

Carlsbad Police Department

Policy Manual Special Order 2021-05

Pursuant to Carlsbad Police Department Policy 204, this Special Order becomes effective June 14, 2021.

Update Policy 402

Bias-Based Policing

RIPA Compliance

402.1 PURPOSE AND SCOPE

The Racial and Identity Profiling Act of 2015 (hereinafter referred to as RIPA), requires local law enforcement agencies to collect perceived demographic and other detailed data regarding individuals detained or searched by peace officers. For the purposes of this law, "peace officer" is as defined by Penal Code § 830 and 832. RIPA was passed into law and codified in Government Code section 12525.5, Penal Code sections 13012 and 13519.4, and as part of Title 11, Division 1, Chapter 19, of the California Code of Regulations. This collected data is required to be submitted to the California Department of Justice on a periodic basis.

It is the intent of the Department to gather and report the required data and no part of this policy should be interpreted in a way to conflict with any currently existing law. The Department's RIPA Stop Data Collection Application may be modified as needed to maintain compliance with required data reporting.

Bias-based policing undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. Bias-based policing alienates the community, fosters community distrust of law enforcement, and invites media scrutiny, legislative action, and judicial intervention. The Department neither condones nor tolerates the use of bias-based policing.

Discriminatory conduct based on race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, or disability while performing any law enforcement activity is prohibited. All law enforcement contacts and activities, including, but not limited to, calls for service, investigations, law enforcement-initiated stops or detentions, and activities following stops or detentions, shall be unbiased and based on legitimate, articulable facts. All law enforcement action taken shall be consistent with the standards of reasonable suspicion or probable cause as required by federal and state law.

Failure to comply with this policy is counterproductive to professional law enforcement and is an act of misconduct, which is subject to discipline. Any employee who becomes aware

of biased policing or any other violation of this policy shall report it in accordance with established policy and procedure.

402.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-Based Policing means conduct by peace officers motivated, implicitly or explicitly, by the officer's beliefs about someone based on the person's actual or perceived personal characteristics, i.e., race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability.

Consensual search means any search that occurs when a person gives an officer consent or permission to search the person or the person's property. Consent can be given in writing or verbally or may be implied by conduct. (11 CCR § 999.224).

Designee a person who has been designated or selected by the primary officer.

Detention means a seizure of a person's body by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing that he or she is not free to leave or otherwise disregard the officer. (11 CCR § 999.224)

Encounter means a detention or traffic stop where the officer initiates activity based solely on the officer's own observations or the observations and direction of another officer, rather than on information provided by dispatch or reported by a member of the public.

Gender Identity means an individual's actual or perceived gender identity, or gender-related characteristics intrinsically related to an individual's gender or gender-identity, regardless of the individual's assigned sex at birth.

Location means the hundred block where the encounter occurred, or the closest intersection thereto.

Officer means a peace officer as defined by Penal Code § 830 and 832, employed by the Carlsbad Police Department.

Primary Officer means the principal officer when one or more officers are assisting on the detention and/or search.

Search means a search of a person's body or property in the person's possession or control and includes a pat-down search of a person's outer clothing as well as a consensual search. (11 CCR § 999.224)

Stop means any detention by an officer of a person or any officer interaction with a person in which the officer conducts a search, including a consensual search of the person's body or property in the person's possession or control, and includes a pat-down search of a person's outer clothing. (Govt. Code § 12525.5(g)(2); 11 CCR § 999.224).

Traffic Stop means an interaction between an officer and an individual driving a vehicle, in which the officer orders the individual to stop the vehicle.

Use of Force means an officer's use of force on an individual that is required to be reported by Department Policy § 300.

402.2 DATA COLLECTION REQUIREMENT

Every officer is required to complete a RIPA report following interactions described in section 402.4 of this order. Officers must report their perceptions of specified characteristics when an individual is detained, searched, or has their property searched. An officer's perception shall be based on their personal observations and interactions with the individual detained. The officer shall not ask the individual any additional identifying questions, refer to their driver's license or identification card, or ask another individual for information which would verify the identity of the individual detained.

402.3 PERSONAL IDENTIFYING INFORMATION

In no circumstance shall an officer include any individual's personal identifying information or Unique Identifying Information of any officer into a RIPA report. "Unique Identifying Information" means personally identifying information, the release of which, either alone or in combination with other data reported, is reasonably likely to reveal the identity of the individual officer who collected the stop data information. It does not include the minimum information that is specified in Government Code section 12525.5, subdivision (b).

402.4 REPORTABLE INTERACTIONS AND ENCOUNTERS WITH THE PUBLIC

The Primary Officer or his/her designee shall complete a RIPA report for every person detained or searched or when property in their possession is searched regardless of the initial reason for the encounter, unless it falls under an exception listed in this order. Officers shall complete all stop reports for stops made during his or her shift by the end of that shift, unless exigent circumstances preclude doing so, and with a supervisor's permission. In such circumstances, the data shall be completed as soon as practicable.

