

SILVER CITY POLICE DEPARTMENT

Title: Racial Profiling

Procedure 2.400

Date Issued: 10/02/09

Revised: 08/23/2012

Approved by: _____ Chief of Police

Date: _____

I. POLICY

- A. It is the policy of the Silver City Police Department that its sworn personnel and non-sworn personnel are prohibited in participating in or allowing any type of racial profiling or racial bias when coming into contact with any citizen or person within the Town of Silver City. This policy is implemented in compliance with the State of New Mexico 'Prohibition of Profiling Practices Act' of 2009.

II. DEFINITIONS

- A. "Profiling" means law enforcement engaging in the practice of relying, to any degree, on race, ethnicity, color, national origin, nationality, language, sex gender identity, sexual orientation, political affiliation, religion, socio-economic status or disability and not criminal behavior in:
 - 1. selecting a person to subject to custodial arrests, routine or spontaneous investigatory activities, including interviews, detentions, traffic stops, pedestrian stops, frisks, and other types of bodily searches or searches of personal or real property; or
 - 2. Determining the scope, substance or duration of investigation or law enforcement activity to which a person will be subjected.
- B. "Bias" means an unfair preference for or dislike of something to any degree, based on race, ethnicity, color, national origin, nationality, language, sex gender identity, sexual orientation, political affiliation, religion, socio-economic status or disability.

III. PROCEDURES

- A. Except where reasonable and articulable suspicion exists, a law enforcement officer shall not:
 - 1. Keep a person detained beyond the time necessary to issue a citation, enforce a court order or address a violation of criminal law;
 - 2. Ask questions of a person detained beyond the scope necessary to issue a citation, enforce a court order or address a violation of criminal law; or
 - 3. Seek the consent of a person to conduct a search of the person or the person's personal or real property.
 - 4. Nothing in this section shall be interpreted to prohibit a law enforcement officer or law enforcement agency from relying on physical descriptions, including sex, race, ethnicity and color, to select a person to subject to

investigatory activity or determine the scope, substance or duration of investigation when:

- a. seeking to apprehend a specific suspect;
 - b. there exists trustworthy and reliable information, relevant to the locality and time frame, that links that person to an identified criminal incident or scheme.
5. Evidence obtained in violation of this section shall be excluded from judicial proceedings.
 6. Nothing in this section shall be interpreted to expand the jurisdiction or authority of a law enforcement officer or law enforcement agency.

IV. ADMINISTRATIVE COMPLAINT PROCEDURES:

A. When there is a complaint of racial profiling or racial bias involving officers or employees of the Silver City Police Department, the following procedures will be followed:

1. The individual employee/supervisor receiving the complaint in person, by telephone or other electronic communication will follow the Silver City Police Department Policy and Procedure 4.003, regarding "Citizen's Complaints."
2. The employee/supervisor will provide appropriate forms for submitting the complaint against its law enforcement officer.
3. Within three hundred days (300) after the alleged profiling was committed, the agency head will submit a redacted copy of the complaint and the disposition to the attorney general, which shall disclose the nature and disposition of the complaint but shall not disclose personal identifying information of a law enforcement officer or complainant.
4. Complaints must be made no less than ninety days or exceed one hundred eighty days after the commission of the alleged violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act.
5. This agency shall allow a complaint alleging a violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act by its law enforcement officer to be made:
 1. in person or in writing sent by mail, facsimile or electronic mail and signed by the complainant; or
 2. by telephone, anonymously or by a third party; provided that the law enforcement agency shall determine the complaint to be valid before taking appropriate measures pursuant to Paragraph (2) of Subsection B of this section and shall comply with the provisions of Section 29-14-4 NMSA 1978.

B. CORRECTIVE ACTION:

1. Any sworn or non sworn personnel who is found, after investigation, to have engaged in racial profiling or bias, in violation of this policy shall be subject to corrective action, which may include reprimand, diversity, sensitivity or other appropriate training or counseling, paid or unpaid leave, suspension or termination, or other appropriate action as determined by the city personnel director.

C. SUPERVISORY RESPONSIBILITY:

1. Supervisors will randomly review video tapes and audio tapes pursuant to department policy, being particularly alert to any patterns or practices or possible violations of Silver City Police Department policies and procedures.
2. These reviews and any comments associated with the reviews are to be documented and forwarded to the appropriate Bureau Commander. The Bureau Commander will then inform the Chief of Police of any concerns with violations of policy and procedure.
3. In the event a supervisor notices a pattern of conduct or practice which leads the supervisor to suspect an employee may be bias-based profiling, the supervisor shall take immediate and appropriate action to prevent the conduct from continuing.
4. Policy violations shall be handled in accordance with department policy.

D. TRAINING:

1. Training in the area of racial profiling or bias shall be conducted during orientation of new hires and then bi-annually and shall emphasize the need to adhere to the applicable provisions of the Prohibition of Profiling Practices Act and this agency's policies and procedures.

E. PUBLICATION OF POLICY:

1. The Department shall publish the policies and procedures designed to eliminate practices that violate the provisions of Section 2 of the Prohibition of Profiling Practices Act