

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

<https://oag.ca.gov/ab953/board>

POST TRAINING AND RECRUITMENT SUBCOMMITTEE MEETING
NOTICE AND AGENDA

March 7, 2022

10:00 AM

Via Blue Jeans video and telephone conference ONLY. The public is encouraged to join the meeting at <https://bluejeans.com/478950913/8945> or using the “Join Meeting” link below. This will provide access to the meeting video and audio. We recommend that you log in 5-10 minutes before the start of the meeting to allow sufficient time to set up your audio/video, and to download the Blue Jeans application, if desired.

[Join Meeting](#)

(Join from computer or phone)

A phone dial-in option will also be available.

(408) 317-9254

Meeting ID: 478 950 913

Participant Code: 8945



**Interpretive Services
Available Here**

1. INTRODUCTIONS (2 min.)
2. APPROVAL OF SEPTEMBER 29, 2021 SUBCOMMITTEE MINUTES (2 min.)
3. DEPARTMENT OF JUSTICE UPDATE (5 min.)
4. UPDATES FROM BOARD MEMBERS AND DOJ STAFF ON BOARD WORK WITH POST (40 min)
 SB 2
 AB 846 Regulations
 POST/Museum of Tolerance Racial Profiling Train-the-Trainer Curriculum
5. BOARD DISCUSSION REGARDING POST TRAINING AND RECRUITMENT CHAPTER IN 2023 REPORT (40 min)
6. PUBLIC COMMENT (10 min.)
 Both the Blue Jeans application and dial-in number will permit public comment
7. NEXT STEPS (10 min.)
8. ELECTION OF SUBCOMMITTEE CO-CHAIR (10 min.)
9. ADJOURN

Documents that will be reviewed during the meeting will be posted prior to the meeting in the Upcoming Meeting section of the Board’s website <https://oag.ca.gov/ab953/board>.

The meeting will begin at the designated time. Other times on the agenda are approximate and may vary as the business of the Board requires. For any questions about the Board meeting, please contact Anna Rick, California Department of Justice, 1515 Clay Street, Suite 2100, Oakland, California 94612, ab953@doj.ca.gov or 510-879-3095. If you need information or assistance with accommodation or interpretation requests, please contact Ms. Rick at least five calendar days before the scheduled meeting.

C. Visions and Next Steps

- The Board will continue to monitor the training recommendations made from course review comments and will seek specific updates from POST on prior recommendations. The Board would like to have more transparency from POST as to how their recommendations have been incorporated into POST trainings. In those instances, where POST had decided not to adopt a Board recommendation, the Board would like an explanation providing the reasoning the recommendation is not adopted, or information supporting an alternative but equivalent solution.
- The Board would also like a more transparent and inclusive process when developing POST training materials.

⁸²¹ A full recording of the meeting and the Board comments regarding LD 3 is available online. See California Department of Justice, *POST Training and Recruitment Subcommittee Meeting (Part 1 of 2)*, YouTube (July 29, 2021) <<https://www.youtube.com/watch?v=44Jbr4E1Ei4>>; California Department of Justice, *POST Training and Recruitment Subcommittee Meeting (Part 2 of 2)*, YouTube (July 29, 2021) <https://www.youtube.com/watch?v=zPBg9_xMyxl>.

- The Board plans to examine the Little Hoover Commissions evaluations regarding whether the training courses are producing the desired outcomes of preventing and eliminating racial and identity profiling.
- The Board would like to learn more about diversifying the POST Commission and those who develop POST trainings, including subject matter experts.
- The DOJ will continue to teach the POST certified AB 953 course to law enforcement agencies including those that are beginning to compile data. This training will help to increase officer understanding of how and when to report data from stops.
- The Board will continue to seek a better understanding of the POST Academy, including the Field and the In-Service Training Programs. The Board will continue to learn more about the role and makeup of the POST Commission and its role in establishing effective training courses. In addition, the Board will continue to research evidence-based best practice training courses that strengthen the way racial and identity profiling, bias, and cultural awareness trainings are incorporated throughout an officer's career training experience.
- The Board would like to learn more about the POST training development process, including how subject matter experts are selected and how the quality assessment program within POST evaluates trainings.
- The RIPA Board will continue to review additional POST training courses that relate to racial and identity profiling and bias. This includes but will not be limited to a review of the Regular Basic Course Academy Learning Domain #42 entitled Cultural Diversity and Discrimination. The Board will further examine the Regular Basic Courses and how the training is incorporated as well as reinforced during the Field Training Program.

