3-01/000.05 - Bias - Free Policing

The Department is committed to ensuring that members of the public receive equal protection of the law without bias based on actual or perceived race, color, ethnicity, national origin, religion, gender, gender identity, disability, sexual orientation, or age, in accordance with the rights secured or protected by the Constitution or laws of the United States.

Core Values

The Department's Core Values encourage all Department members to Lead with Compassion, Serve with Humility, and Courageously Seek Justice for All. All Department members shall conduct themselves in a manner consistent with and without ignoring or contradicting the Department's Core Values. Refer to Manual of Policy and Procedures (MPP) sections 2-01/010.00, Core Values and 3-01/000.13, Professional Conduct – Core Values.

The Department is committed to ensuring members of the public receive equal protection of the law without bias, as described in MPP section 5-09/520.00, Constitutional Policing and Stops. These ideals are engrained into our efforts and reflect our Department's continued commitment to bias-free policing and conduct as bias-based policing and conduct alienates communities, promotes distrust of law enforcement actions and undermines legitimate law enforcement efforts. Biased, racial, or identity profiling is not tolerated by the Department.

Definitions

- **Racial or Identity Profiling -** The consideration of, or reliance on, to any degree, 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: pat-down, consensual, and/or nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, or making an arrest. (Penal Code 13519.4 (e)).

- **Bias-Based Policing -** The intentional practice by an individual law enforcement officer who incorporates prejudicial judgments based on actual or perceived race, color, ethnicity, national origin, religion, gender, gender identity, disability, sexual orientation, or age and inappropriately applies them in the performance of their duties.

- **Biased Conduct -** *Biased conduct is any conduct, including but not limited to, conduct online, such as social media use, engaged in by a peace officer in any encounter with the public, first responders, or employees of criminal justice agencies, as defined in Penal Code Section 13101, which is motivated by bias toward any person's protected class or characteristic, as identified in Civil Code Section 51(b), whether actual or perceived. Biased conduct may result from implicit and explicit biases. Conduct is biased if a reasonable person with the same training and experience would conclude, based upon the facts, that the officer's conduct resulted from bias towards that person's membership in a protected class described in Civil Code Section 51 (b). An officer need not admit biased or prejudiced intent for conduct to be determined to be biased conduct.*

Subdivision (b) of Section 51 of the Civil Code *- All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.*

- **Implicit Bias -** 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.

- **Bias by Proxy -** Occurs when an individual contacts the police and makes a false or ill-informed claim of criminal conduct by persons they dislike or are biased against based on explicit racial and/or identity profiling or implicit bias. When the police act on a request for service based on such bias, they risk perpetuating the callers' own bias. Department personnel should use their critical decision-making skills, drawing upon their training, to assess whether criminal conduct actually exists.

- **Stop –** Any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control. (Government Code section 12525.5(g)(2)).

Detentions and Stops

Department members shall not use actual or perceived race, color, ethnicity, national origin, religion, gender, gender identity, disability, sexual orientation, or age as a factor, to any extent or degree, in establishing reasonable suspicion or probable cause, except as part of actual and reliable information and description(s) of a specific suspect or suspects in any criminal investigation. (Navarette v California, 572 US 393, (2014)).

Deputies should draw upon their training and critical decision-making skills to assess whether there is criminal conduct and be aware of implicit bias and bias by proxy while carrying out their duties. Deputies conducting investigative detentions and stops shall:

- Establish reasonable suspicion or probable cause using actual and credible description(s) of and/or information regarding a specific suspect or suspects in any criminal investigation;

- Only conduct investigatory stops or detentions when they have reasonable suspicion that a person has been, is, or is about to be engaged in the commission of a crime;

- Refrain from using racial or identity profiling in exercising their discretion to conduct a search, except as part of actual and reliable information regarding the description of a specific suspect or suspects in any criminal investigation;

- Refrain from initiating stops or other field contacts because of an individual's actual or perceived immigration status;

- Ensure requests to conduct consent searches are reasonable, and be able to articulate a valid reason

under the law and Department policy for initially having stopped an individual; and

- Only conduct searches of individuals based on probation or parole status when knowledge of a probation or parole search condition has been established.

