



Kern County Sheriff's Office

Policies and Procedures

TITLE: BIAS-FREE POLICING			NO: J-2300
APPROVED: Donny Youngblood, Sheriff-Coroner			
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PURPOSE AND SCOPE

The purpose of this policy is to provide Sheriff's Office personnel the tools and guidance to provide bias-free services to all members of the public. This policy affirms the Kern County Sheriff's Office is committed to policing that is fair, objective, and bias-free.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the Sheriff's Office relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

POLICY

The Kern County Sheriff's Office 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 the Sheriff's Office to provide law enforcement services that are bias-free and to enforce the law equally, fairly, and objectively without discrimination toward any individual or group.

Discriminatory conduct based on race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, or disability while performing any law enforcement activity is prohibited. All law enforcement contacts and activities, including, but not limited to, calls for service, investigations, law enforcement-initiated stops or detentions, and activities following stops or detentions, shall be bias-free and based on legitimate, articulable facts. All law enforcement action taken shall be consistent with the standards of voluntary consent, reasonable suspicion, or probable cause as required by federal and state law.

California Penal Code section 13519.4 (d)(2) states: "Racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society." Bias-based policing undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. Bias-based policing alienates the community, fosters community distrust of law enforcement, and invites media scrutiny, legislative action and judicial intervention. The Kern County Sheriff's Office neither condones nor tolerates the use of bias-based policing.

DEFINITIONS

Fair and Bias-free Treatment – The conduct of Sheriff's Office personnel wherein all people are treated in the same manner under the same or similar circumstances irrespective of specified characteristics.

Implicit Bias – The attitudes or stereotypes that affect a person's understanding, actions, and decisions in an unconscious manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual's awareness or intentional control. Implicit biases are different from known biases that individuals may choose to conceal.

Bias by Proxy – When an individual calls/contacts the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against based on explicit bias or implicit bias.

Crime Prevention Strategy – An agency's formalized plan to proactively reduce criminal activity prior to victimization.

Racial or Identity Profiling – The consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest. (CA Penal Code § 13519.4 (e)).

BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

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

BIAS BY PROXY PROTOCOL

Any time a caller or a reporting party offers a vague allegation or suspicion without tying it to specific criminal activity or need for public safety (e.g., "suspicious person or "suspicious vehicle") dispatchers and responding deputies should be on alert for a possible biased call. When feasible, employees shall determine by further inquiry that there is reason to suspect specific criminal

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conduct or need for law enforcement services prior to responding. When employees act on a request for service based on a caller's bias, law enforcement risks acting on the caller's bias and potentially engaging in bias-based policing (Bias by Proxy).

In order to guard against and prevent Bias by Proxy, all employees shall:

1. Remain vigilant of the potential for bias-based motivations behind calls for service.
2. Always aim to build community trust through all actions they take, especially in response to bias-based reports.
3. Exhibit critical decision-making, drawing on their training and awareness of implicit and explicit bias, to assess whether there is a legitimate law enforcement purpose before acting. Absent a duty to act by law or policy, no employee is obligated to take any discretionary action where bias-based motivation is behind a call for service.
4. For suspected bias-motivated calls, when feasible, the dispatcher shall attempt to contact the reporting party to obtain further information as to the reason for requesting police assistance, response, or intervention prior to responding.
5. For suspected bias-motivated calls, deputies may use discretion informing dispatchers that a member will not respond to the call without a legitimate basis of there being potentially criminal conduct or when there is no legitimate law enforcement purpose for responding.

When a potential Bias by Proxy call has been identified, a supervisor will be notified. When feasible, the shift supervisor shall:

1. Let the caller know that no suspicious or criminal activity was found and advise the caller as to what is and is not an appropriate basis for calling 911.
2. Explain that the agency does not respond to calls for service based on an individual's personal characteristics.
3. Educate the caller on the agency's bias-free policy and philosophy, as well as explain that officers respond to behaviors and actions of individuals that appear suspicious, threatening, or is illegal, and not to hunches or situations based on an individual's personal characteristics.

To the extent the deputy concludes that there is no actual criminal conduct and the request for service was motivated by the caller's bias, the deputy will document this in writing if they are already otherwise required to document this contact in writing (e.g., in a Crime/Incident Report). In the event no report is required, deputies will enter comments into the call for service (e.g. Computer Aided Dispatch).

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If dispatchers identify any recurring patterns, systemic issues, or repeat bias-based callers, the Communications Manager shall be notified for a hazard to be placed on the associated address. In entering new calls for service, if Dispatchers recognize past calls associated with the same phone number or caller with similar circumstances, responding deputies shall be notified.

CALIFORNIA RELIGIOUS FREEDOM ACT

Sheriff's Office 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).

Sheriff's Office 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.

