


## SAN JUAN COUNTY SHERIFF'S OFFICE POLICIES & PROCEDURES

	<p>This directive is for internal use only and does not enlarge an employee's civil liability in any way. The directive should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. Violations of this directive, if proven, can only form the basis of a complaint by the San Juan County Sheriff's Office for non-judicial administrative action in accordance with the rules and laws governing employee discipline.</p>		
<b>DIRECTIVE TYPE:</b> Policy	<b>SUBJECT:</b> Biased Based Profiling	<b>NUMBER:</b> OPER-300.02	<b>PAGES:</b> 4
<b>APPROVED BY:</b> Sheriff R. Shane Ferrari		<b>NMLEA STANDARDS:</b> OPR.01.10	
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**PURPOSE:**

The purpose of this policy is to establish written guidelines designed to prevent and/or eliminate practices by deputies that amount to biased based profiling.

**POLICY:**

It is the policy of the San Juan County Sheriff's Office to provide law enforcement services in a fair, equitable, and constitutional manner. Decisions made by deputies are based on the specific conduct and behavior of a person and not on their physical attributes or other characteristics. The Sheriff's Office does not tolerate or condone biased based profiling by deputies and demands compliance with the New Mexico "Prohibition of Profiling Practices Act": Sections 29-21-2 to 29-21-3 NMSA 1978.

**DEFINITIONS:**

The following definitions will apply for the purposes of this policy:

- **Biased Based Profiling** - The selection of an individual based solely on a common trait of a group while making routine or spontaneous law enforcement decisions; or a law enforcement officer's intentional failure to act based solely on the victim's characteristics. This includes, but is not limited to, race, ethnic background, gender, sexual orientation,

## **SAN JUAN COUNTY SHERIFF'S OFFICE POLICIES & PROCEDURES**

religion, economic/socio-economic status, age, cultural group, or any other identifiable group.

- **Deputy** – All sworn Sheriff's Office personnel regardless of rank, as well as reserve deputies while acting in their official capacity for the Sheriff's Office.
- **Investigatory Activity** – Law enforcement activity including, but not limited to, interviewing, detentions, traffic stops, pedestrian stops, frisks or other types of bodily searches or searches of real or personal property, and asset seizure and forfeiture efforts.

### **PROCEDURE:**

#### **PROHIBITIONS (OPR.01.10 (A))**

When conducting or determining the scope, substance, or duration of routine or spontaneous investigatory activity, or when conducting investigatory activity in connection with an ongoing investigation, deputies will not make decisions based solely on race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability, or a serious medical condition.

#### **INVESTIGATIONS**

All contacts above a consensual encounter will be based on individualized and particularized circumstances supported by specific facts or information that can be articulated to show the required and applicable standard of reasonable suspicion or probable cause. All prolonged or expanded detentions will be based on this same standard as the scope of the investigation broadens.

Deputies may take into account the reported race, gender, age, ethnicity, national origin, or other identifiable characteristic(s) of a specific suspect or involved party based on reasonably credible and locally-relevant information that links a person or specific group to a particular criminal incident or links a specific series of crimes in an area to a group of individuals of a particular racial or ethnic background, or other specific characteristic(s).

#### **COMPLAINTS, PROCESS, & CORRECTIVE MEASURES (OPR.01.10 (C))**

The Sheriff's Office will investigate all complaints alleging violations of this policy and will resolve sustained complaints pursuant to Sheriff's Office policies.

The Sheriff's Office will accept, process, and respond to complaints pursuant to the Complaint Policy. The statutory time limit for a complaint to be made is within 180 days after the

## **SAN JUAN COUNTY SHERIFF'S OFFICE POLICIES & PROCEDURES**

commission of the alleged violation; however, the Sheriff's Office will accept all biased based profiling complaints indefinitely. It is recommended the complaint be made as soon as possible after the commission of the alleged violation.

The Sheriff's Office will accept and investigate any biased based profiling complaint, regardless of who or how the complaint is made, provided that the complaint is determined to be valid before taking appropriate measures.

Although an official complaint form is not required to file a complaint, its use is preferred. If desired, complaint forms are made available in our most common languages, English, Navajo, and Spanish via the San Juan County Sheriff's Office website as well as hardcopy format upon request.

As is best investigative practice, it is strongly recommended that all individuals making complaints be personally contacted and interviewed when possible. When a language barrier is present, or a complaint form is submitted in a foreign language, the Sheriff's Office will utilize a known and reliable interpreter to ensure complete comprehension of the complaint allegations.

All biased based profiling complaints, once completed, will be forwarded to the Administrative Captain. A redacted copy of the complaint will then be sent to the Attorney General's Office for review via certified mail. This copy will contain the nature of the complaint and associated disposition but will not disclose any personal identifying information of the deputy or complainant.

### **ADMINISTRATIVE:**

#### **TRAINING (OPR.01.10 (B))**

All deputies will receive specific biennial training relevant to biased based profiling which includes a review of this policy, state laws, and applicable search and seizure laws. All newly hired San Juan County deputies will receive the same training prior to beginning the field training program.

#### **PUBLICATION**

Pursuant to the Prohibition of Profiling Practices Act, the most current version of this policy will be published for public access on the Sheriff's Office website and made available upon request in hardcopy format.

#### **ANNUAL ANALYSIS (OPR.01.10 (D))**

An annual analysis of all biased based profiling complaints will be conducted for the purpose of identifying any practices that fall outside the scope of this policy.

# **SAN JUAN COUNTY SHERIFF'S OFFICE POLICIES & PROCEDURES**

## **CROSS REFERENCES:**

1. Prohibition of Profiling Practices Act [29-21-2 to 29-21-3 NMSA 1978]
2. SJCSO Policy ADMN-106 "Complaint Policy"