

CITY OF EAST PALO ALTO	
POLICE DEPARTMENT POLICIES AND PROCEDURES	Policy Number: No. of Pages: 5 Effective Date: 1 March 08 Date Revised:
Chapter: PERSONNEL	
Subject: RACIAL PROFILING/BIAS-BASED POLICING	
Supersedes:	
Signature of Issuing Authority: Chief Ronald L. Davis	

PROHIBITIONS REGARDING RACIAL PROFILING AND OTHER BIAS-BASED POLICING

I. PURPOSE

- A. The purpose of this policy is to reaffirm the East Palo Alto Police Department's commitment to providing service and enforcing laws in a fair and equitable manner, and to establish a relationship with the community based on mutual trust and respect. Whenever our practices are, or are perceived to be, biased, unfair, or disrespectful, we lose public trust and support and diminish our effectiveness and ability to reduce crime and violence.
- B. This policy is consistent with our core values: Service, Teamwork, Respect, Integrity, Vision and Excellence (STRIVE).
- C. California Penal Code Section 13519.4(e) prohibits racial profiling by law enforcement officers. This Department policy explicitly prohibits racial profiling and other bias-based policing. It also states the limited circumstances in which members can consider race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability in making law enforcement decisions and actions.

II. DEFINITION OF RACIAL PROFILING

The use of race, ethnicity, or national origin in determining reasonable suspicion, probable cause or the focus or scope of any police action that directly or indirectly imposes on the freedoms or free movement of any person, unless the use of race, ethnicity, or national origin is used as part of a specific suspect description.

III. POLICY

- A. Investigative detentions, traffic stops, arrests, searches and property seizures by officers shall be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.

- B. Members shall articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, pedestrian, bicycle, or vehicle stops, arrests, non-consensual searches and property seizures.
- C. Members shall not consider actual or perceived race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability in establishing either reasonable suspicion or probable cause or when carrying out law enforcement activities EXCEPT when credible and reliable information links specific suspect descriptions to specific unlawful or suspicious activity.
- D. Members seeking one or more specific persons who have been identified or described in part by any of the above listed characteristics may rely on these characteristics in part and only in combination with other appropriate factors.

IV. CONSENT SEARCHES

- A. A consent search refers to searches conducted not based on probable cause, incident to arrest or pursuant to a search warrant, but based on permission granted from the person being searched.
- B. Consent searches are permissible law enforcement tools; however, their use shall not be:
 - a. Arbitrary. In other words, the request to conduct a consent search must be reasonable and members should be able to articulate the suspicion that formed the basis for the request.
 - b. Based on actual or perceived race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability.
- C. Members shall complete a Field Contact Report for each consent search conducted articulating the reason for the search.
- D. Members shall complete a Stop-Data Collection Form for each consent search conducted.
- E. Members shall advise individuals of their right to refuse a consent search.

V. CONDUCTING STOPS

In conducting pedestrian, bicycle, or vehicle stops, members shall:

- A. be courteous, respectful, polite and professional.
- B. explain the reason for the stop while asking for license and registration information, unless impractical.
- C. identify yourself.

- D. ensure the length of the detention is no longer than necessary to take appropriate action for the known or suspected offense, and explain the reason for any delays.
- E. answer questions the person may have regarding the stop and explain the disposition of the stop.
- F. apologize for the inconvenience when appropriate.
- G. if asked, provide the procedures for filing a complaint about police services or conduct outlined in General Order

VI. EXAMPLES OF RACIAL PROFILING

A. Examples of racial profiling include but are not limited to the following:

1. Example #1

While on patrol an officer observes a black male driving a new, expensive Mercedes Benz in a low-income neighborhood. The vehicle is not listed on the hot sheet nor is it entered in the Stolen Vehicle System (SVS). The officer decides to stop the vehicle to further investigate because he feels the car may be stolen because it appears too expensive for the driver and the neighborhood.

Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess a specific model of vehicle is prohibited. In this particular example, the officer had neither reasonable suspicion nor probable cause to detain the vehicle. Absent additional information or observations that would lead a reasonable officer to believe the vehicle was stolen, such as a smashed window or signs that the vehicle was hot-wired, the officer's stop constitutes racial profiling.

