



CURRY COUNTY SHERIFF'S OFFICE POLICIES & PROCEDURES



POLICY NUMBER: OPR 15
EFFECTIVE DATE: May 3, 2012
UPDATE EFFECTIVE: November 13, 2012

PROFILING POLICY

PAGE 1 OF 4

I. PURPOSE:

The purpose of this policy is to unequivocally state that racial and ethnic profiling in law enforcement is totally unacceptable, to provide guidelines for Deputies to prevent such occurrences, and to protect our Deputies when they act within the dictates of the law and policy from unwarranted accusations.

This policy is intended to assist law enforcement in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter Deputies of the Curry County Sheriff's Office.

II. POLICY:

It is the policy of this Office to patrol in a proactive manner, to investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing, or are about to commit, an infraction of the law.

It is the policy of this Office to respect and protect the constitutional rights of all individuals during law enforcement contacts and/or enforcement actions and that such enforcement decisions will not be predicated solely on the basis of an individual's race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, or economic status.

III. DEFINITIONS:

Racial profiling: The detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics.

Reasonable suspicion: Also known as articulable suspicion. Suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observations of a police officer combined with his or her training and experience, and/or reliable information.

Bias-based policing/profiling The interdiction, detention, arrest or other nonconsensual treatment of an individual because of a characteristic or status, such as race, ethnicity, color, national origin, language, gender, gender identity, sexual

orientation, political affiliation, religion, physical or mental disability or serious medical condition, or economic status.

Law enforcement contacts/enforcement actions Includes, but is not limited to, a routine or spontaneous investigatory activity, including an interview, a detention, a traffic stop, a pedestrian stop, a frisk or other type of bodily search or a search of personal or real property.

IV. PROCEDURE:

- Biased-based policing/profiling by any member of this Office is prohibited. Investigative detentions, field contacts, traffic stops, pedestrian stops, searches, a frisk, other type bodily searches, arrests, property seizures and forfeiture efforts will be based on a standard of reasonable suspicion or probable cause for determining when or how to take enforcement action in accordance with the Fourth Amendment of the U. S. Constitution.
- Nothing in this policy prohibits officers from using the traits and characteristics of persons, such as race, ethnicity, or national origin in the same manner that officers would use hair color, height, weight, or gender to the extent that credible information, relevant to the locality or time frame, links a person with those identifying characteristics to an identified criminal incident or criminal activity.
- The Sheriff's Office's efforts will be directed toward having Deputies patrol those areas where there is the highest likelihood that crashes will be reduced and/or crimes prevented through proactive patrol.
- Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure that Deputies do not go beyond the parameters of reasonableness in conducting such activities.
- Motorists and pedestrians shall only be subjected to stops, seizures or detentions upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction. Each time a motorist is stopped, the Deputy shall radio to the dispatcher the location of the stop, the description of the person or vehicle being detained, and the license plate state and number.
- Appropriate enforcement action should always be completed, generally in the form of a warning, citation or arrest. No motorist, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent. In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the results thereof. It is strongly recommended that consent searches only be

conducted with written consent, using the proper form. If the individual indicates that they will consent to a search but are refusing to sign the form, fill out the form anyway and indicate "consented to search but refused to sign", inserting initials and the signature of any witness in the signature block.

If the patrol unit is equipped with a video camera, the video and sound shall be activated prior to the stop, to record the behavior of the vehicle or person, and shall remain activated until the person is released and resume their journey.

In the absence of a specific, credible report containing a physical description, a person's race, ethnicity, gender or sexual orientation or any combination of these shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.

The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender, or sexual orientation of a person stopped for investigative or enforcement purposes is prohibited and a cause for disciplinary action, up to and including dismissal.

V. Complaints of Racial/Ethnic Profiling

Any person may file a complaint with the Sheriff's Office if they feel they have been stopped or searched based on racial, ethnic, or gender-based profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

Any Deputy contacted by a person who wishes to file such a complaint, shall direct the citizen to the Undersheriff or his designee where a formal complaint may be filed.

All complaints will be investigated by the Undersheriff or his designee, unless the Undersheriff is the subject of the complaint, in which case the Sheriff shall designate an alternate investigator. (use attached form)

All complaints must be filed within 90 days of the profiling incident or the complaint will not be taken.

VI. TRAINING

- Deputies will receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, laws governing search and seizure, and interpersonal communications skills.
- Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.

VII. SUBMITTAL OF RACIAL/ETHNIC PROFILING COMPLAINTS

- Submit a redacted copy of the complaint and disposition to the New Mexico Attorney General's Office. Mail to:

111 Lomas Blvd., Suite 300

Albuquerque, NM 87102