PERSONNEL RESPONSIBILITIES

All personnel of the Sheriff's Office shall perform his/her duties in a fair, objective, and bias-free manner. When feasible, employees shall intervene to prevent any biased-based actions by another employee. Sheriff's Office personnel are responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. All supervisors and managers are obligated to thoroughly investigate all allegations of violation of this policy and to take appropriate action, as outlined in DPPM D-200 and DPPM D-300.

Supervisors shall review and evaluate stops, ensuring investigatory stops and searches to ensure Kern County Sheriff's Office policies are being followed, including regarding bias-free policing and bias-by-proxy. Further, investigatory stops, searches, and arrests shall be reviewed to determine a need for corrective action or review of agency policy, strategy, tactics, or training.

PERSONNEL RESPONSIBILITIES DURING STOP OR CONTACT

To ensure stops and detentions are part of an effective crime prevention strategy, and do not contribute to counter-productive divisiveness or tension between KCSO and the community, deputies shall utilize the following strategies when involved in any pedestrian contact or vehicle stop:

- Be courteous, polite, and professional.
- Introduce yourself by providing your name, rank, and agency affiliation.

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- Before engaging in questioning related to a criminal investigation or traffic violation, state the reason for the traffic or pedestrian stop (Vehicle Code 2806.5(a)).
- This requirement does not apply if a deputy 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(b)].
- Answer any questions the member of the public may have, including explaining options for the disposition of a traffic citation, if relevant.
- Ensure that the length of the detention is no longer than necessary to take appropriate action for the known or suspected offense.

DOCUMENTATION

All investigative detentions, temporary detentions, vehicle stops, arrests, searches and seizures of persons or property by deputies will be based on a standard of voluntary consent, reasonable suspicion, or probable cause as required by the Fourth Amendment of the U.S. Constitution, statutory authority, and prevailing case law. Deputies must be able to articulate specific facts, circumstances and conclusions which support consensual encounters/searches, reasonable suspicion for a detention or probable cause for an arrest. This also includes articulating a legal basis for a search or exceptions to the search warrant requirement.

Deputies shall document the reason for the stop on any citation or police report resulting from the stop (Vehicle Code 2806.5).

To the extent that written documentation would otherwise be completed (e.g., Crime/Incident Report, Arrest report, field interview (FI) card, Computer Aided Dispatch), the involved deputy shall include those facts giving rise to the contact, as applicable. In all documentation, deputies shall use accurate and specific descriptive language and not rely solely on “boilerplate” or form language in any reports describing factual circumstances of investigatory stops, detentions, and searches.

Except as required by law or policy, nothing in this policy shall require any deputy to document a contact that would not otherwise require reporting.

REPORTING OF STOPS AND DETENTIONS

Any deputy conducting a stop or detention of a person shall collect the data elements required by Government Code section 12525.5 for every person stopped and prepare a stop data Racial and

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Identity Profiling Act (RIPA) report. The procedures for data collection, archiving, auditing, and reporting are outlined in KCSO PPM J-2350.

TRAINING

All training provided shall be taught by qualified instructors with expertise in bias-free policing, constitutional criminal procedure, and Fourth and Fourteenth Amendment issues. The training shall minimally accomplish the following:

- Ensure deputies understand the Fourth and Fourteenth Amendments and related legal restrictions on searches and seizures, including consent searches, probation and parole searches, bias-free policing by patrol and detentions deputies, bias by proxy for all deputies and dispatch personnel as well as additional limitations under KCSO policy.
- Address the differences between various police contacts by:
 - The scope and level of police intrusion.
 - Differences between probable cause, reasonable suspicion, and mere speculation.
 - True voluntary consent, including the necessary elements for consent.
- Provide guidance on the facts and circumstances, in addition to legal and policy limitations, that should be considered in initiating, conducting, terminating, and expanding a stop or search, including, but not limited to, consent searches and probation and parole searches.
- Incorporate role playing scenarios and other adult-learning mechanisms to facilitate deputy ability to exercise good judgment about whether and how to stop and search individuals.
- Provide guidance on consensual encounters, responding to calls for service, stopping and/or searching individuals for discretionary and non-violent offenses, including providing guidance about procedural justice, alternatives to conducting investigatory stops and searches, and the impact on civilians of conducting apparently arbitrary stops and searches.

Training on bias-free policing and review of this policy shall be conducted as directed by the KCSO Training Section.

- All KCSO deputies will attend Peace Officer Standards and Training (POST)-approved training in the POST Basic Academy about bias-based policing (KCSO uses the more preferred term of “bias-free” policing).
- All patrol deputies shall receive initial training and periodic (quarterly) roll call training on the topics of bias-free policing and bias by proxy.

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- All dispatchers shall receive initial training on the topics of bias-free policing and bias by proxy.
- Each sworn member of this department who received initial bias-free policing training will thereafter be required to complete an approved 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)).

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