

## ~~POLICY PROHIBITING BIAS-FREE ED POLICING POLICY~~

A guiding principle of the San Francisco Police Department is its commitment to treating all people with dignity, fairness and respect. It is crucial for members to carry out their duties in a manner free from bias and eliminate any perception of policing that appears biased. This order outlines the policy for bias-free policing.

A fundamental right guaranteed by the Constitution of the United States is equal protection under the law. Along with this right is the fundamental right to be free from unreasonable searches and seizures by government agents as guaranteed by the Fourth Amendment. Department members are charged with protecting these rights for all people, regardless of race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental or physical disability, or socio-economic status. Police action that is biased is illegal and violates these rights. Biased policing is unsafe, unjust and ineffective. It also alienates the public, fosters distrust of police, and undermines legitimate law enforcement efforts. The members of the San Francisco Police Department have always striven to gain the trust of the community.

Over the past several years there has been a growing national perception that law enforcement action is often based on racial, identity or cultural stereotypes resulting in profiling. In order to address this perception in California, the State legislature has enacted statutes mandating additional training for all California law enforcement officers on racial, identity and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial, identity and cultural groups and to address the pernicious practice of racial or identity profiling. (See Penal Code Section 13519.4(a). Also see California Penal Code 13519.4(f) which prohibits a peace officer from engaging in racial or identity profiling.)

As detailed below,

- I. Law enforcement 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.

## I. PURPOSE-POLICY

This policy establishes the San Francisco Police Department's commitment to just, transparent and bias-free ~~unbiased~~ policing and reinforces existing policies and procedures that serve to assure the public that the SFPD is providing services and enforcing laws in an equitable manner. It ~~also clarifies is to clarify~~ the limited circumstances in which members officers can consider race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, ~~or~~ mental or physical disability, or socio-economic status when making law enforcement decisions, ~~and to reinforce existing policies and procedures that serve to assure the public that we are providing service and enforcing laws in an equitable manner~~

## II. DEFINITIONS

- A. RACIAL & IDENTITY PROFILING. The California Penal Code defines racial and identity profiling as 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, mental or physical disability in deciding which person 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. These 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.
- B. BIASED POLICING. When providing law enforcement services or enforcement, bias policing occurs when law enforcement inappropriately considers characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, socio-economic status, age, cultural group, disability or affiliation with any non-criminal group.
- C. IMPLICIT BIAS. Implicit Bias refers to 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. Rather, implicit biases are not accessible through self-reflection or examination.
- D. BIAS BY PROXY. Bias by proxy occurs when individuals call the police and make false or ill-informed claims of misconduct about persons they dislike or are biased against based on explicit racial and identity profiling or implicit bias. When the police act on a request for service rooted in implicit, explicit or unlawful bias, they risk perpetuating the caller's bias. Members should use their critical decision-making skills drawing upon their training to assess whether there is criminal conduct.

### III. POLICY PROCEDURES

#### A. Policing Impartially

1. The Fourth Amendment of the United States Constitution and statutory authority require reasonable suspicion for investigative detentions and traffic stops, and probable cause for arrests and certain searches and seizures. To meet either standard, members must be able to articulate specific facts, circumstances, and conclusions that support the probable cause or reasonable suspicion determination.
2. Except as part of a specific individual description, members may not use, to any degree, race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental or physical disability or socio-economic status as a basis for establishing either reasonable suspicion or probable cause; for deciding whether to initiate a consensual encounter; when requesting a consensual search; or for determining if there is a lawful basis to search.
3. 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 them only when the characteristic is part of a specific description based upon relevant information that links a specific person to a particular unlawful incident or a call for service. The listed characteristics should not be given undue weight.
4. Members should use their critical decision-making skills drawing upon their training to assess whether there is evidence of criminal activity after independently assessing the circumstances. When carrying out their duties, members should be cognizant of racial and identify profiling, implicit bias and bias by proxy.
  1. ~~Department personnel may not use, 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 as a basis for conducting stops or detentions, or activities following stops or detentions — except when engaging in the investigation of appropriate suspect specific activity to identify a particular person or group. Department personnel seeking one or more specific persons who have been identified or described — in part by any of the above listed characteristics may rely on them in part only in combination with other appropriate identifying factors. The listed — characteristics should not be given undue weight.~~
  2. ~~Except as provided above, officers shall not consider actual or perceived — - race, color, ethnicity, national origin, age, religion, gender identity or ——— expression, sexual orientation, or mental or physical disability in establishing either reasonable suspicion or probable cause~~

