

CHAPTER 17
BIAS BASED PROFILING

Purpose.....17:1
Discussion.....17:1
Policy.....17:1
Definitions.....17:1
Training.....17:2
Traffic Stop Procedures.....17:2
 Traffic Stop Data Report.....17:3
 Video/Audio Recording of Traffic Stops.....17:3
Complaints of Racial/Ethnic Complaints.....17:3
 Supervisory Responsibility.....17:4
Annual Review.....17:4

CHAPTER 17

BIAS BASED PROFILING

I. Purpose

The purpose of this policy is to unequivocally state that racial and ethnic profiling in law enforcement are totally unacceptable, to provide guidelines for officers to prevent such occurrences, and to protect officers when they are within the dictates of the law and policy from unwarranted accusations.

II. Discussion

A fundamental right guaranteed by the Constitution of the United States to all who live in this nation is to the equal protection under the law. Along with this right to protection is fundamental right to be free from unreasonable searches and seizures by government agents. Citizens are free to walk and drive our streets, highways, and other public places without interference so long as they obey the law. They also are entitled to be free from crime, and from the depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.

The Monroe County Sheriff's Office is charged with protecting these rights, for all, regardless of race, color, ethnicity, sex, sexual orientation, physical handicap, religion or other belief system.

Because of the nature of their business, law enforcement officers are required to be observant, to identify unusual occurrences and law violations, and to act upon them. It is this proactive enforcement that keeps our citizens free from crime, our streets and highways safe to drive upon, and that detects and apprehends criminals.

This policy is intended to assist deputies in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police.

III. Policy

It is the policy of the Monroe County Sheriff's Office to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing, or about to commit, an infraction of law.

IV. Definitions

- A. Racial profiling: The detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status, sexual orientation, religion, age, cultural groups, other identifiable groups or characteristics.
- B. Reasonable suspicion: Also known as articulable suspicion. Suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observation of a deputy sheriff combined with his or her training and experience, and/or reliable information received from credible outside sources.

V. Procedure

- A. Bias Based Profiling is prohibited to include but not limited to;

1. Traffic Contacts
 2. Field Contacts
 3. Asset seizure and forfeiture efforts
- B. The Sheriff's Office's efforts will be directed towards assigning deputies to those areas where there is the highest likelihood that crashes will be reduced and/or crimes prevented through proactive patrol.
- C. Officers will receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, culture diversity, the laws governing search and seizure, and interpersonal communications skills.
- D. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action and will cover bias based profiling issues including legal aspects.
- E. Traffic enforcement will be accomplished by consistent, ongoing supervisory oversight to ensure that deputies do not go beyond the parameters of reasonableness in conducting such activities.
- F. Motorist and pedestrians shall only be subjected to stops, seizures or detentions upon reasonable suspicion that they have committed, are committing, or about to commit an infraction. Each time a motorist is stopped, the deputy shall radio to the dispatcher the location of the stop, the description of the person or vehicle being detained, and the statute number violated or other reason for the stop, and this information shall be logged.
- G. The Sheriff's Office recognizes that with experience, individual deputies may develop individualized approaches that they find work best for them in minimizing conflict during officer/violator contacts. Given some better approach, the following is recommended, in the order specified below:
1. Give a greeting, such as "Good morning ma'am", "Good morning sir", etc.
 2. Identify yourself. Ex. "I am Deputy Smith of the Monroe County Sheriff's Office".
 3. State the reason why the person is being stopped or detained. Ex.: "I stopped you because I saw your vehicle come through the stop sign at that last intersection without coming to a complete stop". (Describe the actions of the vehicle rather than the actions of the driver, tends to reduce tension.)
 4. It may defuse tension to ask a motorist if there was some reason for the violation. This gives them the opportunity to "have their say", often leads to an admission that the violator realized they were in violation, and precludes a defendant from offering a different excuse at trial. If you choose not to ask but the motorist wishes to give a reason or excuse, listen politely and give them ample opportunity to tell their story.
 5. Politely ask for identification and any required documents. Ex: "May I please see your license, registration, and proof of insurance?"
 6. After completing any necessary paperwork, inform the driver or pedestrian as to what action is being taken and what, if any, the person must do as a result, such as how to pay any fine involved, obtain a traffic court hearing, etc.
 7. Give an appropriate closing. For example, if the motorist was cooperative, "Thank you for your cooperation" may be in order. Do not use the trite expression, "Have a nice day", which would be inappropriate in these circumstances. "Please drive carefully, your safety is important to us" is more appropriate.