2. Example #2

An officer is assigned to a predominately white residential neighborhood. While on patrol, the officer observes a Hispanic male driving a truck late at night. The officer knows most of the residents in the area and does not recognize the Hispanic driver. Recently there have been burglaries in that area. Based on the fact that there have been burglaries in the area, and the driver is Hispanic and the residents in the area are white, the officer stops the vehicle to further investigate.

Detaining the driver of a vehicle based on the determination a person of that race, ethnicity or national origin does not belong in a particular part of town constitutes racial profiling and is prohibited. In this particular example, the officer's knowledge of the residents and the driver's race, even though the race differs from most of the residents in that area, does not provide reasonable suspicion. The fact that there have been burglaries in the area may raise an officer's suspicion to vehicles driving late at night; however, even when this information is considered with the other factors discussed, it is an insufficient basis for a detention.

VII. STOP-DATA COLLECTION

- A. complete a Stop-Data Collection Form for every vehicle, walking, and bicycle stop conducted during their shift. Members shall also complete a Stop-Data Collection Form for every consent search conducted.
- B. print his/her name and serial number at the bottom of every Stop-Data Collection Form completed.
- C. submit completed Stop-Data Collection forms to their assigned supervisor or, in the absence of the assigned supervisor, an available field sergeant or Watch Commander for review and approval.

VIII. MEMBER RESPONSIBILITIES

Members shall:

- A. not engage in, ignore, or condone racial profiling or other bias-based policing.
- B. be responsible for knowing and complying with this policy.
- C. report incidents of racial profiling as defined in this policy.
- D. be subject to disciplinary action if deemed not in compliance with this order.

IX. COMPLAINTS

Complaints of racial profiling and other bias-based policing against members shall be:

- A. considered complaints of discrimination (Class 1 violation) and, as such, immediately forwarded to the Professional Standards Unit.
- B. immediately referred to the member's supervisor, or if the officer's supervisor is not available, to the Watch Commander.

X. TRAINING

A. Pursuant to California Penal Code Section 13519.4, each member shall:

- 1. attend POST racial profiling training; and complete an approved refresher course every five (5) years, or sooner if deemed necessary, in order to keep current with changing racial and cultural trends.
- 2. The Professional Standards Unit commander shall ensure line-up training on racial profiling and this policy is provided to sworn personnel at least once annually. This training may also be provided to non-sworn personnel.

XI. SUPERVISORY RESPONSIBILITIES

Supervisors shall:

- A. not engage in, ignore, or condone racial profiling or other bias-based policing.

- B. be responsible for knowing and complying with this policy.
- C. ensure that subordinates under their command know and understand the content and application of this policy.
- D. periodically monitor subordinates under their supervision to ensure compliance with this policy.
- E. review all forms submitted by members to ensure the forms are completed in accordance with this order.
- F. print his/her name and serial number in the appropriate boxes signifying the form has been reviewed and approved, and submit the form to the Area Commander.
- G. conduct periodic audits to ensure compliance with this order.

Supervisors and commanders who fail to comply with this order shall be subject to disciplinary action. If it is determined that members assigned to a supervisor and/or commander failed to comply with this order and the supervisor and/or commander knew of said violation, or should have reasonably known, the supervisors and/or commander shall be subject to disciplinary action.

XII. AREA COMMAND

The Area Captains are responsible for data collection. Accordingly, each Captain shall:

- A. ensure Stop-Data Collection Forms are available in the Patrol Line-up Room.
- B. submit completed forms to the Crime Analyst.
- C. conduct periodic audits to ensure members comply with the provisions of this order.

XIII. CRIME ANALYST

The Crime Analyst shall:

- A. enter all completed stop-data forms into the Racial Profiling Database.
- B. provide a monthly statistical report as directed by the Chief of Police.
- C. retain all completed forms, after they have been entered into the database, for a period of not less than three years unless otherwise instructed by the Chief of Police.