402.4.1 DATA COLLECTION AND REPORTING

The following information will be collected for each stop:

- Date/Time/Duration
- Location
- Reason
- A response to or while conducting an investigation as a result of a call for service?
Yes/No
- Actions taken during stop, including, but not limited to:
 - Whether asked for consent search / Whether consent was provided
 - Whether search took place / Basis for search / Result of search
 - Whether property was seized / Type of property / Basis for seizure
 - Curbside detention, handcuffed/flex-cuffed, firearm pointed at person, firearm discharged or used.
 - Includes: Action taken based on individual suspicion or personal characteristics during traffic control, crowd control, underage drinking detentions, DUI checkpoints.
- Result or Disposition (e.g., warning, citation, arrest)

- This includes the language of the warning or offense cited/charged.
- Perceived race/ethnicity, gender and age
 - This information shall be based on the officer's personal observation only. This information shall not be requested and shall not be based on the information in the person's driver's license or other identification.
 - Vehicle Stops: Only applies to driver unless actions above are taken for passenger.
- Perceived LGBT
 - This information shall be based on the officer's personal observation only. This information shall not be requested.
- Limited to no English Fluency, if applicable
- Perceived or Known Disability
 - This information shall be based on the officer's perception or knowledge that the person stopped has a disability.
- Officer Information
 - Years of Experience
 - Type of Assignment: Patrol, Traffic, Narcotics, Investigations, etc.
(11 CCR 999.226)

402.5 REPORTING WHEN THERE ARE MULTIPLE OFFICERS OR MULTIPLE AGENCIES

- 1) When there are multiple officers interacting with the detained or searched individual(s):
 - a) Only one RIPA report shall be submitted for each individual searched or detained, regardless of the number of officers involved in each interaction.
 - b) The officer with the highest level of engagement with the person stopped is responsible for completing the RIPA report.
 - c) All reportable actions taken by any officer during the detention or search shall be included in the RIPA report.

- 2) When there are multiple agencies at the scene and interacting with the detained or searched person(s):
 - a) Only the primary agency with investigative jurisdiction for the incident shall complete the RIPA report through their reporting system.
 - b) In no case should duplicate reports be submitted for the same individual by multiple officers or multiple agencies.
 - c) The RIPA report should be completed by the end of the officer's shift unless exigent circumstances preclude doing so, and with a supervisor's permission.

In such circumstances, the data shall be completed as soon as practicable.

(11 CCR 999.227).

402.6 INTERACTIONS WITH STUDENTS IN A K-12 PUBLIC SCHOOL

- 1) Peace officers shall complete a RIPA report only if the following interactions occur with students on the grounds of a K-12 public school:
 - a) Any interaction that results in a temporary custody under Welfare and Institutions Code section 625, citation, arrest, permanent seizure of property as evidence of a criminal offense, or referral to a school administrator because of suspected criminal activity.
 - b) Any interaction in which the student is questioned for the purpose of investigating whether the student committed a violation of law, including violations of Education Code sections 48900, 48900.2, 48900.4, and 48900.7, or to determine whether the student is truant.
 - c) Any interaction in which an officer engages in one or more of the actions as described in section 402.4 of this order.
- 2) Peace officers shall not complete a RIPA report in the following interactions with students on the grounds of a K-12 public school.
 - a) Any detention or search of all persons as part of a neutrally applied formula that is not based upon personal characteristics. Such as a security checkpoint.
 - b) The interaction only includes searches conducted at the entries or exits of school facilities by screening devices, and secondary screenings that result from that initial screening.
 - I. Example 1: All students entering a school are required to pass through a metal detector. A school police officer searches a student's person or belongings because a metal detector is activated. The interaction shall not be reported.
 - II. Example 2: An officer searches a student's backpack because he or she suspects the backpack contains narcotics. The interaction is reportable.

402.7 GENERAL EXCEPTIONS TO RIPA REPORTING REQUIREMENTS

- A. Peace officers are not required to complete a RIPA report in the following circumstances:
 - 1) Any stop or search that occurs in a custodial setting or on custodial grounds. However, peace officers who work in a custodial setting must report detentions or searches which occur in non-custodial settings (an example would be a deputy who is assigned to the jail but detains an individual while working an off-duty job at a football game).
 - 2) Stops that occur during public safety mass evacuations, including bomb threats, gas leaks, flooding, earthquakes, and other similar critical incidents.

