

Discriminatory Policing/Bias-Based Profiling

402.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that employees of the New Orleans Police Department do not engage in discriminatory policing and/or racial/bias-based policing or violate any related laws while serving the community.

Race, color, ethnicity or nationality, religion, actual or perceived gender or gender identity, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be utilized as the basis for providing differing levels of law enforcement service or the enforcement of the law.

402.1.1 DEFINITIONS

Definitions related to this policy include:

Biological sex - The sex assigned to someone at birth, can refer to genitalia or chromosomal make-up.

Demographic category - Includes age, race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity.

Discriminatory policing - The selective enforcement or non-enforcement of the law, including the selecting or rejecting of particular policing tactics or strategies based on membership in a demographic category. Discriminatory policing does not include using race, ethnicity, or any other status in any reliable and recent suspect-specific description.

Gender identity / Gender expression - A gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.

Probable cause - The facts and circumstances known to the officer at the time would justify a prudent person in believing that the suspect committed, or was committing an offense.

Racial/bias-based policing - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, gender, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service.

Reasonable suspicion - Articulable facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been or is about to be committed.

Sexual orientation - The direction of one's sexual interest toward members of the same, opposite or both sexes, especially a direction seen to be dictated by physiologic rather than sociologic forces.

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

New Orleans Police Department

Policy Manual

Discriminatory Policing/Bias-Based Profiling

402.2 POLICY

The New Orleans Police Department strives to provide law enforcement to our community with due regard to the racial, cultural or other differences of those we serve. It is the policy of this department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual or group.

402.3 DISCRIMINATORY POLICING/BIAS-BASED PROFILING PROHIBITED

Discriminatory policing and racial/bias-based policing is strictly prohibited. However nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity, sexual orientation or actual or perceived gender identity in combination with other legitimate factors (i.e., weight, age, height, dress, etc.) when giving the description of a suspect or perpetrator of a crime.

402.4 LBGT INDIVIDUALS - GENERAL PROVISIONS

Officers shall treat lesbian, gay, bisexual, and transgender (LGBT) individuals with courtesy, professionalism and respect.

Officers are specifically prohibited from using demeaning, harassing, intimidating, or derogatory language regarding or toward LGBT individuals. Officers shall address transgender individuals with their chosen name, title, and pronoun. Where the individual does not self-identify and the gender is not clear to a reasonable person, or the officer is uncertain, the officer shall ask the subject how they would like to be addressed, in a professional manner.

Officers shall not engage in any sexual harassment of the public, both on or off duty.

Officers shall not use an individual's actual or perceived gender identity, or sexual orientation as reasonable suspicion or probable cause that an individual is or has engaged in any crime.

Officers shall not request identification from or otherwise initiate a contact solely on the basis of sexual orientation or actual or perceived gender identity/expression. Officers shall not subject transgender individuals to more invasive or more frequent frisk procedures due to actual or perceived gender identity. Officers shall not frisk any person for the purpose of determining that person's gender or to view or touch the person's genitals. At no time, shall an officer refuse to search someone based on their actual or perceived gender identity, gender expression, or sexual orientation. Under no circumstance shall members of this department search any person solely for the purpose of determining that person's sex.

Where same-gender searches are required by law, the officer shall respect the gender identification expressed by the individual.

Officers shall not fail to respond to a call for service or complaint on the basis of the caller or complainant's actual or perceived gender identity, gender expression, or sexual orientation.

402.5 MEMBER RESPONSIBILITY

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of discriminatory policing and racial/bias-based policing to a supervisor.

No person shall be discouraged, intimidated, or coerced from filing a complaint alleging profiling by any commissioned or civilian employee of this department.

New Orleans Police Department

Policy Manual

Discriminatory Policing/Bias-Based Profiling

402.5.1 REASON FOR DETENTION

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify the detention independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer shall include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention as applicable.

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

402.6 SUPERVISOR RESPONSIBILITY

Supervisors are responsible for diligently monitoring those individuals in their command for any behavior exhibited that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy 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.
- (b) In instances where a Digital Mobile Video Audio Recorder (DMVAR) is utilized for the purpose of documenting the contact officers have with citizens, supervisors should periodically review the DMVAR recordings for any behavior exhibited by officers that violates this policy.
 - 1. Supervisors should document when these periodic reviews have occurred.
 - 2. Recordings that capture a potential instance of racial/bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial/bias-based policing.

