

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject PREVENTING RACIAL AND OTHER BIAS-BASED PROFILING	Policy Number CP-8 Effective Date 10-13-22
Related Information EB-1, <i>Traffic Enforcement, Violator Contacts, and Citation Issuance</i> EB-2, <i>Traffic Stop Data Collection</i> GB-2, <i>Command Responsibility</i> GC-17, <i>Employee Disciplinary Procedures</i> GH-5, <i>Early Identification System</i> GJ-35, <i>Body-Worn Cameras</i>		Supersedes CP-8 (11-04-21)
Version Date	Review Period	Description of Review
10-13-22	July 2023 – June 2024	Statement of Annual Review – No Changes

PURPOSE

The purpose of this Office Policy is to establish procedures to ensure deputies are fair and equitable in deciding whether or not to make contact with members of the public and take law enforcement actions. Age, nationality/national origin, immigration status, religious beliefs/religion, race, color, gender, culture/cultural group, sexual orientation, gender identity/expression, veteran status, ancestry, physical or mental disability, ethnic background, or socioeconomic status shall not be a motivating factor in any law enforcement action including the selection of people for consensual contacts. Racial and bias-based profiling is strictly prohibited.

Although this Office Policy deals largely with field law enforcement, posse members, detention officers, other employees of the Office shall also comply with the letter and spirit of this Office Policy to avoid bias-based profiling and the perception of bias-based profiling. Detention officers, jail employees, and volunteers shall ensure that inmates are treated fairly, that their constitutional rights are respected, and that they are not subjected to any illegal discrimination, including bias-based profiling.

POLICY

It is the policy of the Office that bias-based profiling and/or discriminatory policing in law enforcement activities is wrong and detrimental to effective law enforcement. Bias-based profiling fosters community distrust of law enforcement and thereby undermines legitimate law enforcement work. It also invites media scrutiny, legislative action, and judicial intervention. For all of these reasons, most specifically that it is morally and socially wrong, the application of bias in the Office's enforcement of the law or other activities, is strictly prohibited.

DEFINITIONS

Bias-Based Profiling: The selection of an individual for law enforcement contact or action based to any degree on an actual or perceived trait common to a group, including age, nationality/national origin, immigration status, religious beliefs/religion, race, color, gender, culture/cultural group, sexual orientation, gender identity/expression, veteran status, ancestry, physical or mental disability, ethnic background, socioeconomic status, or any other identifiable group characteristic, except as part of a reliable and specific suspect description. Selection for law enforcement contact or action includes selection for a stop, detention, search, issuance of citation, or arrest. Such bias-based profiling and/or discriminatory policing is prohibited even when a deputy otherwise has reasonable suspicion or probable cause justifying the law enforcement contact or action. The establishment of reasonable suspicion and/or probable cause must remain neutral as to race and the other characteristics listed above.

Employee: A person currently employed by the Office in a classified, unclassified, contract, or temporary status.

Racial Profiling: The reliance on race or ethnicity, to any degree, in making law enforcement decisions, except in connection with a reliable and specific suspect description.

Volunteer: A person who performs hours of service for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered. An employee may not volunteer to perform the same, similar, or related duties for the Office that the employee is normally paid to perform.