- a) For the purposes of this section, the incident commander (or designee) shall make the determination if an incident meets the criteria for a critical incident.
- 3) Stops that occur during an active shooter incident, meaning an individual is actively engaged in killing or attempting to kill people in a populated area.
- 4) Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from that screening.
- 5) Any type of crowd control in which persons are directed to remain at a location or routed to a different location for public safety purposes.
- 6) Interactions during which persons are detained at a residence so that officers may check for proof of age, solely for the purpose of investigating possible underage drinking.
 - a) Example 1: An officer is dispatched to a residence to investigate a noise complaint. Upon arrival, the officer suspects that some of the persons at the house party are engaged in underage drinking, and he or she detains the persons to request identification to verify proof of age. Because the only action the officer takes is to detain the persons for the sole purpose of verifying proof of age, these interactions do not require a RIPA report.
 - b) Example 2: At that same party, the officer, in addition to detaining a person to question him/her, also asks to search the person. Regardless of whether the person consents to the search or is actually searched, that interaction will require a RIPA report.
- 7) Checkpoints or roadblocks in which an officer detains a person as the result of a blanket regulatory activity that is not based on an individualized suspicion or personal characteristic.
 - a) Example: A checkpoint or roadblock, including a DUI checkpoint, that stops all vehicles or stops randomly selected vehicles using a neutral formula, not based on individualized suspicion or personal characteristics, does not require a RIPA report.
- 8) Diversion of traffic or individuals as a result of any routine traffic control not based upon individualized suspicion personal characteristics.
- 9) Interactions with passenger(s) of traffic stops who are not the subject of an investigation or enforcement action and who are not searched.
 - a) Example: Any individual(s) being asked to exit the vehicle simply because it is being towed.
- 10) Interactions with the targeted subject(s) of a warrant, search condition, home detention, or house arrest while inside of their residence. However, a RIPA report is required for any interactions with persons in the home who are not the subject of the warrant or search condition if the officer takes any of the actions listed in section 402.4 of this order.
- 11) Consensual encounters that do not result in a search.

The data collected for each stop is the responsibility of a single officer on scene. The data will be reported and submitted for supervisorial approval. The Department will maintain all "Stop Data" and prepare an annual report to the California Department of Justice in compliance with RIPA. In addition, the Department's Senior Management Analyst will be responsible for producing an annual report for the Department regarding our STOP DATA.

402.7.1 SUPERVISOR'S RESPONSIBILITIES

Supervisors should log in to the RIPA report system to review and approve or reject officer's RIPA reports by the end of the supervisor's shift unless exigent circumstances preclude doing so. In such circumstances, the data shall be completed as soon as practicable after the RIPA report was received. The primary purpose of the supervisor review is to ensure no personal identifying information has been included in the report. If any personal identifying information is found in the report, the supervisor shall reject the report.

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should return the report for correction. It shall be the responsibility of the originating supervisor to ensure that any report returned for correction is processed in a timely manner.

Reports that have been approved by a supervisor and are either waiting in the que for download or have been submitted to the DOJ shall not be modified or altered except by way of a supplemental report.

402.8 DETENTIONS

All investigative detentions, temporary detentions, vehicle stops, arrests, searches and seizures of persons or property by officers will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the U.S. Constitution, statutory authority, and prevailing case law. Officers must be able to articulate specific facts, circumstances and conclusions which support reasonable suspicion or probable cause for an arrest, vehicle stop or investigative detention. Officers may take into account as part of a description the race, ethnic background, gender, sexual orientation, religion, economic status, age and/or culture of a specific suspect(s) based on what reasonably appears to be credible, reliable, relevant information that links a person to a particular criminal incident or links a specific series of crimes in an area to a group of individuals.

Except as provided above, no person shall be singled out or otherwise treated differently on account of his/her race, ethnic background, gender, sexual orientation, religion, economic status, age and/or culture.

402.9 POLICE CONTACTS WITH MEMBERS OF THE PUBLIC

This policy allows consensual encounters, but officers should apply the principles outlined below.

In an effort to prevent inappropriate perceptions of biased based law enforcement, officers shall utilize the following strategies when involved in any pedestrian contact or vehicle stop:

- Be courteous, polite, and professional.
- Introduce yourself by providing your name and agency affiliation. As soon as practical, explain the reason(s) for the stop, i.e., in vehicle stops, provide this

information before asking the driver for their license, registration and proof of insurance.

- Answer any questions the member of the public may have, including explaining options for the disposition of a traffic citation, if relevant.
- Ensure that the length of the detention is no longer than necessary to take appropriate action for the known or suspected offense.

402.10 TRAINING

Training on fair and objective policing and review of this policy shall be conducted as directed by the professional standards and support bureau.

- All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- Each sworn member of this department who received initial bias-based policing training will thereafter be required to attend or complete on going training as deemed necessary by the Carlsbad Police Department to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4[i]).

M. Williams #5221
Mickey Williams, Acting Chief of Police

6.14.21
Date