

# Bias-Based Policing

## 401.1 PURPOSE AND SCOPE

Best Practice MODIFIED

This policy provides guidance to OPS members that affirms the California Department of State Hospitals's commitment to policing that is fair and objective while serving the patients within a State Hospital and the community.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the OPS's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

### 401.1.1 DEFINITIONS

State

Definitions related to this policy include:

**Bias-based policing or improper profiling** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

## 401.2 POLICY

Best Practice MODIFIED

The California Department of State Hospitals is committed to providing law enforcement services to the patients within a State Hospital and the community with due regard for the racial, cultural or other differences of those served. It is the policy of this OPS to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

## 401.3 BIAS-BASED POLICING PROHIBITED

Best Practice

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

### 401.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

State MODIFIED

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DSH employees shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Gov. Code § 8310.3).

Employees shall not assist federal government authorities (Gov. Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.
- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

### **401.4 EMPLOYEE RESPONSIBILITIES**

**Best Practice** **MODIFIED**

Every employee of DSH shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Employees should, when reasonable to do so, intervene to prevent any biased-based actions by another employee.

#### **401.4.1 REASON FOR CONTACT**

**Best Practice** **MODIFIED**

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

#### **401.4.2 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP**

**Agency Content**

An officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

#### **401.4.3 REPORTING OF STOPS**

**State**

Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by Government Code § 12525.5 and 11 CCR 999.226 for

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every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the California Department of State Hospitals is the primary agency, the California Department of State Hospitals officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

### **401.5 SUPERVISOR RESPONSIBILITIES**

Best Practice **MODIFIED**

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
  - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review MAV recordings, portable audio/video recordings, Mobile Digital Terminal (MDT) data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.
  - 1. Supervisors should document these periodic reviews.
  - 2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any employee of DSH who discloses information concerning bias-based policing.

### **401.6 ADMINISTRATION**

Best Practice **MODIFIED**

Each year, the Hospital Police Chief should review the efforts of OPS/DSH to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Law Enforcement.

The annual report should not contain any identifying information about any specific complaint, member of the public or officers. It should be reviewed by the Chief of Law Enforcement to identify any changes in training or operations that should be made to improve service.

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Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

### **401.7 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

State **MODIFIED**

The Hospital Police Chief and the Records Manager or the authorized designee shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and reported annually to DOJ (Pen. Code § 13012; Pen. Code § 13020).

Supervisors should ensure that data stop reports are provided to the Records Manager for required annual reporting to the DOJ (Gov. Code § 12525.5) (See Records Maintenance and Release Policy).

### **401.8 TRAINING**

Best Practice

Training on fair and objective policing and review of this policy shall be conducted annually and include:

- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

#### **401.8.1 ADDITIONAL STATE REQUIREMENTS**

State

Training should be conducted as directed by the Professional Standards Unit.

- (a) All sworn members of this OPS will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- (b) Pending participation in such POST-approved training and at all times, all members of this OPS are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this OPS who received initial bias-based policing training will thereafter be required to complete an approved POST refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity, and cultural trends (Penal Code § 13519.4(i)).