PROCEDURES

1. Law Enforcement Operations:

- A. Adherence to Federal Constitutional Law: All investigative detentions, traffic and field contacts, searches, and asset seizure and forfeiture efforts, will be based on applicable standards of reasonable suspicion or probable cause, as required by the Fourth Amendment to the United States Constitution.
 - 1. Deputies must be able to articulate specific facts, circumstances, and conclusions that support probable cause or reasonable suspicion for the law enforcement action taken.
 - 2. The presence of reasonable suspicion or probable cause to believe an individual has violated the law does not necessarily mean that a deputy’s action is race neutral.
- B. Consideration of Group Traits in Law Enforcement Decisions: Racial and bias-based profiling is strictly prohibited. Age, nationality/national origin, immigration status, religious beliefs/religion, race, color, gender, culture/cultural group, sexual orientation, gender identity/expression, veteran status, ancestry, physical or mental disability, ethnic background, or socioeconomic status shall not be considered as factors in deciding law enforcement actions to include, but not limited to, calls for service, traffic stops, arrests, detentions, consensual and non-consensual contacts, unless those characteristics are part of a description received of a specific suspect, perpetrator, or witness for whom a deputy is then searching.
 - 1. Laws shall not be selectively enforced, or not enforced, based on bias-based profiling.
 - 2. Deputies are prohibited from selecting or rejecting particular policing tactics, strategies, or locations based to any degree on bias-based profiling.
 - 3. Deputies are prohibited from relying on a suspect’s speaking Spanish, speaking English with an accent, or appearance as a day laborer, as a factor in developing reasonable suspicion or probable cause to believe a person has committed, is committing, or is about to commit any crime; or reasonable suspicion to believe that an individual is in the country without authorization.
- C. Reliability of Information: Deputies shall not rely on any information received from members of the public, including through any hotline, by mail, e-mail, phone, or in person, unless the information contains evidence of a crime that is independently corroborated by the deputy. Such independent corroboration shall be documented in writing, and reliance on the information shall be consistent with all Office policies.
- D. Avoiding Perception of Bias: In an effort to prevent perceptions of bias, deputies shall utilize the following measures whenever reasonably possible when conducting consensual contacts, investigative detentions, traffic stops, arrests, and searches and seizures of property:

1. Be courteous and polite.
 2. Provide a self-introduction and explain to the subject the reason for the contact, as soon as practical, unless providing this information will compromise the investigation or the safety of deputies or other persons. In ordinary vehicle stops, this information should be provided before asking for driver's license, vehicle registration, and proof of insurance, or other identification.
 3. Ensure that the length of the detention is no longer than necessary to take appropriate action for the known or suspected offense, as well as any offense which is legitimately discovered during the course of the investigation.
 4. Ensure that the purpose of reasonable delays is explained to the person contacted.
 5. Answer any questions the individual may have, including explaining options for the disposition of a traffic citation, if relevant.
 6. Provide name and badge number when requested, verbally, in writing, or on a business card.
 7. If the reasonable suspicion for the stop is dispelled or the stop was made in error, explain why the error was made and apologize for any inconvenience.
 8. Include in any documentation of the contact or other action those facts giving rise to the deputy's reasonable suspicion or probable cause for the contact. Include whether or not vehicle occupants were required to get out of the vehicle, and whether or not they were searched or asked for consent to search their persons, carried belongings, or the vehicle.
2. **Detention Operations:** Detention operations and the selection of inmates or contact with inmates based to any degree on an actual or perceived trait common to a group, including age, nationality/national origin/immigration status, religious beliefs/religion, race, color, gender, culture/cultural group, sexual orientation, gender identity/expression, veteran status, ancestry, physical or mental disability, ethnic background, socioeconomic status, or any other identifiable group characteristic, except as part of a reliable and specific inmate description, is prohibited.
- A. Adherence to Federal Constitutional Law: *Incident Reports (IRs)* and *Disciplinary Action Reports (DARs)* prepared by detention officers shall be based on the inmate's behavior and articulable facts and shall never include consideration of any prohibited factors, as specified in this Office Policy.
 - B. Housing: Inmate housing shall be based on the inmate's age, sex, and security level. Separate housing shall be provided for male, female, and juvenile inmates in all housing categories. Inmates shall not be segregated based on any prohibited factors, as specified in this Office Policy.
 - C. Inmate Work Assignments: Inmate work assignments shall be based on security level, fully sentenced status, medical conditions, and disciplinary history. Inmate work assignments shall not be based on any prohibited factors, as specified in this Office Policy.
 - D. Inmate Programs and Services: Inmates in Office custody shall have equal access to all programs and services based on space availability, security level, need, and program criteria. Inmate programs and services shall not be based on any prohibited factors, as specified in this Office Policy.

- E. Avoiding Perceptions of Bias: Detention officers shall treat all inmates in a fair and professional manner. Care and treatment of inmates shall not be based on any prohibited factors, as specified in this Office Policy.

