

	<b>WEST ORANGE POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM</b>		<b>1:9</b>
	<b>PROFILING &amp; DISCRIMINATORY PRACTICES</b>		
	<b>01/14/19</b>	<b>Supersedes: 1:9 (07/07/09)</b>	

**1:9-1 PURPOSE**

The purpose of this directive is to ensure that race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, physical or mental disability shall not be the basis for the detention, interdiction, or other disparate treatment of an individual or class of individuals by any member of this department.

**1:9-2 POLICY**

It is the policy of this department to prevent and prohibit the practice of discriminatory profiling or any other discriminatory practice by members of this agency.

**1:9-3 GENERAL**

- a. Fundamental rights guaranteed by the Constitution of the United States and the Constitution of the State of New Jersey are equal protection under the law and the right to be free from unreasonable searches and seizures by agents of the government. Citizens are free to traverse on streets and other public places without police interference so long as they obey the law. They are also entitled to be free from crime and from the preying of criminals, and to drive and walk the public ways safe from the actions of reckless and careless drivers.
- b. Police officers are required to be observant to identify unusual occurrences and violations of the law, and to act upon them. Police officers must routinely engage in consensual contacts with citizens and are in fact encouraged to do so. These pro-active actions help to detect and apprehend criminals thus keeping our citizens free from crime and our streets and highways safe to travel upon. In accomplishing the mission of this department, officers must utilize sound investigative practices and not take enforcement actions based upon an individual's or class of individuals' race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, physical or mental disability.

**1:9-4 DEFINITIONS**

**Citizen Contact** is a consensual encounter between a police officer and a citizen, initiated by either party, wherein the citizen is free to terminate the encounter at any time.

**Detain or Detention** is the act of stopping or restraining a person's freedom to leave; approaching and questioning a person outside the realm of a consensual encounter, or stopping a person suspected of being personally involved in criminal activity.

**Discriminatory Profiling** is the detention, interdiction, or other disparate treatment of an individual or class of individuals on the basis of their race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, physical or mental disability.

**Field Interview** is the brief detainment of an individual, whether on foot or in a vehicle, based upon reasonable suspicion for the purposes of determining the individual's identity and resolving an officer's suspicions.

**Search** is looking for or seeking out that which is otherwise concealed from view.

**Stop** is the restraining of a person's liberty by physical force or a show of authority.

#### 1:9-5

#### PROCEDURES

- a. Discriminatory profiling of persons by members of this department is strictly prohibited.
- b. In response to a specific report of criminal activity, race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, physical or mental disability (unless a danger to themselves or others) will not be a sole factor in determining the existence of probable cause to arrest a person or whether to interdict, detain, stop, or take a person into custody.
- c. The stop or detention of any person(s) or vehicle(s) that is not based on factors related to a violation or violations of the laws and ordinances of the United States, State of New Jersey, County of Essex or Township of West Orange or in response to the police community caretaking function, is prohibited.
- d. No member of this agency may search a person or vehicle based upon their race, color, gender, creed, national origin, ethnicity, religious beliefs, age, marital status, sexual orientation, **gender identity**, physical or mental disability.
- e. Race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, **gender identity**, physical or mental disability shall not be a factor in any asset forfeiture proceedings.

#### 1:9-6

#### RESPONSIBILITIES

- a. Supervisors of all ranks are responsible for providing effective supervision to reasonably monitor those under their command to ensure compliance with this directive and to take corrective action where indicated.
- b. Employees witnessing behavior contrary to this directive are required to take immediate action to end the behavior.

- c. Employees witnessing behavior contrary to this directive or becoming aware of conduct contrary to this directive must immediately report their knowledge of the incident to their immediate supervisor in writing. If their supervisor is the subject of the report or in the absence of their supervisor, the employee must report it to another supervisor or to the next level in the chain of command.

**1:9-7 SUPPLEMENTAL**

- a. The Chief of Police, or designee, will be this agency's community liaison on discriminatory profiling issues.
- b. All police personnel will receive periodic training regarding cultural diversity and the prohibition against discriminatory profiling, which shall include legal aspects and recent judicial decisions.
- c. The Chief of Police, or designee, shall conduct an annual administrative review of this agency's practices, citizen concerns and community concerns regarding profiling and other discriminatory practices.

**1:9-8 RECORD KEEPING**

- a. Officer-initiated vehicle stops and pedestrian stops (field interviews) shall be recorded on an *Officer Initiated Stop Daily Report*.
- b. Only the officer who initiates the stop is required to complete the data for that stop. Back up officers shall not complete the data entry for the stop.
- c. The *Officer Initiated Stop Daily Report* form is self-explanatory and contains a combination of data fields and forced choice selections. Officers are to determine the race, ethnicity, gender, and age through visual observation, information provided on documents, and their professional judgment. Do not ask this information from the person being stopped solely for data collection purposes. The term Criminal Violation on the form shall be liberally interpreted to include any reasonable suspicion of criminal or quasi-criminal activity.
- d. A record must also be entered for all passengers within a stopped motor vehicle. (Example, 1 driver + 1 passenger = 2 entries on the report form.) This requirement is not necessary for officer-initiated stops of mass transit vehicles such as commercial buses or school buses where the scope of the stop is solely related to the operator's actions, equipment issues, or community caretaking functions. This requirement will become necessary if the purpose of the stop is to question or detain passengers. (Example, criminal suspect is observed on or suspected of being a passenger on a bus.)
- e. All patrol officers are required to submit a report for each work day, regardless of whether they conducted any activity or not.
- f. All other personnel (detectives, sergeants, lieutenants, command staff, extra-duty assignments) are required to submit these reports only if they had conducted vehicle or pedestrian stop activity.

- g. Supervisors are required to review these reports and acknowledge their completeness by signing in the appropriate box.
- h. Tour/Bureau Commanders are required to review these reports and acknowledge their completeness by signing in the appropriate box.
- i. The Commander of Police Operations, or his designee, will ensure that all completed reports are entered into the *Officer Initiated Stop Daily Report Database*.
- j. Following data entry, these reports will be forwarded to the Office of Professional Standards for archiving.
- k. The **US Census Bureau Code Manual** provides the basis for determining the race of persons. These descriptors are:

**A – Asian** – a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian sub-continent

**B – Black** – a person having origins in any of the black racial groups of Africa.

**I – American Indian or Alaskan Native** – a person having origins in any of the original peoples of the Americas and maintaining cultural identification through tribal affiliations or community recognition.

**W – White** – a person having origins in any of the original peoples of Europe, North Africa, or Middle East.

**P – Pacific Islander** – a person having origins in the Pacific Islands

- l. Ethnicity will follow general U.S. Census guidelines and list only two categories. These categories are Hispanic or Non-Hispanic.