~~Except as provided above, officers shall not consider actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding to initiate even those consensual encounters that do not amount to legal detentions or to request consent to search.~~

**B. Preventing Perceptions of Biased Policing**

In an effort to prevent perceptions of biased ~~law enforcement~~ policing:

1. ~~When conducting an investigative detention, members, each officer, (with consideration for officer safety), shall do the following when: conducting an investigative detention: pedestrian, bicycle, or vehicle stops:~~
  - a. Be courteous and professional (SEE DGO 2.01, General Rules of Conduct, Rule 14) as outlined in DGO 2.01.
  - b. Approach the person being stopped, identify themselves by their name and rank, and provide an explanation for the stop as soon as practical and when safe. When effecting vehicle stops, ~~the members officer~~ shall provide this information before asking the driver for his or her a driver's license and registration. (SEE DGO 5.03, Investigative Detentions)
  - c. Ensure the detention is no longer than necessary to take appropriate actions for the known or suspected offense, including but not limited to conducting a pat search, and that the person understands the nature of reasonable delays. Members shall provide a Certificate of Release in accordance with the provisions in DGO 5.03, Investigative Detentions.
  - d. Answer questions the person may have regarding the stop, including an explanation of options for traffic citation disposition, if relevant. (SEE DGO 5.03, Investigation Detentions)
2. ~~For consensual encounters (see DGO 5.03), members shall provide, if requested:~~
  - a. the member's name, star number, and assignment. (SEE DGO 2.01, General Rules of Conduct, Rule 14)
  - b. written information regarding the filing of a commendation of complaint that includes the SFPD's and the DPA's website addresses. (SEE DGO 2.04, Complaints Against Officers)

### C. Training

3. The California State legislature has enacted Penal Code § 13519.4 mandating additional training for all California law enforcement officers to foster mutual respect and cooperation between law enforcement and members of all racial, identity and cultural groups. To comply with this mandate, the Training Division shall develop training that is informed by contemporary, evidence-based best practices that includes, but is not limited to:
  - a. Identification of key indices and perspectives that make up racial, identity and cultural differences among residents;
  - b. Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest, detention and incarceration rights, and wrongful convictions;
  - c. The history and role of the civil and human rights movement and struggles and their impact on law enforcement;
  - d. Specific obligations of peace officers in preventing, reporting and responding to discriminatory or biased practices by fellow peace officers;
  - e. Perspectives of diverse, local constituency groups and experts on particular racial, identity, and cultural and police-community relations; and
  - f. The prohibition against racial or identity profiling.
  
4. The Training Division shall ensure that both sworn and civilian members of SFPD attend training that is consistent with legislative, Peace Officer Standards and Training (P.O.S.T.) and SFPD requirements, including but not limited to:
  - a. Equal Employment Opportunity/Harassment
  - b. Principled Policing and Procedural Justice
  - c. Racial and Cultural Diversity and Racial Profiling
  - d. Creating an Inclusive Environment
  - e. Managing Implicit Biases
  - f. Bias by Proxy

### C. Member's Responsibility and Compliance

All ~~members~~ ~~officers~~ are responsible for knowing and complying with this policy. ~~As with all General Orders, any violation of this policy may subject the member to disciplinary action. Supervisors shall ensure that all personnel members in their command know the content of this policy and operate in compliance with it.~~ Any ~~employee-member~~ who becomes aware of biased policing or any other violation of this policy shall report it in accordance with established procedure.

References:

DGO 2.01, General Rules of Conduct

DGO 2.04, Complaints Against Officers

DGO 5.03, Investigative Detentions

Penal Code Section 13519.4

DRAFT 01/24/2020