3. Investigations of Bias-Based Activities:

- A. All employees and volunteers shall immediately report any incident of suspected bias-based profiling activity to their supervisor who shall respond to and initiate an appropriate inquiry into the incident.
- B. All allegations of violations of this Office Policy will be referred to and investigated by the Professional Standards Bureau (PSB) and may result in disciplinary action, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.

4. Training and Review:

- A. Training shall be provided to all Office employees and volunteers regarding the practice of bias-free law enforcement work. Relevant training topics may include, but are not limited to:
 - 1. Definitions of racial profiling and bias-based profiling.
 - 2. Examples of the type of conduct that would constitute bias-based profiling and/or discriminatory policing, as well as examples of the types of indicators deputies may properly rely upon.
 - 3. The protection of civil rights as a central part of the police mission and as essential to effective policing.
 - 4. Ethics, professionalism, and the protection of civil rights as a central part of the police mission and as essential to effective policing.
 - 5. Constitutional and other legal requirements related to equal protection, unlawful discrimination, and restrictions on the enforcement of immigration-related laws.
 - 6. Office policies related to bias-based profiling, the enforcement of immigration-related laws and traffic enforcement, and a correction of any misconceptions about the law or Office policies.
 - 7. Police and community perspectives related to bias-based profiling.
 - 8. The existence of arbitrary classifications, stereotypes, and implicit bias, and the impact that these may have on the decision-making and behavior of a deputy.
 - 9. Methods and strategies for identifying stereotypes and implicit bias in deputy decision-making.
 - 10. Methods and strategies for ensuring effective policing, including reliance solely on non-discriminatory factors at key decision points.
 - 11. Methods and strategies to reduce misunderstanding, resolve and/or de-escalate conflict, and avoid complaints due to perceived bias-based profiling and/or discriminatory policing.

12. Cultural awareness and how to communicate with individuals in commonly encountered scenarios.
 13. Problem-oriented policing tactics and other methods for improving public safety and crime prevention through community engagement.
 14. The benefits of actively engaging community organizations, including those serving youth and immigrant communities.
 15. The Office process for investigating complaints of possible misconduct and the disciplinary consequences for personnel found to have violated Office Policy.
 16. The circumstances under which a deputy may question any individual as to their alienage or immigration status, investigate an individual's identity, search the individual in order to develop evidence of unlawful status, contact U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), await a response from ICE/CBP, and/or deliver an individual to ICE/CBP custody.
 17. The factors that may properly be considered in establishing reasonable suspicion or probable cause to believe that a vehicle or an individual is involved in an immigration-related state crime, such as a violation of the Arizona Human Smuggling Statute, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer.
 18. The factors that may properly be considered in establishing reasonable suspicion or probable cause that an individual is in the country unlawfully, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer.
 19. The prohibition of the use of race or ethnicity to any degree in taking law enforcement action, except in the case of a reliable, specific suspect description.
 20. Data collection protocols and reporting requirements, including reporting requirements for any contact with ICE/CBP.
- B. The Training Division shall provide all deputies, reserve deputies, deputy service aides (DSAs), and posse members, comprehensive and interdisciplinary training on bias-free policing.
1. All deputies, reserve deputies, DSAs, and posse members shall attend 12 hours of bias-free policing training within 90-days of the start of their service.
 2. The Training Division shall provide all deputies, regardless of rank, reserve deputies, DSAs, and posse members with at least six hours of training annually.
- C. The Training Division shall provide all deputies, regardless of rank, reserve deputies, DSAs, and posse members, training on the Fourth Amendment including detention, arrests, and the enforcement of immigration-related laws.
1. All deputies, reserve deputies, DSAs, and posse members shall attend six hours of Fourth Amendment training within 90 days of the start of their service.