Racial Profiling

Train-the-Trainer and Update Training

Racial Profiling Train-the-Trainer is the official train-the-trainer for the 5-hour POST mandated racial profiling training. This program focuses on providing the information and skills necessary to ensure a successful presentation of the Racial Profiling curriculum to meet 13519 P.C. The course will utilize class discussions, exercises, and the POST video to cover topics such as: Racial Profiling Defined, Legal Considerations, History of Civil Rights, and Community Considerations. At the conclusion of the course, students will demonstrate proficiency by participating in a teach-back exercise evaluated by the training staff.

The Tools for Tolerance® program is also currently offering the update training for Racial Profiling.



This program is P.O.S.T. and STC certified.

Tuition is sponsored and travel is reimbursed via P.O.S.T. Plan IV.

For further information:

Phone: 310-772-7623

Email: toolsfortolerance@museumoftolerance.com

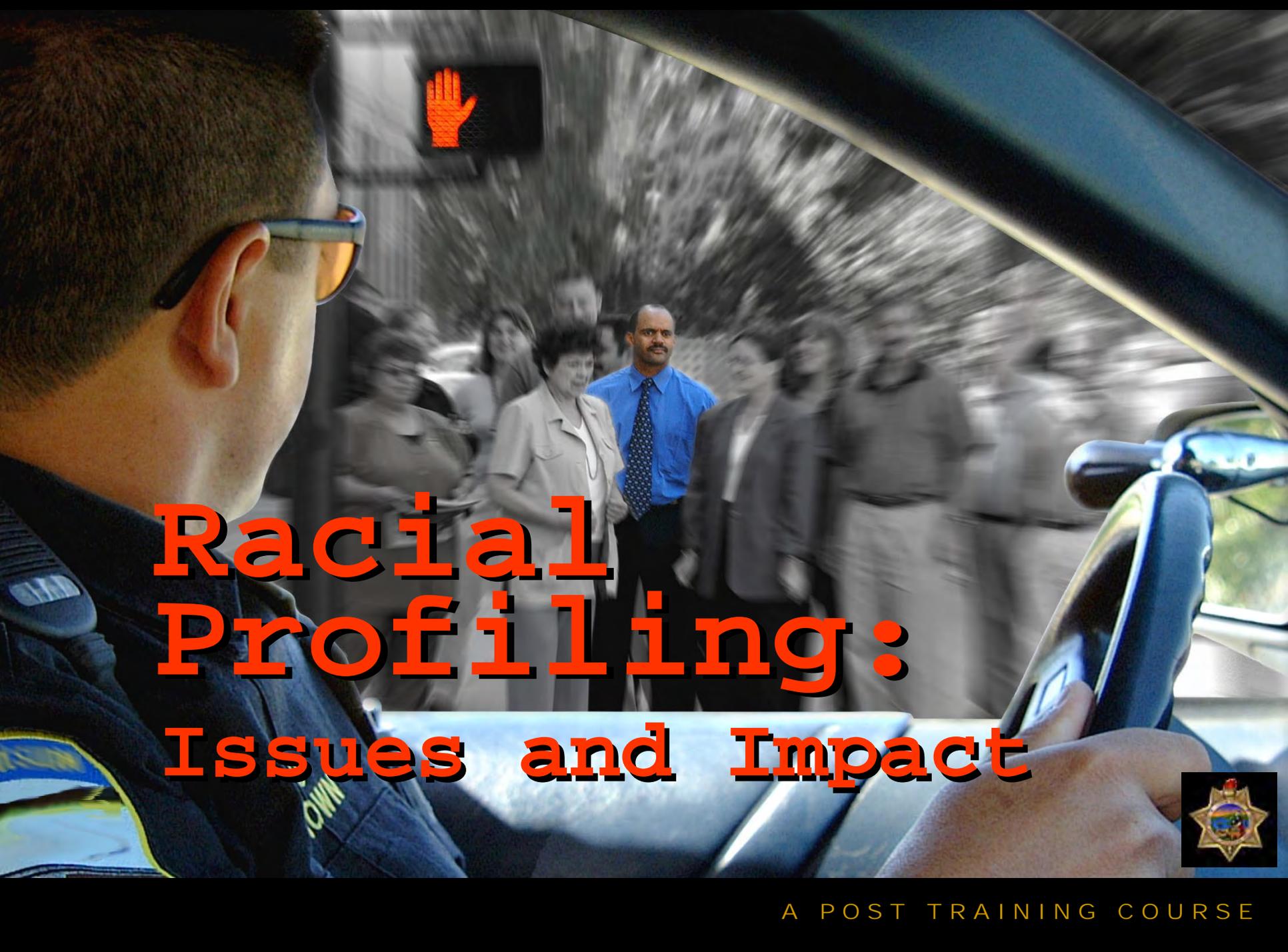
www.toolsfortolerance.com

www.facebook.com/toolsfortolerance

www.twitter.com/tools4tolerance



POST Racial Profiling PowerPoint



Racial Profiling: Issues and Impact



A POST TRAINING COURSE



Instructor introductions





Why are we here?

- **SB 1102 modified 13519.4 PC**
 - Law enforcement shall not engage in racial profiling
 - Law enforcement will participate in racial profiling training





