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## Bias-Based Policing

### 401.1 PURPOSE AND SCOPE

This policy provides guidance to Department members that affirms the Santa Monica Police Department's commitment to Constitutional policing that is fair, objective, and fosters mutual respect and cooperation between law enforcement and members of all racial, identity, and cultural groups.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the Department's relationship with its diverse communities, while at the same time emphasizing an understanding and respect for racial, identity, and cultural differences (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

#### 401.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing or improper profiling** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

This includes biased 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, that is motivated by bias toward any person's protected class or characteristic, whether actual or perceived as identified in Civil Code 51(b) of the Unruh Civil Rights Act. 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 a peace officer's conduct resulted from bias towards that person's membership in a protected class. A peace officer need not admit biased or prejudiced intent for conduct to be determined to be biased conduct (Penal Code § 13510.6; 11 CCR 1022).

### 401.2 POLICY

The Santa Monica Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this Department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

### 401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

# Santa Monica Police Department

## Santa Monica Police Department Policy Manual

### *Bias-Based Policing*

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However, nothing in this policy is intended to prohibit a sworn officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

#### 401.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.
- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

#### **401.4 MEMBER RESPONSIBILITIES**

Every member of this Department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

##### 401.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting in accordance with existing law.

##### 401.4.2 RACIAL AND IDENTITY PROFILING ACT (RIPA) REQUIREMENTS

An officer shall complete a RIPA report for specific types of stops and searches as defined in 11 CCR 999.227. A RIPA report shall be completed for any detention or search of a person or property in their possession or control, including pat-down and consensual searches. Data collected must at a minimum include the data elements required by 11 CCR 999.226, but shall not include personal identifying information of the persons stopped, such as name, address, social security number or any other unique personal identifying information. Data collected by officers will be sent to the California Department of Justice (DOJ) on an annual basis via the Department's RIPA reporting system.

# Santa Monica Police Department

## Santa Monica Police Department Policy Manual

### *Bias-Based Policing*

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When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the RIPA report (11 CCR 999.227). If multiple agencies are involved in a stop and the Santa Monica Police Department is the primary agency, the Santa Monica Police Department officer shall collect the data elements and prepare the RIPA report (11 CCR 999.227).

Officers shall complete and submit all RIPA reports by the end of their shift unless exigent circumstances preclude doing so (11 CCR 999.227). In such circumstances, the officer must notify a supervisor, and complete the report as soon as practicable.

The data collected for the RIPA report shall not be used for disciplinary purposes or for use in performance evaluations. However, failing to document a stop as required by this policy may result in disciplinary action.

#### **401.4.3 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP**

A sworn officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

#### **401.5 SUPERVISOR RESPONSIBILITIES**

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 Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and their supervisor in a timely manner.
  1. Supervisors should document these discussions in the prescribed manner.
- (b) Supervisors should periodically review Mobile Audio/Video (MAV) recordings, body-worn camera (BWC) media, Mobile Data Computer (MDC) data, and any other available resource used to document contact between officers and the public to ensure compliance with the policy.
  1. Supervisors should document these periodic reviews.
  2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
  1. When investigating any bias-related complaint or law enforcement activity incident that involves possible indications of officer biased conduct or improper profiling, a supervisor shall determine whether the officer engaged in conduct that constitutes biased conduct as defined in 11 CCR 1022 or improper profiling

# Santa Monica Police Department

Santa Monica Police Department Policy Manual

## *Bias-Based Policing*

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during a law enforcement activity as described in Penal Code § 13519.4(e) (Penal Code § 13510.6).

- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this Department who discloses information concerning bias-based policing.

### **401.6 ADMINISTRATION**

Each year, the Deputy Chief of Police shall review the efforts of the Department to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Police.

The annual report should not contain any identifying information about any specific complaint, member of the public or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

### **401.7 TRAINING**

Training on fair and objective policing and review of this policy shall be conducted annually and include:

- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

#### **401.7.1 ADDITIONAL STATE REQUIREMENTS**

Training should be conducted as directed by the Professional Standards Unit.

- (a) All sworn members of this Department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- (b) 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 and cultural differences among members of this community.
- (c) Each sworn member of this Department who received initial bias-based policing training will thereafter be required to complete an approved POST 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)).

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

The Internal Affairs Unit supervisor or his/her designee, shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the DOJ as required for reporting (Penal Code § 13012; Penal Code § 13020).

# Santa Monica Police Department

Santa Monica Police Department Policy Manual

## *Bias-Based Policing*

---

Supervisors should ensure that the RIPA reports for officers assigned to their shift are properly completed and submitted to the Department's approved RIPA data collection system (LEFTA) for required annual reporting to the DOJ (Government Code § 12525.5).

In accordance with Government Code § 12525.5, the Custodian of Records shall ensure that the RIPA data gathered is sent to the DOJ via the Department's web-based application on an annual basis, unless otherwise determined by the Chief of Police or their designee. All RIPA data collected is public record and open to public inspection. No identifying information about the peace officer collecting the data or person being stopped shall be publicly disclosed, unless otherwise required by law or court order.