

Policy – Wauwatosa Police Department

POLICY: Racial Profiling Prohibition

CHAPTER & SECTION: 4.3.1

DISTRIBUTION: Sworn Personnel

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I. INTRODUCTION

The issue of racial profiling is a national issue that is complex and multifaceted. The majority of police officers are honest and hard working, but there is a perception held by some citizens that some officers are unfairly and illegally exercising their discretion and authority by relying on the race of a citizen as a basis for police action. The City of Wauwatosa and the Wauwatosa Police Department affirm that racial profiling by law enforcement is illegal and wrong. The Police Department does not condone, nor will it tolerate racial profiling by any of its members. This policy supersedes the existing policy #21-05 and any other memorandums or correspondence regarding Racial Profiling.

II. DEFINITIONS

- A. Probable Cause:** Probable cause exists where the facts and circumstances within the arresting officer's knowledge are sufficient that the quantum of evidence would lead a reasonable police officer to believe that the person committed a crime.
- B. Racial Profiling:** Any police-initiated action that relies upon race, ethnicity, or national origin of an individual rather than the **behavior** of that individual, or **information** that leads the police to a particular individual who has been identified as being engaged in or having been engaged in criminal activity. Two corollary principles follow from this definition:

1. Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and whom to search;
2. Police may use race or ethnicity to determine whether a person matches a specific description of a particular suspect.

C. Reasonable Suspicion: Less than probable cause, but more than a mere hunch based on articulable facts that the person has committed or is about to commit a crime. (Terry v. Ohio USSC, 1968).

III. PROCEDURE

A. Officer's Considerations

1. A sworn officer's decisions to stop, detain, question, investigate, identify, search, warn, cite, or arrest an individual will be based upon probable cause or reasonable suspicion and will not be based on race.
2. A sworn officer may use gender, race, ethnicity or national origin to determine whether a person matches a description of a particular suspect that they are lawfully attempting to locate.

B. Complaint Filing and Investigation

Complaint Filing, Informal Compliant Investigation and Formal Complaint Investigation shall follow procedures as presented in the Wauwatosa Police Department Citizen Complaint Policy.

C. Complaint Disposition, Formal and Informal

Formal

1. The supervisor conducting the investigation, upon completion of an investigation regarding racial profiling will submit a written report through the appropriate chain of command to the Chief of Police. The written report shall include an opinion of the investigator as to the legitimacy of the complaint as well as a recommended course of action.
2. The Chief of Police alone will determine the appropriate course of action regarding all reported instances of racial profiling, and refer appropriate cases for disciplinary review.
3. The Chief of Police will maintain all investigative reports of racial profiling regardless of the outcome, in a master file. Substantiated complaints of racial profiling will become part of an employee's personnel record.

4. Decisions of the Chief may be appealed in accordance with the Department Citizen Complaint policy and in accordance with Police and Fire Commission Rules.

Informal

1. Informal complaints of racial profiling will be processed in accordance with the guidelines outlined in the Citizen Complaint Policy.

A handwritten signature in dark ink, appearing to read 'J. MacGillis', with a stylized, cursive script.

James H. MacGillis
Chief of Police

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