Student introductions

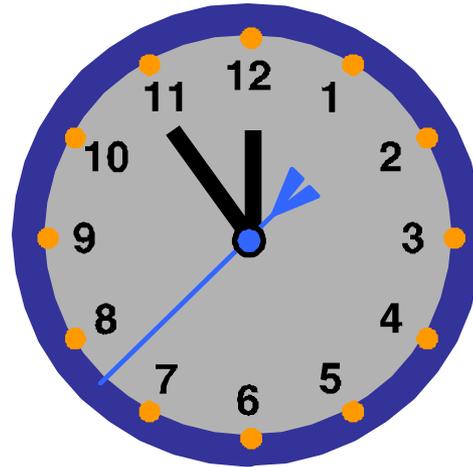
- Name
- Agency
- Assignment





ACTIVITY - FIRST IMPRESSIONS

Racial profiling



10 seconds





Guidelines for discussion

- Use “I” statements
- Use active listening
- Be honest and open
- Take risks
- Be respectful of others and their views
- Ensure confidentiality





Video

Introduction





ACTIVITY

Class discussion

- How has the issue of racial profiling affected you?





video

Overview of Racial Profiling





ACTIVITY - REVIEW

Discussion

- What did you think about this segment?
- You can still do your job
 - Profiling behavior and characteristics vs. race

Continues on next slide





ACTIVITY - REVIEW

Discussion continued

- **Racism and racial profiling are not the same**
 - Racism – hate motivated
 - Racial profiling – race used as predictor of criminality
- **Members of all racial groups commit crimes**
 - Actions of some should not cast suspicion on all

Continues on next slide





ACTIVITY - REVIEW

Discussion continued

- **Cannot assume all members of a particular race or ethnicity commit specific crimes**
 - Race does not breed criminality
- **Racial profiling does occur**
 - Statistics reflect disparity in treatment after stops
- **Review the posted list**





Video

Legal Considerations





ACTIVITY

Legal handout

- California and Federal Law





Racial profiling defined

13519.4 PC

“The practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.”

