


<b>MILLBURN POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM</b>			
<b>VOLUME: 2</b>	<b>CHAPTER: 9</b>	<b># OF PAGES: 4</b>	
<b>SUBJECT: RACIALLY INFLUENCED POLICING</b>			
<b>EFFECTIVE DATE:</b> 04/14/2014	<b>ACCREDITATION STANDARDS:</b> 1.5.5	<b>SUPERSEDES ORDER #:</b> WDS 2:9 (10/25/2011)	
<b>BY THE ORDER OF:</b>  Chief Gregory Weber			

**PURPOSE** The purpose of this directive is to codify this department's policy and procedures regarding racially influenced policing, profiling and discriminatory practices.

**POLICY** It is the policy of the Millburn Township Police Department to deter and prohibit the practice of racially influenced policing, bias-based profiling and other discriminatory practices by employees of this agency. Racially influenced policing and discriminatory profiling are violative of the Equal Protection Clause of the 14<sup>th</sup> Amendment to the United States Constitution and in direct contravention of [New Jersey Attorney General Directive 2005-01](#).

## PROCEDURES

### I. General

- A. In accomplishing the mission of this department, personnel must not exercise their authority 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.
- B. The following terms are defined:
1. Citizen Contact is a consensual encounter between an agency employee and a member of the public, initiated by either party, wherein the person is free to terminate the encounter at any time.
  2. 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.
  3. Racially Influenced Policing 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. Other synonymous terms include, bias-based profiling, discriminatory profiling, racial profiling, etc.
  4. Reasonable Suspicion – is suspicion that goes beyond a mere hunch, but is based upon a set of articulable facts and circumstances that would warrant a reasonable person to believe that an infraction of the law has been committed, is about to be committed, or is in the process of being committed by a person or persons under suspicion. Reasonable suspicion can be based on the observations of a police officer combined with his or her training and experience and/or reliable information provided by credible outside sources.
  5. Search is looking for or seeking out that which is otherwise concealed from view.
  6. Stop is the restraining of a person's liberty by physical force or a show of authority.
- C. Racially Influenced policing of persons by employees of this agency is strictly prohibited.
- D. Absent a valid warrant, reasonable suspicion, or probable cause, 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 factor in determining whether to interdict, detain, stop, arrest or take a person into custody.

- E. Unless acting on a valid warrant or 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 will not be a sole factor in determining the existence of probable cause to arrest a person.
- F. 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, local ordinance, BOLO, or in response to the community caretaking function is prohibited.
- G. No employee of this agency shall search a person, their effects, or vehicle based upon their race, color, gender, creed, national origin, ethnicity, religious beliefs, age, marital status, sexual orientation, physical or mental disability.
- H. Race, color, gender, creed, national origin, ethnicity, ancestry, religious beliefs, age, marital status, sexual orientation, physical or mental disability shall not be a factor in any asset seizure or asset forfeiture proceeding.
- I. Nothing in this directive shall be construed in any way to prohibit a Millburn Township sworn officer or civilian employee from taking into account a person's race or ethnicity, when race or ethnicity is used to describe physical characteristics that identify a particular individual or individuals who is/are the subject of a law enforcement investigation; or who is/are otherwise being sought by a law enforcement agency in furtherance of a specific investigation or prosecution.
- J. The intentional altering or concealing of any information related to enforcement actions by an employee when based on racially influenced policing factors is prohibited and subject to criminal, civil, and administrative sanctions.

## **II. Responsibilities**

- A. Commanders and supervisors of all ranks and assignments are responsible for providing effective supervision to reasonably monitor employees under their command to ensure compliance with this directive and to take or recommend corrective action where indicated. Corrective action includes, but is not limited to:
  - 1. Counseling;
  - 2. Training;
  - 3. Punitive discipline (up to and including termination) in accordance with Civil Service Commission guidelines.
- B. Commanders and supervisors regardless of assignment shall take or recommend corrective action if an employee, even when that employee is not under their direct command, does not appear to be in compliance with this directive.
- C. All counseling, training, and/or punitive discipline must be documented and forwarded to the Chief of Police.
- D. Employees witnessing behavior contrary to this directive are required to take immediate action to end the behavior.

1. Employees must immediately report their knowledge of the incident to their immediate supervisor in writing.
  2. If their supervisor is the subject of the report or in the absence of their supervisor, the employee must report it directly to Internal Affairs or the Chief of Police.
- E. The Chief of Police, or designee, will be this department's community liaison on racially influenced policing matters.
  - F. All department personnel will receive periodic training regarding cultural diversity and the prohibition against racially influenced policing, including legal aspects. This training shall be conducted minimally once every three years and may be conducted electronically.
  - G. Any person may file a complaint with this police department if they feel they have been stopped or searched based on racially influenced policing and no person will be discouraged, intimidated, or coerced from filing such a complaint or discriminated against because they have filed such a complaint.
  - H. Any officer, contacted by a person who wishes to file such a complaint, will follow the policy and procedures outlined in this department's Internal Affairs Directive. All complaints of racially influenced policing shall be investigated in accordance with this department's Internal Affairs Directive.
  - I. Whenever this department conducts a criminal investigation into possible commission of the crime of official deprivation of civil rights, in violation of N.J.S.A. 2C: 30-6, or pattern of official misconduct, in violation of N.J.S.A. 2C: 30-7, the Chief of Police or designee shall promptly notify the Essex County Prosecutor's Office and shall provide such information as the Essex County Prosecutor's Office may require.

### **III. Recording Demographic Characteristics**

- A. Officer-initiated vehicle stops and pedestrian stops (investigative detentions) shall be recorded in CAD.
- 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 *CAD Traffic Stop Profiling Screen* is self-explanatory and contains a combination of data fields and forced choice selections. Officers are to determine the race, 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.
- D. A record must also be entered for all passengers within a stopped motor vehicle. (Example, 1 driver + 1 passenger = 2 entries in CAD.) 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, a criminal suspect is observed on or suspected of being a passenger on a bus.)