Persons that are contacted during consensual encounters shall be free to leave at all times, and the contact shall be voluntary. A consensual encounter can transform into a detention if a reasonable person believes they are not free to leave. Refer to MPP section 5-09/520.05, Stops, Seizures, and Searches, MPP section 5-09/520.15, Consensual Encounters, and MPP section 5-09/520.25, Logging Field Activities.

Community Encounters

Department personnel are to interact with members of the public in a manner that is professional, respectful, and courteous. Refer to MPP 3-01/030.15, Conduct Toward Others, MPP section 5-09/560.00, Interactions with Transgender and Gender Non-Conforming Persons, and MPP section 2-02/090.00, Deputy Sheriffs.

Training

State Mandated

- **Racial Profiling –** All sworn personnel must attend once every five years. (Penal Code 13519.4(i)).

Department Mandated

- **Respect Based Leadership –** All personnel must attend once; and
- **Leadership Development Institute (DLI) –** All personnel must attend session one (16 hours) once.

Unit Optional Training

- Ethics in Community Policing.

All units shall provide training to personnel, whenever possible, which enhances competence and skills required to meet unit needs. The training may consist of formal training sessions and/or briefings as time and necessity dictate. See MPP section 3-02/080.01, Training Requirements for Sworn Personnel.

Department personnel are responsible for knowing the contents of the policy on Training Requirements for Sworn Personnel, MPP section 3-02/080.01.

Complaints/Supervisory Review

Department personnel who witness or otherwise become aware of an incident of biased policing, shall immediately report the incident to a supervisor.

If any member of the public alleges bias, the employee shall call a supervisor to the scene to determine an appropriate course of action.

Sergeants are first-line supervisors with primary responsibility for ensuring compliance with the professional and ethical standards of the Department by all subordinate deputy sheriffs and civilian employees. See MPP section 2-02/080.00, Sergeants.

A Department Service Review is a supervisory review of the Department's or individual employee's performance that is initiated as a result of information received from any member of the public. Department service reviews shall be documented on Watch Commander Service Comment Report (WCSCR) forms. The watch commander of the unit shall initiate a service review by immediately interviewing any member of the public who offers a service comment/information. In cases of public input received through the mail or electronic means, the unit commander shall designate a lieutenant to complete the Service Comment Report form. Complaints of racial bias must be noted on the WCSCR form. See MPP 3-01/122.20, Policy of Equality-Procedures-External Complaint Monitoring, and MPP 3-04/010.05, Procedures for Department Service Reviews.

California Penal Code section 13510.6(a) requires the use of the "biased conduct" definition developed by POST, and provided in the definition section above, when investigating any bias-related complaint or incident that involves possible indications of officer bias.

The unit commander will assess the complaint and determine the disposition based on the evidence. See MPP 3-04/010.25, Personnel Complaints.

Data Collection

All significant public contacts and activities (as defined by section 5-09/520.25 - Logging Field Activities) shall be appropriately logged on the Mobile Digital Computer's (MDC) Deputy's Daily Work Sheet (DDWS). The DDWS logs shall contain only accurate information including, but not limited to, the race of each individual detained or searched, the result of the stop, and the date, time, and location of the stop. See MPP 5-09/520.25, Logging Field Activities.

Assembly Bill 953 (AB 953), also known as the Racial and Identity Profiling Act, was signed into law by the Governor in 2015, enacting section 12525.5 of the Government Code (12525.5 GC). As 12525.5 GC mandates, each state and local agency employing peace officers shall submit specific information, referred to as "stop data," to the California State Attorney General regarding police practices pertaining to racial and identity profiling. The following personnel shall make a "stop data" entry into the Sheriff's Automated Contact Reporting (SACR) system after conducting a stop.

- Any sworn member working a patrol assignment;
- Any sworn member working a detective assignment, specialized unit, and special task force (OSS, COPS, parole compliance, federal task force, etc.).
- Any sworn member working Department contracted overtime (parades, concerts, movies, sporting events).
- Any school resource deputy; and
- Any sworn member working in a courthouse or custody facility where there is civilian (public) contact.

- Any sworn member who, in an official capacity, conducts a detention, search of a person or property under the person's control (including consensual searches), or makes an arrest.

  NOTE: Refer to Field Operations Directive 18-04 Sheriff's Automated Contact Reporting (SACR) System.

This data is collected and sent to the Department of Justice (DOJ) annually as required by law.