By order of

Ronald L. Davis
Chief of Police

Date Signed _____

1 March 2008

To: All Personnel

Subject: Racial Profiling Stop-Data Collection Form

I. PURPOSE

This Special Order outlines the procedures for completing and processing the new Stop-Data Collection Form. A sample Stop-Data Collection Form is attached.

II. RESPONSIBILITIES

A. Members shall be responsible for:

1. Completing a Stop-Data Collection Form for every vehicle, walking or bicycle stop conducted during their shift. Completed forms shall be submitted to the assigned supervisor or, in the absence of the assigned supervisor, an available field sergeant or watch commander for review and approval.
2. Members shall deposit all completed (and approved) forms in the report writing receptacle at the end of their shift.

B. Supervisory / Command Responsibilities

1. Supervisors shall review all forms submitted by members to ensure the forms are completed in accordance with this order. The approving supervisor shall write his or her name and serial number in the "Supervisor" boxes signifying the form has been reviewed and approved.
2. The approving supervisor or watch commander shall return the form to the appropriate member after their review or deposit the form in the report writing receptacle.
3. Supervisors and commanders shall conduct periodic audits to ensure compliance with this order. Members not in compliance with this order shall be subject to disciplinary action.

C. AREA COMMAND

The Area Captains shall collect and forward all Stop-Data Collection Forms to the Crime Analysis Section on a daily basis.

D. Crime Analysis

The Crime Analysis Section shall enter the Stop-Data Collection Forms into the Racial Profiling database within five working days of receipt. Completed forms shall be retained by the Crime Analysis Section unless otherwise instructed by the Chief of Police..

III. COMPLETING THE STOP-DATA COLLECTION FORM

In the instructions that follow, “Indicate” means to darken the circle with a black pen or Number 2 pencil which best denotes the information requested. “Fill-in” means to complete the information requested within the open boxes on the form.

To complete a Stop-Data Collection Form, the member making the stop shall indicate or fill-in, as appropriate, the following fields:

Section 1

Type of Stop/Watch	Indicate whether the stop is a vehicle, pedestrian, or bicycle stop, and identify the Watch the stop occurred on.
Beat/Date/Time	Fill-in the beat, date and time of the stop.

Section 2

Specific Street Location/Intersection	Fill-in the location of the stop with exact street and intersection.
Age & Gender	Indicate what you believed was the age range and gender of the person stopped at the time you made the decision to make the stop.
Race	Indicate what you believed was the race of the person stopped at the time you made the decision to make the stop. If the race of the person stopped is not listed in one of the categories provided on the form, select the “Other” category. <i>Do not leave this category blank.</i>

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If you are unable to see the driver or cannot ascertain the race of the driver at the time you made the decision to make the stop, indicate what you determined as the race of the person after you made the stop.

In such cases, also fill in the box that states you could not determine whether the driver was of color.

Members shall not question person(s) stopped regarding their race.

Vehicle License Plate Number

Fill-in the license plate number and the abbreviation for the issuing state (if other than CA). If there is not plate, leave blank.

Yes/No Questions

Indicate whether you identified the driver as a person of color at the time you made the decision to make the stop.

Fill-in if you have stopped or have knowledge that another member stopped this person within the last six months.

Fill-in if the person stopped is an East Palo Alto resident. This determination may be based on an ID card or driver's license, or the officer may ask the person.

Section 3

Reason for Stop

Fill-in the type of stop.

Stop Category

Fill-in if the stop was on-view, dispatch, or special assignment.

Duration of Stop

Fill-in the approximate length of the stop in minutes.

Special Assignment Type

If the stop was made while on a special assignment, record the type of special assignment. If the type of assignment is not listed on the form, record "Other" and

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write the type of assignment in the space provided.

Result of Stop

Indicated the result of the stop.

Section 4

Search

Indicate if a search was conducted as a result of the stop.

Search Basis

If a search was conducted, indicate the basis for the search.

Result of Search

Indicate the result of the search.

Section 5

Officer Name and Serial Number

The officer conducting the stop shall place his or her first initial and last name in this box.

Supervisor and Serial Number

The approving supervisor shall fill-in his/her name and serial number.

By order of

Ronald L. Davis
Chief of Police