— Restates 4th and 14th Amendments





4th Amendment

- Reasonable suspicion or probable cause to stop or detain
- Suspicion must be individualized
 - Focused on the person to be stopped or detained





14th Amendment

- Equal application of the law
- Law enforcement must be colorblind in conduct of responsibilities
- Individualized suspicion not based on race unless race was specific descriptor





ACTIVITY

Individualized suspicion





Whren v. United States

- Can engage in pretext stops
 - Based on violation of the law or reasonable suspicion
- Violation not motivation for stop
- Can be legal under the 4th Amendment but violate the 14th Amendment





Video

Scenario One





Scenario one

- What did we see?
- Was the stop legal?
 - Yes – 22450(a) VC
- Did the stop constitute racial profiling?
 - Don't know until we know what was in the mind of the officer

Continues on next slide





Scenario one continued

- **What would make this stop racial profiling?**
 - **If decision to stop was based on race**
 - **Unequal application of the law**

Continues on next slide





Scenario one continued

Any time race tips the scale for the decision to take enforcement action, it is racial profiling.





Video

Scenario Two





Scenario two

- What did we see?
- Could the kids have been just “hanging around”?
- Did this appear to be a contact or a detention?
 - May have merited a detention
 - Appeared to be a contact

Continues on next slide





Scenario two continued

■ Consensual Contacts

- Don't need to be based on specific observable behavior
- Subjects believe they can leave any time
- Any consensual contact may be argued in court

Continues on next slide





Scenario two continued

- **Still use instinct and intuition within the law**
- **Always examine your motives and biases**
 - **If all contacts are people of a particular race, could be pattern and practice of racial profiling**
- **Consider explaining reason for contact**





Video

Scenario Three





Scenario three

- What did we see?
- Could this happen?
- What appeared to be the reasonable suspicion for the stop?

Continues on next slide





Scenario three

continued

- Persons of any race have a right to go anywhere
- “Race out of place” is racial profiling
- Violates 4th and 14th Amendments





ACTIVITY

Scenario four

- Case Study Handout





Scenario four

continued

- **What actions could lead to racial profiling?**
 - Pretext stops
 - Detentions
 - Increased field interview contacts
 - Searches
- **How could different members of the community perceive the increased enforcement?**

Continues on next slide





Scenario four

continued

- Communication with community is important
- Targeted enforcement must be conducted in the “green zone”
- Statistics alone not reasonable suspicion or probable cause
 - Can't assume all members of a particular racial/ethnic group commit crimes





Video

- Review of Legal Considerations
- History of Civil Rights





ACTIVITY

Discussion

- **What impact does the history we've just seen have on our profession today?**
 - Enforced unjust laws in the past
 - Law enforcement and the community must build mutual trust
- **What impact does history have on our own agency?**

Continues on next slide





ACTIVITY

Discussion continued

- Are we creating new history for ethnic groups today?
- In light of recent events, what are our responsibilities to Middle Eastern communities?
- What can we do as individuals to increase the trust between the community and law enforcement?





