

## Bias Free Policing

### 402.1 PURPOSE AND SCOPE

The Department strives to provide law enforcement services to our community with the proper care and concern for the racial and cultural differences of those we serve. It shall therefore be the policy and practice of this Department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group because of their race, color, ethnicity, national origin, age, religion,, gender identity or expression, sexual orientation, socio-economic status, cultural group, or mental or physical disability.

### 402.2 DEFINITIONS

**Bias-Free Policing:** The provision of law enforcement services, whether in the jails, the courts, or on patrol, that is accomplished without the selective enforcement or non-enforcement of the law, including the selection or rejection of particular policing tactics or strategies, based on the subject's membership in a demographic category. Bias-free policing is policing that is free of discriminatory effect as well as discriminatory intent.

**Biased Policing:** The provision of law enforcement services, or declining to provide law enforcement services, whether in the jails, the courts, or on patrol, based upon the inappropriate consideration of a person's demographic category.

**Demographic category:** Refers to a person's race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, socio-economic status, cultural group, or mental or physical disability.

**Implicit Bias:** Refers to the attitudes or stereotypes that affect a person's understanding, actions, and decisions in an unconscious manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual's awareness or intentional control. Implicit biases are different from known biases that individuals may choose to conceal.

**Racial or identity profiling:** The consideration of, or reliance on, to any degree, a person's actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest. (Penal Code § 13519.4(e)).

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#### **402.3 RACIAL OR IDENTITY PROFILING AND BIASED POLICING PROHIBITED**

Members shall not engage in biased policing or racial or identity profiling, and any such practice will not be tolerated by this Department (Penal Code § 13519.4(f)).

1. It is the responsibility of every Member of this Department to prevent, report, and respond appropriately to clear discriminatory or biased practices.
2. Every Member of this Department engaging in a non-consensual detention shall be prepared to articulate sufficient reasonable suspicion or probable cause to justify the detention independent of the individual's membership in a demographic category.
  - (a) To the extent that written documentation would otherwise be completed (e.g., arrest report, F.I. card, etc.), the involved deputy should include those facts giving rise to the deputy's reasonable suspicion or probable cause for the contact.
  - (b) Nothing in this policy shall require any deputy to prepare documentation of a contact that would not otherwise involve such reporting.

#### **402.4 STANDARDS OF CONDUCT TO ENSURE BIAS FREE POLICING**

In an effort to prevent perceptions of biased policing, in accordance with officer safety, do the following:

1. Treat everyone with dignity, respect, courtesy, and professionalism, without harassing, intimidating, or using derogatory language verbally, in writing, or by gesture.
2. Ensure bias-free encounters by relying on information that is accurate, specific, and free from bias while developing reasonable suspicion and/or probable cause.
3. When initiating a search of a cell, dormitory, or incarcerated person, or when issuing directives to or responding to inquiries from an incarcerated person, ensure that motivations and actions are free of bias and racial or identity profiling.
4. When initiating a pedestrian or vehicular stop, approach the person(s) being stopped and provide an explanation for the stop as soon as practical and safe.
5. Ensure that detentions are no longer than necessary.

While the practice of racial profiling is strictly prohibited, it is recognized that race or ethnicity may be legitimately considered by a deputy in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description includes a specific race or group).

The Orange County Sheriff-Coroner Department shall investigate all complaints of alleged bias-based policing or racial or identity profiling against its Members. Members found to be in violation of this policy are subject to discipline in accordance with this Department's disciplinary policy.

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### **402.5 TRAINING**

1. All sworn Members of this Department shall participate in training prescribed by the Department.
2. All sworn Members of this Department shall participate in expanded training as prescribed and certified by the Commission on Peace Officer Standards and Training (POST) (Penal Code § 13519.4(g)).
3. Pending participation in such POST approved training and at all times, all Members of this Department are encouraged to familiarize themselves with and consider racial, identity, and cultural differences among members of our community.
4. Upon completion of initial POST approved training all sworn members of this Department shall be required to complete an approved refresher course every five years or sooner if deemed necessary in order to keep current with changing racial, identity, and cultural trends (Penal Code §13519.4(i)).

#### **402.5.1 BIAS BY PROXY**

Bias by proxy occurs when individuals call the police and make false or ill-informed claims of misconduct about persons they dislike or are biased against based on explicit racial and identity profiling or implicit bias. When the police act on a request of service rooted in implicit or explicit bias, they risk perpetuating the caller's bias. Members should use their critical decision-making skills drawing upon their training to assess whether there is criminal or non-criminal conduct regardless of bias.

### **402.6 CALIFORNIA RELIGIOUS FREEDOM ACT**

Members shall not collect or disclose information regarding the religious beliefs, practice or affiliation of any individual unless permitted under state or federal law (Government Code § 8310.3).

Per Government Code § 8310.3:

- Notwithstanding any other law, a state or local agency or public employee acting under color of law shall not:
  - Provide or disclose to federal government authorities personal information regarding the religious beliefs, practices, or affiliation of any individual for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity.
  - Use agency money, facilities, property, equipment, or personnel to assist in creation, implementation, or enforcement of any government program compiling a list, registry, or database of personal information about individuals based on religious belief, practice, or affiliation, or national origin or ethnicity, for law enforcement or immigration purposes.
  - Make personal information from agency databases available, including any databases maintained by private vendors contracting with the agency, to anyone or any entity for the purpose of investigation or enforcement under any government program compiling a list, registry, or database of individuals based

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on religious belief, practice, or affiliation, or national origin or ethnicity for law enforcement or immigration purposes.

- Notwithstanding any other law, state and local law enforcement agencies and their employees shall not:
  - Collect information on the religious belief, practice, or affiliation of any individual except (A) as part of a targeted investigation of an individual based on reasonable suspicion to believe that individual has engaged in, or been the victim of, criminal activity, and when there is a clear nexus between the criminal activity and the specific information collected about religious belief, or affiliation, or (B) where necessary to provide religious accommodations.
  - Use agency money, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any criminal, civil, or administrative violation, or warrant for a violation, of any requirement that individuals register with the federal government or any federal agency based on religious belief, practice, or affiliation, national origin, or ethnicity.
- An agency or employee will only be deemed to be in violation of this section if the agency or employee acted with actual knowledge that the information shared would be used for purposes prohibited by this section..

#### **402.7 SUPERVISOR RESPONSIBILITY**

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaint Procedure (Policy 1020).

Annually, upon publication of the Racial and Identity Profiling Advisory Board Report, the S.A.F.E Division Commander shall review the report and the Department's effort to prevent racial or identity profiling and submit an overview, including public concerns, to the Sheriff. This overview shall not contain any identifying information regarding any specific complaint, citizen, or officer.

#### **402.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

The S.A.F.E. Division Commander or the authorized designee shall ensure that all data required by the Department of Justice (DOJ) regarding citizen complaints of racial bias against deputies is collected and provided to the Records Division to be reported annually to DOJ (Penal Code § 13012; Penal Code § 13020).