8. Make sure the driver is able to merge safely back into the traffic stream.
9. Appropriate enforcement action should always be completed, generally in the form of a warning, citation, or arrest. The proper form must be filled out by the officer, and shall include the gender, race, or ethnicity of the person stopped, if this information can reasonably be ascertained by physical appearance or from the driver's license or other documents provided by the individual.
10. Upon clearing a traffic stop the deputy will provide to Communications the TSDR (traffic stop data report) information. This information is to include;
 - a. Drive race and sex
 - b. Driver Age
 - c. Number of passengers
 - d. Primary reason for stop
 - e. Primary enforcement action
 - f. Rational for vehicle search
 - g. Contraband seized
11. Communications will enter the TSDR information into a database that will be used for analysis and review.
12. No motorist, once cited or warned, shall be detained beyond the point where there exist no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent.
 - a. In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the results thereof. It is strongly recommended that consent searches only be conducted with written consent, using the proper department form. If the individual indicates that they will consent to a search but are refusing to sign the form, fill out the form anyway and indicate "consented to search but refused to sign", inserting initials and the signature of any witnesses in the signature block.
13. If the patrol unit is equipped with a video camera, the video and sound shall be activated prior to the stop, to record the behavior of the vehicle or person, and shall remain activated until the person is released and resume their journey.
- H. In the absence of a specific, credible report containing a physical description, a person's race, ethnicity, gender or sexual orientation or any combination of these shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.
- I. The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender, or sexual orientation of a person stopped for investigative or enforcement purposes is prohibited and a cause for disciplinary action, up to and including dismissal.
- J. If the department provides public information pamphlets to officers regarding the purposes of proactive enforcement, officers may distribute the pamphlet to each person subjected to such activities, whenever appropriate.
- K. Complaints of Racial/Ethnic Profiling
 1. Any person may file a complaint with the department if they feel they have been stopped or search based on racial, ethnic, gender-based profiling, and no person shall discourage,

intimidate, or coerced from filing such complaint, or discriminated against because they have filed such a complaint.

2. Any deputy contacted by a citizen who wishes to file such a complaint shall provide the citizen with a witness statement form. The citizen will then write in detail what their complaint is. This form can then be mailed or delivered in person to Internal Affairs. The deputy shall record the person's name, address, and telephone number, and report the contact to the deputy's supervisor prior to the end of the shift.
3. Supervisor receiving such a report shall forward it to Internal Affairs section.
4. Internal Affairs shall acknowledge all such complaints in writing and inform the complainant of the results within a reasonable period of time.
5. If an employee is found to be in violation of this policy, corrective measures shall be taken to ensure that Bias Based Profiling does not occur. Those corrective measures shall be in accordance with Chapter 13 Disciplinary Procedures and Chapter 20 Internal Affairs.
6. The completed finalized investigation will be forwarded to the Sheriff along with a review by Internal Affairs with any suggested changes in policy, training, or tactics.

L. Supervisory Responsibility

1. Supervisor shall review profiling complaints, review TSDR data on an individual deputy basis, periodically review a sampling of in-car video tapes of stops, reports filed on stops by deputies, and respond at random to back up deputies on vehicle stops, and take appropriate action whenever it appears that this policy is being violated, being particularly alert to any pattern or practice of possible discriminatory treatment by individual deputies or squads.

M. Community Education and Awareness

1. A brochure covering definition of bias-based policing, how to report violations, Sheriff's Office policy, position statement against bias-based policing and Sheriff's Office mission statement and values.
2. This brochure will be provided to the public in the lobbies of the various Office facilities, for public distribution and posted on the Office's web site.
3. Each employee is responsible to educate the public about bias based profiling and the Office's measures against it.

N. Annual Review

1. On an annual basis, Internal Affairs shall make a statistical summary of all profiling complaints for the year, including the findings as to whether they were sustained, not sustained, or exonerated. This summary shall be forward to the Sheriff via the Chain-of-Command.
[CALEA 1.2.9 d]
2. Further, Professional Standards shall conduct an annual review of the statistical summary, TSDR data and community comments or concerns in an evaluation of agency practices. Any practices that appear to be racial, ethnic or gender disparaging in nature will be noted and recommendations made for corrective measures. This review shall be forward to the Sheriff via the Chain-of-Command.
[CALEA 1.2.9 d]

