



## BIAS BASED PROFILING

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### **I. Purpose**

The purpose of this Written Directive is to establish Agency guidelines for conducting constitutionally valid citizen contacts.

### **II. Policy**

#### A. Background

The University of Maryland, Baltimore Police Force (UMBPF) does not condone the use of any bias based profiling in its enforcement programs as it may lead to allegations of violations of the Constitutional Rights of the citizens we serve, undermine legitimate law enforcement efforts, and may lead to claims of civil rights violations. Additionally, bias based profiling alienates citizens, fosters distrust of law enforcement by the community, invites media scrutiny, invites legislative action, and invites judicial intervention.

#### B. Traffic Contacts, Field Contacts, Asset Seizure and Forfeiture

It shall be the policy of the UMBPF that all investigative contacts and enforcement traffic stops, be based upon articulate and constitutionally valid suspicions or reasons. Bias Based Profiling is prohibited in traffic contacts, field contacts, and asset seizure and forfeiture efforts.

#### C. Prohibitions

Members are prohibited from using race, ethnicity, gender, sexual orientation, religion, economic status, age, or culture group or any other identifiable group as the sole justification for citizen contact.

#### D. Training

1. All new sworn officers will receive Biased Based Prevention Training including legal aspects during orientation and during recruit training.
2. Annual training shall be conducted for sworn personnel. Remedial training will be completed as needed by a member of the training section or by the immediate supervisor.

E. Discipline

Disciplinary action shall be initiated when it is discovered that UMBPF members have been involved in bias based profiling.

**III. Biased Based Profiling in Policing**

A. Definitions

1. Profiling – The observation of characteristics and indicators learned through collective experience and used for identifying specific criminal actions.
2. Biased Based Policing – The selection of individuals for police initiated action based on a common trait of a group. This includes all of the groups as identified earlier in this Written Directive.
3. Reasonable Expectation of Privacy – The Fourth Amendment to the Constitution of the United States guarantees the right to privacy from the government (police) if no law is being broken.
4. Equal Protection Under the Law – The Fourteenth Amendment to the Constitution of the United States guarantees that every person is afforded equal protections.
5. Reasonable Suspicion – Suspicion based on something less than probable cause but more than suspicion. The ability to articulate suspicion is required.
6. Cultural Diversity – Individual understanding of different individual life practices relating to race, religion, gender, age, physical disabilities, sexual orientation, and the ability to render validity and integrity to those behaviors.
7. Racial Profiling – A police initiated action that relies exclusively on race, ethnicity, or national origin as probable cause.
8. Sexism – The belief that one sex is superior to another and that one sex should dominate our political, economic and social life.
9. Sexual Orientation – Direction of an individual's sexuality according to the sex or gender of the person to whom the individual finds sexually attractive. The most commonly used categories of sexual orientation are:
  - a. Heterosexuality;
  - b. Homosexuality; and
  - c. Bisexuality.

**B. Guiding Principles**

1. Law enforcement officers have both the duty and the authority to investigate suspicious activities that may be associated with a violation of criminal law, civil law or ordinance, and/or motor vehicle law. This duty is limited to factors that are reasonable and can be articulated and would lead any reasonable police officer to the same conclusion.
2. Any consideration, to any degree, of a person's race, ethnicity, age, or gender is prohibited except when these characteristics are a part of a specific lookout for a specific suspect.
3. Police-citizen encounters, when done properly and professionally, have the potential to be positive community relations tools.

**C. Fourth Amendment Protections**

All investigative detentions, traffic stops, arrests or searches and seizures will be based on a standard of probable cause as required by the United States Constitution.

**D. Consent Searches**

Police Officers shall not consider race, ethnicity, national origin, religion, age, gender identity or sexual orientation as a basis for requesting a consent search.

**E. Reports of Suspect Descriptions**

Officers may take into account the reported race, ethnicity or national origin of a specific suspect in the same way they would use specific information regarding age, height, weight, etc. about a specific suspect.

**F. Prohibitions**

Nothing in this Written Directive should be construed to alter the authority of a law enforcement officer to make an arrest, conduct a search or seizure, or otherwise fulfill the police officer's law enforcement obligations.

**G. Supervisor Responsibilities**

Patrol Supervisors will promote non-discriminatory and constitutionally valid investigative and enforcement traffic stops. Should a supervisor become aware of discriminatory behavior or bias based profiling by an officer, the supervisor shall report the incident to their immediate supervisor. The supervisor shall initiate either remedial training and/or an investigation that may result in disciplinary action.

**IV. Annual Administrative Review**

**A.** Annually, an administrative review of citizen contacts for agency practices regarding Bias Based Profiling will be completed by the Professional Standards Bureau.

1. The review will be based on:
  - a. An examination of citizen complaints and concerns;

- b. Data collected from traffic stops;
  - c. Data collected from field interviews; and
  - d. Data collected from asset seizure and forfeiture cases.
2. This review will also identify any problems found, detail any corrective actions taken and make recommendations for any changes in policy or training that may be needed.
  3. A memorandum detailing the review results shall be provided to the Chief of Police upon completion.

#### B. Citizen Complaints

Citizen complaint information is captured in complaint investigations. Data regarding the complaint and the subsequent investigation is placed in an agency data base for statistical reporting purposes. Information from the data base shall be reviewed to determine if any complaints are regarding bias based actions on the part of Agency members.

#### C. Traffic Stops

Traffic stop information is captured in the Maryland State system, Delta+. Patrol officers enter traffic stop data into the system to include the race, gender, age, and if a written warning or moving citation has been issued. Officers who do not have access to the system (pending required training and ETIX access authorization) will complete a Traffic Stop Data Sheet, Form UMB 2002-1 (R 01-2013), Appendix 3.4.1. The form is submitted to the Records Section for manual entry into Delta+ ETIX Module. The Records Section obtains and provides an administrative report from Delta+ at least annually for a bias based profiling review. (See WD 6.18, Moving Violations for information on the Delta+ system)

#### D. Field Interviews

Field Interview incident reports are entered into the Automated Records Management System (ARMS) by patrol officers for each field interview conducted. The data entered includes the race, gender, age and circumstances leading to the interview. At least annually, the Records Section shall provide a report detailing the above information for a bias based profiling review.

#### E. Asset Seizure and/or Forfeiture

Asset seizure and/or forfeiture is a legal process in which goods obtained by profits of criminal activity may be seized by a law enforcement agency. Annually, a review of such activities conducted by and on behalf of this Agency for a bias based profiling shall be completed by the Professional Standards Commander or designee.

**Written Directive System Impact**

Upon approval and publication, WD 3.4 replaces and supersedes all previous editions of WD 3.2 A, Bias Based Profiling.

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CALEA Standard (s): 1.2.9;