

TITLE: BIAS PROFILING AND DISCRIMINATORY PRACTICES

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PURPOSE

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- A. The purpose of this directive is to prevent and prohibit the practice of bias profiling and other discriminatory practices by any member of the Espanola Police Department.
- B. The purpose of this directive is to provide officers with guidelines on preventing and prohibiting the practices of bias profiling and discriminatory practices by any member of the Espanola Police Department. In addition, department personnel shall not initiate, prolong or expand the scope or duration of an investigatory or enforcement activity in order to determine or inquire about an individual's immigration status based on the individual's race, protected class, or any other unprotected class, ethnicity, color, national origin or language. This will strengthen the Espanola Department of Public Safety initiative in community policing with our diversified community. Our personnel are directed in adhering to the following:

DISCUSSION

It is the intent of the Department to respect and protect the constitutional rights of individuals during law enforcement contacts and/or enforcement actions. It is also the intent of the Department to respect and protect the constitutional rights of all individuals during law enforcement contacts and/or enforcement actions

POLICY

It is the policy of this Department to investigate suspicious persons, incidents and other activities that officers encounter. In the absence of any specific report, the race, **protected class or any other unprotected class**, ethnic background, age, **national origin, color, political affiliation, gender identity**, sexual orientation, religion, economic status, political affiliation, physical or mental disability, serious medical condition, cultural group of **such individual will not be the basis for the detention, interdiction or other disparate treatment of any individual by any member of the Department.**

PROCEDURE

DEFINITION

Bias based profiling is the detention, interdiction, or other disparate treatment of an individual on the basis of the race, ethnic background, age, national origin, language, color, political affiliation, gender, sexual orientation, religion, physical or mental disability or serious medical condition, economic status or cultural group of such individual.

~~gender, sexual orientation, religion, economic status or cultural group of such individual.~~

34.1.01 Racial profiling of individuals is strictly prohibited by members of the Espanola Police Department.

- A. In the absence of a specific report, **race protected class or any other unprotected class** or ethnicity of an individual shall not be a factor in determining the existence of probable cause to place in custody or arrest an individual, or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a motor vehicle.
- B. In response to a specific credible report of criminal activity, race or **class or any other unprotected class**, ethnicity of an individual shall not be the sole factor in determining the existence of probable cause to place in custody or arrest an individual.
- C. In conducting a routine or spontaneous investigating activity, including an interview, a traffic stop, a pedestrian stop, a frisk or other

type of bodily search or a search of a personal or real property, or in determining the scope, substance or duration of the routine or spontaneous investigatory activity, a law enforcement agency or a law enforcement officer shall not rely on race, ethnicity, age, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, except in specific suspect description related to a criminal incident or suspected criminal activity, to select a person for or subject a person to the routine or spontaneous investigatory activity.

- D.** In conducting an investigatory activity in connection with an investigation, a law enforcement agency or a law enforcement officer shall not rely on race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, except 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. History: Laws 2009, ch. 177, § 2.

34.1.02 Stops or detentions based on race, age, gender, or sexual orientation or any other prejudicial basis by any member of the Department are prohibited.

- A.** The detention of an individual, which is not based on factors related to a violation of Federal Law, New Mexico State Statutes, City Ordinances or any combination thereof, is prohibited.
- B.** No officer shall stop, detain, or search any person when race, color, ethnicity, age, gender, sexual orientation or any other aforementioned descriptions in policy definition motivates such action.
- C.** Asset seizure and forfeiture efforts and procedures shall be based on violations of

Federal Law, New Mexico State Statutes or any combination thereof and shall not be motivated by race, color, ethnicity, age, gender, sexual orientation, religion, economic status, or cultural group.

34.1.03 Training

- A.** All Police Department members will receive training annually on the harms of bias based profiling and discrimination, including legal aspects and a review of this directive.

34.1.04 Duties of Members

- A.** Any employee, who believes there is, or may be aware of any violation of this Order, will immediately contact his/her immediate supervisor.
- B.** All complaints of bias based profiling or discriminatory practices will be investigated in accordance with the established internal affairs procedures.
- C.** Each supervisor will be responsible for continually monitoring and examining all members under their direct supervision to ensure that member's actions and activities adhere to this directive and to discover any indications of racial profiling or discriminatory practices.

34.1.05 Disciplinary Procedures

- A.** Appropriate discipline will be implemented for non-compliance with this directive up to and including dismissal.
- B.** Failure to report any observed or known violations of this order by any member of the Department will result in disciplinary action.

34.1.06 Administrative Review

- A.** There will be an annual review of this Order and Department practices conducted by the Chief of Police, or his/her designee.
- B.** The review will include concerns expressed by citizens.

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Miguel Maez, Deputy Chief

Sammy Marquez, Union President

Robert Vigil, Union Vice President