



**CITY OF OAKLAND
CITY ADMINISTRATOR'S OFFICE
CITIZENS' POLICE REVIEW BOARD**

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Anthony Finnell, Executive Director

To: Anthony Finnell, Executive Director *AWF*
From: Marti Paschal, Policy Analyst *MP*
Date: March 15, 2016
Re: **Proposed OPD Policy – Searches of Persons Wearing Religious Head Covers and Other Articles of Faith**

At the January 28, 2016 Citizens' Police Review Board meeting, the Board asked that I draft policy to address the removal of a complainant's hijab in public by a male officer (Zelko, #15-0191). Karen Tom was the investigator for the case. In preparing the administrative case closure report, Investigator Tom checked with Sgt. Carman of the OPD Policy and Publications Development Unit and learned that OPD does not have a policy to address this specific situation.

Attached is a draft based on policy adopted by the Washington D.C. Metropolitan Police Department in 2012. We are asking the Board to consider forwarding the proposed policy, as amended if necessary, to the Oakland Police Department for its consideration. We believe that it balances the need or justification for full body searches, i.e., to ensure that people who are arrested cannot harm themselves or others, against reasonable accommodations for the diverse religious beliefs of persons in our community.

SEARCHES OF PERSONS WEARING RELIGIOUS HEAD COVERS OR OTHER ARTICLES OF FAITH

The purpose of this order is to set forth Departmental policy and procedures for conducting searches of persons wearing religious head coverings and/or other articles of faith.

I. POLICY

It is the policy of the Oakland Police Department (OPD) to ensure that members of the OPD abide by laws that require the Department to make reasonable accommodations for the religious beliefs of those with whom its members interact in their official capacities. Thus, members of the OPD shall treat persons wearing religious head coverings or other articles of faith in a manner that is professional, respectful, and courteous. In general, persons wearing religious head coverings or other articles of faith shall be permitted to continue wearing them except when removal or confiscation is reasonably required for reasons of safety or security.

II. DEFINITIONS

For the purpose of this order, the following terms shall have the meanings designated:

1. Religious Head Covering – Articles worn on the head for religious purposes. They include, but are not limited to:
 - a. Kippah (yarmulke) – Religious head covering worn by orthodox Jewish men;
 - b. Kufi – Religious head covering worn by Christians, African Jews, and Muslims in West Africa and the African Diaspora;
 - c. Hijab – Head scarf or covering worn by Muslim women;
 - d. Taqiyah – Religious head covering worn by Muslim men; and
 - e. Turban – Religious head covering worn by some Muslim men and by men and women of the Sikh faith.

III. PROCEDURES

1. Officers shall follow the procedures in Training Bulletin I-O.02, The Legal Aspects of Searching Persons when searching a person wearing religious head coverings and/or articles of faith.
2. Officers may pat down a religious head covering when conducting a search.
3. Absent exigent circumstances (e.g., articulable safety concerns or to retrieve evidence), officers shall not remove a religious head covering when conducting a search.
4. If it becomes necessary for officers to remove a person's religious head covering, and the person objects or appears reluctant or upset, officers shall inquire whether the person requires special accommodations for religious reasons (e.g., the officer should ask, "Does your religion require you to wear this head covering?").
5. If a person requests accommodation for religious reasons, the officer removing a head covering shall:
 - a. If possible, be of the same sex as the person wearing the religious head covering; and
 - b. Conduct the removal in an area that is as private as is practical under the circumstances, taking all steps reasonably necessary to assure that persons of the opposite sex are not present during removal.

6. Once the search is complete, officers will allow the person to replace the head covering at the earliest practical opportunity in an area that is as private as is practical under the circumstances.

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