

CUMBERLAND COUNTY DISTRICT ATTORNEY'S OFFICE POLICY ON BIAS OR HATE BASED CRIMES FOR LAW ENFORCEMENT OFFICERS

I. POLICY

The Cumberland County District Attorney's Office law enforcement officers will preserve the rights of all individuals under state and federal law without regard to race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry.

Bias-based profiling and/or any other discriminatory practice by members of this agency are strictly prohibited. This includes stops, detentions, searches, interviews, or any other action in the line of official duties that is based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry.

Given this is a statutorily mandated policy, officers must abide by this agency's policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees. Any violation of these standards may result in action by the Board of Trustees.

II. PURPOSE

The purpose of this policy is to prohibit employees from engaging in bias-based profiling.

III. DEFINITIONS

Bias-Based Profiling: Targeting an individual based on a trait common to a group for enforcement action to include, but not limited to, race, ethnicity, gender, sexual orientation, gender or gender identity, religion, socioeconomic status, age, national origin, or ancestry.

Enforcement Activities: Activities both on and off-duty undertaken by agency personnel that arise from their authority related to employment, oath of office, state statute, or federal law. Activities include traffic contacts, field contacts, arrests, investigations, asset seizure and forfeiture, and general law enforcement contact with citizens.

Probable Cause: A set of facts or circumstances based on reliable information or personal knowledge or observation by an officer, which reasonably shows or would warrant an ordinary prudent reasonable officer in believing that a person has committed, is threatening to commit, or is about to commit some criminal violation of the law.

Reasonable Suspicion: A suspicion based on facts or circumstances which of themselves do not give rise to the probable cause requisite to justify a lawful arrest, but which give rise to more than a bare suspicion; that is a suspicion that is reasonable as opposed to an imaginary or purely conjectural suspicion.

IV. PROCEDURES

A. Employee Responsibilities

1. All investigative detentions, traffic stops, arrests, searches, and seizures of property by agency employees will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the United States Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for an arrest, traffic stop, or investigative detention.
2. Officers may consider the reported race, ethnicity, or national origin of a specific suspect or suspects based on credible, reliable, locally relevant information that links a person of a specific race to a particular criminal incident or links a specific series of crimes in an area to a group of individuals of a particular ethnicity.

- i. The criterion of locally relevant requires that the information linking race to a crime be based on local conditions. That is, officers could not rely on widely held stereotypes or even the fact that in many areas of the country a certain race is linked to a certain crime. The officer must have information that supports the link between race and specific criminal activity in their area.
3. Except as provided above, officers shall not consider race, ethnicity, gender or gender identity, sexual orientation, religion, socioeconomic status, age, national origin, or ancestry in establishing either reasonable suspicion or probable cause.

B. Supervisor Responsibilities

1. Supervisors shall ensure that officers follow the procedures outlined in this policy. It is the responsibility of the supervisors to monitor the activities of their personnel and to identify potential bias-based policing activity.
2. An on-duty supervisor shall be responsible for making contact, when possible, with any known complainant alleging bias-based law enforcement practices by any officer under their command, either on the scene or by telephone and shall document the content of the complaint.
3. Upon receipt of a bias-based policing complaint, each supervisor shall address the matter in a timely manner in conjunction with all Cumberland County policies and protocols.
4. Supervisors will be particularly alert to potential patterns and practices of their personnel that may indicate bias based profiling and treatment of individuals.

V. ALLEGATIONS OF BIAS-BASED POLICING

- A. Whenever a person complains that an officer has engaged in practices prohibited by this policy, the officer will immediately notify their supervisor for advisement of the situation.
- B. Any person who believes s/he was stopped, detained, or searched based solely on a biased based profile may file a complaint with the agency.
- C. Should the Attorney General's Office receive a complaint of bias-based profiling, the Chief of Investigations of the Office of the Attorney General will review the complaint and determine whether an investigation is warranted and, if so, will coordinate any such investigation with this agency to assure that it is thorough and completed in a timely fashion. The Chief of Investigations will also, as necessary, provide recommendations and support to law enforcement agencies regarding their review, investigation, and resolution of a complaint.

VI. REVIEW AND REPORTING REQUIREMENTS

- A. Dependent on the findings of each complaint, as well as the specific factors involved, corrective measures will be taken to remedy violations of this policy. Corrective measures may include, but are not limited to, training, counseling, policy review, and discipline up to and including termination of employment. In addition, members may face civil and criminal liability in accordance with Title 42 U.S.C. 1983, Title 42 U.S.C. 14141 and Title 18 U.S.C. 242.
- B. The District Attorney shall notify the Office of the Attorney General of any complaint of bias-based profiling made against any member of the agency and the results of said investigation of the complaint.
- C. Annually, the District Attorney or designee will conduct a documented administrative review of agency practices and citizen complaints/concerns received to ensure that illegal or biased based profiling are not occurring during operations of the Cumberland County DA's Office. Additionally, any necessary training issues or policy changes will be addressed.
- D. If a pattern is identified, the District Attorney and Cumberland County shall be responsible for ensuring that an investigation is conducted to determine whether officers of the agency have violated the provisions of this policy and/or any other agency policies and procedures.

VII. RETALIATION

- A. No person will be discouraged, intimidated, or coerced from filing a complaint of bias-based policing, or discriminated against because s/he filed such a complaint.
- B. No member of this agency, regardless of rank, shall retaliate against any fellow officer, official, civilian, or volunteer for reporting incidents of bias-based policing or for participating in or cooperating with the investigation of those incidents.
- C. Actions or behaviors found to constitute retaliation shall be immediately addressed and may lead to disciplinary action up to and including termination.

VIII. TRAINING

- A. Sworn members shall receive biennial (*every other year*) training on bias-based policing and this must be documented.
- B. Training topics may include, but are not limited to, field contacts, traffic stops, searches and asset seizure and forfeiture, interview techniques, cultural diversity, discrimination, and community support.

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