402.7 ADMINISTRATION

Each January, the Deputy Superintendent of the Public Integrity Bureau will assess all NOPD programs, initiatives, and activities to ensure that no program, initiative, or activity is applied or administered in a manner that discriminates against individuals on the basis of race, color, ethnicity, national origin, religion, gender, disability, sexual orientation or gender identity. Included will be an assessment of misconduct complaints involving discrimination, use of force, motor vehicle and pedestrian stops, and arrest, including the selection or rejection of particular geographic deployment tactics or strategies based upon stereotypes or bias. These assessment programs, initiatives, and activities will be based on accurate, complete and reliable data, including data contained in the EWS, stop and detention data, use of force analysis, crime trend analysis in relation to population demographics, enforcement practices based on community concerns, operations plans and after-action report. These assessments will be made available to the public.

402.8 TRAINING

Training on discriminatory policing and racial/bias-based policing and review of this policy shall be conducted as directed by the Education and Training Division.

As part of, or in addition to, training, all officers shall view the video on racial/bias-based policing produced by the Department of Public Safety and Corrections (R.S. 32:398.10(F)).

New Orleans Police Department

Policy Manual

Discriminatory Policing/Bias-Based Profiling

In addition to the above training, officers shall attend yearly training by members of the LBGT community.

PR402

Discriminatory Policing, Racial Bias-Based Profiling, LGBT Community

PR402.1 MEMBER RESPONSIBILITY

Commissioned personnel will patrol in a proactive manner, and aggressively investigate suspicious persons and circumstances, enforcing all municipal, state, and federal laws. Citizens will only be stopped or detained when there exists reasonable suspicion or probable cause to believe the individual(s) have committed, are committing, or are about to commit, a violation of the law.

In the absence of a credible police report, relayed information from a police broadcast, articulable suspicion, or information from a credible outside source, an individual's race, gender, sexual orientation, or ethnicity or any combination thereof, shall not be a factor in determining probable cause for an arrest, the reasonable suspicion for a stop, or asset seizure and forfeiture efforts.

When conducting a stop, officers shall radio the dispatcher the location of the stop, and a description of the individual or vehicle being detained.

Individuals who have been detained will be detained no longer than is necessary to determine if a violation of the law has occurred.

If a violation has occurred, and the individual is not to be arrested, the citing officer shall complete the required citation, summons, affidavit, as quickly as possible and allow the individual to continue without unnecessary delay.

- (a) Information pertaining to the individual's gender, race, and age shall be entered on all forms. If this information can be obtained from documentation on the individual's person, they will not be asked to provide it. If this information can be obtained from the individual's appearance, it will be entered without asking the individual to provide it.
- (b) If the officer completing the required paperwork cannot determine the gender and/or race of the individual being detained, and the documentation submitted by the individual does not provide the necessary information, the officer may inquire as to the information needed to complete the required paperwork **in a professional manner**.

PR402.2 LESBIAN, GAY, BISEXUAL AND TRANSGENDER (LGBT) INDIVIDUALS

All paperwork (i.e., report, citations, GIST, etc.) shall be completed using a subject's legal name. Any other preferred name shall be noted as "AKA" (also known as) on all documents.

The subject shall provide officers with their legal name. Officers shall not charge and/or arrest an individual for falsely identifying themselves when a subject advises the officer they wish to be referred to under a different pronoun and name from their legal name. At no time shall an officer question an individual who has had their name legally changed.

Domestic calls involving members of the LGBT Community shall be handled as per NOPD Domestic Violence Policy.

New Orleans Police Department

Procedure Manual

Discriminatory Policing, Racial Bias-Based Profiling, LGBT Community

Upon searching a transgender individual, officers shall request an officer of the preferred gender of the individual being searched. If no member is available, officers shall adhere to the guidelines of the Department's Search and Seizure policy.

When investigating, arresting or transporting a juvenile in a non-sexual assault case, the juvenile's actual or perceived gender identity, gender expression or sexual orientation shall not be discussed with the parents or guardians without the juvenile's consent.

PR402.2.1 ARREST PROTOCOL

All information the arresting officer obtains (including noun preference and preferred name) concerning the individual shall be passed on to the transporting officers and back-up or any officer who is interacting with the individual. Information about an individual's transgender status should be kept on a need-to-know basis to ensure the privacy and confidentiality of the individual is respected.

All prescription medications, including hormone pills, shall be turned over to Central Lock-Up when the subject is placed in their custody.

PR402.2.2 MEDICAL TREATMENT

Whenever a member of the LGBT Community expresses a need for medical attention, members shall handle the situation with the same urgency and respect as any other illness or injury, including for injuries sustained during an arrest.