

	RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM		1:9
	PROFILING & DISCRIMINATORY PRACTICES		
	Effective Date: 07-07-2020		Supersedes: 1:9 (01-18-2019)

1:9-1 PURPOSE

The purpose of this directive is to ensure that race, color, gender, creed, national origin, immigration status, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, gender identity, physical or mental disability shall not be the basis for the detention, interdiction, or other disparate treatment of an individual or class of individuals by any member of this department.

1:9-2 POLICY

It is the policy of this department to prevent and prohibit the practice of discriminatory profiling or any other discriminatory practice by members of this agency.

1:9-3 DISCUSSION

- a. Fundamental rights guaranteed by the Constitution of the United States and the Constitution of the State of New Jersey are equal protection under the law and the right to be free from unreasonable searches and seizures by agents of the government. Citizens are free to traverse on streets and other public places without police interference so long as they obey the law. They are also entitled to be free from crime and from the preying of criminals, and to drive and walk the public ways safe from the actions of reckless and careless drivers.
- b. Police officers are required to be observant to identify unusual occurrences and violations of the law, and to act upon them. Police officers must routinely engage in consensual contacts with citizens and are in fact encouraged to do so. These pro-active actions help to detect and apprehend criminals thus keeping our citizens free from crime and our streets and highways safe to travel upon. In accomplishing the mission of this department, officers must utilize sound investigative practices and not take enforcement actions based upon an individual's or class of individuals' race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, immigration status, sexual orientation, gender identity, physical or mental disability.
- c. Bias based policing, as defined in this directive, is unethical and unacceptable. This agency will not tolerate the reliance by any individual on race, ethnicity, gender, sexual orientation, gender identity, religion, economic status, immigration status, age, culture, or any other immutable characteristic of a group or class of persons, in determining whether to provide services or enforce laws in other than a fair and equitable manner.
- d. Departmental personnel, at all levels, shall be familiar with the provisions of *NJSA 2C:30-6, Crime of Official Deprivation of Civil Rights*, which reads in part:
A public servant acting or purporting to act in an official capacity commits the crime of official deprivation of civil rights if, knowing that his conduct is unlawful, and acting with the purpose to intimidate or discriminate against an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation or ethnicity, the public servant: (1) subjects another to unlawful arrest or detention,

including, but not limited to, motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes another in the lawful exercise or enjoyment of any right, privilege, power or immunity.

- e. New Jersey's policy prohibiting racially-influenced policing may be simply stated:
Except when you are responding to some type of a suspect-specific or investigation-specific B.O.L.O. ("Be On The Lookout") situation, you are prohibited from considering a person's race or ethnicity to any degree in drawing inferences that this person may be involved in criminal activity, or in exercising any form of police discretion with respect to how you will deal with that person.
- f. The Importance of Thoughtful (Reasoned) Policing.
 - While police officers are not prohibited from relying on a "hunch," officers should always be thinking about what they are doing, and why they are drawing inferences of suspicion about an individual.
 - An officer should ask himself/herself what it is about this particular person that has led the officer to suspect that this person may be involved in criminal activity. (The key to being reasonable is to be reasoning, that is, to be consciously aware of and able to articulate the reasons for making important decisions.)
 - ***Officers must make certain that a person's race or ethnicity plays no part in the exercise of police discretion, and officers should be prepared to explain and document the legitimate, race-neutral reasons for their suspicions.***

1:9-4

DEFINITIONS

Citizen Contact is a consensual encounter between a police officer and a citizen, initiated by either party, wherein the citizen is free to terminate the encounter at any time.

Detain or Detention is the act of stopping or restraining a person's freedom to leave; approaching and questioning a person outside the realm of a consensual encounter, or stopping a person suspected of being personally involved in criminal activity.

Discriminatory Profiling is the detention, interdiction, or other disparate treatment of an individual or class of individuals on the basis of their race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, immigration status, sexual orientation, physical or mental disability.

Field Interview is the brief detainment of an individual, whether on foot or in a vehicle, based upon reasonable suspicion for the purposes of determining the individual's identity and resolving an officer's suspicions.

Search is looking for or seeking out that which is otherwise concealed from view.

Stop is the restraining of a person's liberty by physical force or a show of authority.

1:9-5

GENERAL

- a. Discriminatory profiling of persons by members of this department is strictly prohibited.

- b. When a member of this agency is trying to determine whether an individual may be engaged in criminal activity, the officer should not focus on personal characteristics (that the person was born with and can't change), but rather should focus on the person's **conduct**: (i.e. what the person is (1) doing, or (2) saying, or (3) in certain situations, expressive forms of conduct such as the person's manner of dress. In other words, **members of this agency should be looking out for "suspicious conduct," not for "suspicious looking" persons.**
- c. Absent reasonable suspicion or probable cause, race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, gender identity, physical or mental disability (unless a danger to themselves or others) will not be a factor in determining whether to interdict, detain, stop, arrest or take a person into custody.
- d. In response to a specific report of criminal activity, race, color, gender, creed, national origin, immigration status, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, gender identity, physical or mental disability will not be a factor in determining the existence of probable cause to arrest a person.
 - Except when responding to suspect-specific or investigation-specific "Be on the Lookout" (B.O.L.O.) situation.
 - Nothing in this directive is to be construed in any way to prohibit a sworn officer or civilian employee from taking into account a person's race or ethnicity when race or ethnicity is used to describe physical characteristics that identify a particular individual or individuals who is/are the subject of a law enforcement investigation, or who is/are otherwise being sought by a law enforcement agency in furtherance of a specific investigation or prosecution.
- e. The stop or detention of any person(s) or vehicle(s) that is not based on factors related to a violation or violations of the laws and ordinances of the United States, State of New Jersey, Counties, Cities or Townships or in response to the police community caretaking function is prohibited.
- f. No member of this agency may search a person or vehicle based upon their race, color, gender, creed, sexual orientation, gender identity, national origin, immigration status, ethnicity, religious beliefs, age, marital status, sexual orientation, physical or mental disability.
- g. Race, color, gender, creed, national origin, immigration status, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, gender identity, physical or mental disability shall not be a factor in any asset forfeiture proceedings.
- h. No member of this agency may inquire about the immigration status of an individual, unless doing so is:
 - 1. Necessary to the ongoing investigation of an indictable offense by that individual; *and*
 - 2. Relevant to the offense under investigation.
- i. The general prohibition against using physical descriptors rather than conduct to any degree in deciding how a law enforcement officer should act with respect to a particular individual applies to every conceivable decision that the officer can make, including; but not limited to:

- the decision to “run the plates” of a vehicle;
 - the decision to approach an individual/initiate a consensual “field inquiry,”
 - the decision to initiate an investigative detention;
 - the decision to order a driver (or passenger) to exit from a lawfully detained vehicle;
 - the decision to conduct a protective frisk for weapons;
 - the decision to pose probing or “accusatorial questions” during the course of a consensual “field inquiry” or a routine motor vehicle stop;
 - the decision to run an outstanding warrant check or to conduct a criminal history lookup;
 - the decision to ask an individual for permission to conduct a consent search;
 - the decision to summon a drug detection canine to the scene;
 - the decision to issue a ticket rather than to issue a written or oral warning; and
 - the decision to make a custodial arrest rather than to issue a summons on the scene.
- h. The test for determining whether an officer has complied with the State’s non-discrimination policy is very simple: would the officer have treated this individual or group of individuals differently if he/she/they had been of a different race or ethnicity?
- If the answer to this question is yes, then unless the “B.O.L.O. exception” applies, the police conduct would constitute “Racially-Influenced Policing” in violation of both Attorney General Law Enforcement Directive 2005-1 and this directive.

1:9-6 RESPONSIBILITIES

- a. The Chief of University Police, or designee, will be this agency’s community liaison on discriminatory profiling issues.
- b. The Professional Standards Commander or designee, shall conduct an annual administrative review of this agency’s practices, citizen concerns; community concerns regarding profiling and other discriminatory practices and, if applicable, any corrective measures taken.
- c. Supervisors of all ranks are responsible for providing effective supervision to reasonably monitor those under their command to ensure compliance with this directive and to take corrective action where indicated.
- d. Police supervisors witnessing behavior contrary to this directive are required to take immediate action to end the behavior and document actions taken through the appropriate chain of command.
- e. Employees witnessing behavior contrary to this directive or becoming aware of conduct contrary to this directive must immediately report their knowledge of the incident to their immediate supervisor in writing. If their supervisor is the subject of the report or in the absence of their supervisor, the employee must report it to another supervisor or to the next level in the chain of command.

1:9-7

RECORD KEEPING PROCEDURES

- a. Officer-initiated vehicle stops and pedestrian stops (field interviews) shall be recorded on a patrol chart or within the Computer Aided Dispatch System.
- b. Only the officer who initiates the stop is required to complete the data for that stop. Back up officers shall not complete the data entry for the stop.
- c. Officers are to determine the race, ethnicity, gender, and age through visual observation, information provided on documents, and their professional judgment. Do not ask this information from the person being stopped solely for data collection purposes.
 - Communications and/or administrative personnel are responsible for transcribing this data within the appropriate data fields of the CAD's demographics section.
- d. While a record is not usually required for all passengers within a stopped motor vehicle. This requirement may become necessary if the purpose of the stop is to question or detain passengers. (Example, criminal suspect is observed on or suspected of being a passenger in a motor vehicle.) This requirement is not necessary for officer-initiated stops of mass transit vehicles such as commercial buses or school buses where the scope of the stop is solely related to the operator's actions, equipment issues, or community caretaking functions.
- e. The NCIC Code Manual provides the basis for determining the race of persons. These descriptors are:
 - **A – Asian or Pacific Islander** – a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian sub-continent or the Pacific Islands
 - **B – Black** – a person having origins in any of the black racial groups of Africa.
 - **I – American Indian or Alaskan Native** – a person having origins in any of the original peoples of the Americas and maintaining cultural identification through tribal affiliations or community recognition.
 - **W – White** – a person having origins in any of the original peoples of Europe, North Africa, or Middle East.
 - **U – Unknown**
- f. Ethnicity will follow general U.S. Census guidelines and list only two categories. These categories are Hispanic or Non-Hispanic.

1:9-8

TRAINING

- a. Training in this directive shall be conducted annually; however supervisors are encouraged to discuss the concepts regularly, particularly when reviewing Use of Force and enforcement applications.
- b. The Police Training Commission currently requires entry level training in this topic for new police officers. Entry level officers shall receive training in this directive following graduation and prior to assuming operational duties.
- c. Civilian Employees shall receive training consistent with this directive upon appointment and refreshers minimally annually.

- d. This training shall include a discussion of the legal aspects of bias based policing, cultural diversity and the prohibition against discriminatory policing; including, but not limited to: federal and state constitutional guarantees of the equal protection of the laws. The training shall be supplement, not replace, current in-service training which is mandated by Attorney General Directives 2005-1 and 2018-6.