2. The Training Division shall provide all deputies, regardless of rank, reserve deputies, DSAs, and posse members with four hours of training annually.
- D. An annual review of all complaints or allegations of bias-based law enforcement actions will be conducted by the PSB and reported to the Sheriff or designee. The Sheriff or designee may assign another command staff member to conduct a further review and analysis to make broader determinations regarding agency and public policy. Items to be reviewed are citations, complaints, audit reviews, and any other documents that may indicate that bias-based law enforcement actions are occurring. Interviews and surveys may be conducted. Member of the public and community concerns and perceptions will be considered when conducting the analysis and deciding further agency action.
5. **Supervisor Responsibility:** The Office utilizes data from the Early Identification System (EIS) to support effective supervision, evaluation, and management of employees in order to promote lawful, ethical, and professional police practices; to identify behavior that represents a risk to the employee, community, or the Office; and to evaluate Office operating procedures, as specified in Office Policy GH-5, *Early Identification System*.
- A. Supervisors shall conduct monthly reviews of data collected, as specified in Office Policies GB-2, *Command Responsibility*, EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*, EB-2, *Traffic Stop Data Collection*, and GJ-35, *Body-Worn Cameras*, for the deputies under their command, to determine whether there are warning signs or indicia of possible racial profiling, unlawful detentions and arrests, or improper enforcement of immigration-related laws. Supervisors shall document the monthly reviews in the Blue Team Supervisor Notes. The supervisor shall ensure selection of the proper note from the drop-down list when documenting the monthly review, as specified in Office Policy EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*. Blue Team shall be the mechanism that will be used to report the monthly review to the Court Implementation Division (CID), as specified in Office Policy GB-2, *Command Responsibility*.
- B. Supervisors shall unequivocally and consistently reinforce to subordinates that racial and bias-based profiling and/or discriminatory policing are unacceptable. Such direction shall occur once in the first half of the calendar year and once in the second half of the calendar year, and be conveyed in the following methods:
1. On an annual basis, within the first six months of the calendar year, supervisors shall conduct a group or individual discussion with their assigned employees, reserve deputies, or posse members, which will in part, requires viewing videos from a library created by the Training Division. The supervisors shall use the message in the video and the approved discussion points, specific to the employee's job classification, to personalize the reinforcement that racial and bias-based profiling and/or discriminatory policing are unacceptable. The videos shall be announced by the Training Division through *The Training Bulletin* or an *MCSO Administrative Broadcast* and be accessible on TheHUB.
 - a. Supervisors shall complete a "*Supervisor Attestation*" acknowledgement through the TheHUB following the discussion of the video with their assigned employees, reserve deputies, or posse members.
 - b. Supervisors with subordinates shall assign the training class code to their assigned employees, reserve deputies, or posse members for the "*Employee Attestation*" acknowledgement completion through TheHUB.
 - c. Once the "*Employee Attestation*" is complete, Blue Team Supervisor Notes are no longer required to document the discussion, unless:

- (1) An employee is on approved leave and is not expected to return to duty prior to the indicated deadline; or
 - (2) The supervisor identifies a concern during the briefing discussion. If a concern is identified, the supervisor shall document the concern in a Blue Team Supervisor Note using the allegation “*Notes-CP8-Preventing Racial and Other Biased Based Profiling*” and should document the related MCSO *Administrative Broadcast* in the note.
- d. Supervisors without subordinates are required to complete a “*Supervisor Attestation Without Subordinates*” acknowledgement as directed through TheHUB.
2. On an annual basis, within the last six months of the calendar year, supervisors shall ensure that all employees, reserve deputies, and posse members assigned to them successfully complete their annual review and acknowledgement of this Office Policy, upon Office distribution through *The Briefing Board* announcement. In addition, employees will be required to view a video from the Sheriff or designee which will reinforce that racial and bias-based profiling and/or discriminatory policing are unacceptable. Employees, reserve deputies, and posse members shall complete acknowledgment through TheHUB.
3. At other times, as determined by the immediate supervisor, discussions that occur with subordinates which reinforce that racial and bias-based profiling and/or discriminatory policing are unacceptable, shall be documented in Blue Team as a Supervisor Note or Briefing Note. The supervisor shall ensure selection of the proper note from the drop-down list when documenting the reinforcement with employees.
- C. All personnel shall report violations of Office Policy. Supervisors of all ranks shall be held accountable for identifying and responding to Office Policy or procedure violations by personnel under their command and ensuring that personnel are held accountable for Office Policy and procedure violations.