.

2. Any officer contacted by a person who wishes to file such a complaint, shall provide the citizen with a copy of a citizen complaint form which may be mailed or delivered in person to headquarters, and shall record the person's name, address, and telephone number, and report the contact to the officer's supervisor prior to the end of the shift.

3. Supervisors receiving such a report shall forward it to the internal affairs section and all such complaints shall be reviewed, the complaint acknowledged to the complainant in writing, and 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 filed with the Chief of Police of the Department, and shall contain findings and any suggestions for disciplinary action or changes in policy, training, or tactics.

a) Officers who witness or who are aware of instances of bias-based policing shall report the incident to their supervisor.

b) The Department takes seriously allegations of bias-based policing. All such complaints shall be forwarded to the Chief of Police for investigation.

c) The Chief of Police shall maintain data relating specifically to complaints of biased policing. Information shall be provided to the Chief of Police in a manner most suitable for administrative review, problem identification, and development of appropriate corrective actions.

d) Any employee who believes there is, or is made aware of any violation of this Policy & Procedure shall immediately contact their supervisor.

G. Training

1. All officers will receive basic and in-service training and, where deemed necessary, remedial training on subjects related to police ethics, cultural diversity, police citizen interaction, policies of conduct, conducting motor vehicle stops, and related topics suitable for preventing incidents of biased policing.

2. Training programs will emphasize the need to respect the rights of all citizens to

be free from unreasonable government intrusion or police action.

3. Training staff should pay particular attention to the assignment of probationary officers or officers undergoing field training to ensure they are partnered with experienced officers known to operate within this policy.

4. Training can be accomplished in the following formats:

- New Officer Training Program
- Field Training Program
- In-service Programs
- Shift Briefing Training Program
- Training Newsletters
- Legal Update Newsletters
- Staff Meetings
- On-Site Training Programs (Vehicle Contacts)

I. Annual Review

1. Annually, the Captain shall prepare a summary report for the Chief to disseminate to the Police and Fire Commission. The annual summary report shall include but not be limited to:

- Listing each complaint
- Explaining any action(s) taken
- Recommending training needs
- Recommending policy changes

Clinton Henry
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

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