Video

- Review of History of Civil Rights
- Impact of Racial Profiling





Community presentation





Video

- Review of Community Considerations
- Ethical Issues





Review



POST Racial Profiling Facilitator's Guide

POST



T R A I N I N G

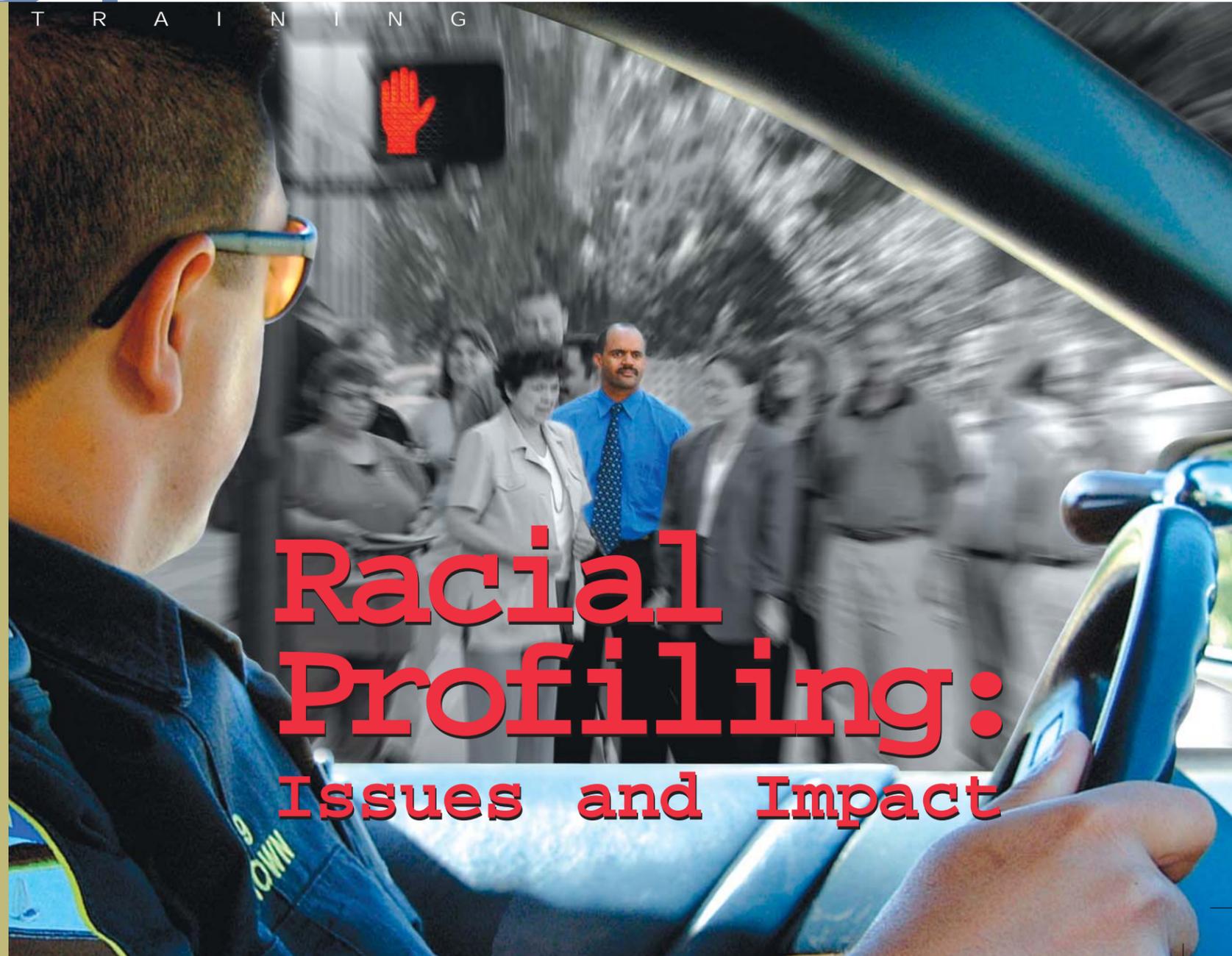
Cover (facilitators
guide):
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Facilitator's
Guide



CALIFORNIA
COMMISSION ON
PEACE OFFICER
STANDARDS
AND TRAINING

POST.TPS.2002-06b



Racial
Profiling:
Issues and Impact

Racial Profiling: Issues and Impact



Facilitator's Guide

California POST

This *Facilitator's Guide* is part the Instructor Guide materials for the Racial Profiling: Issues and Impact course.

In collaboration with

This program was created in collaboration with the Simon Wiesenthal Museum of Tolerance, Los Angeles, California.

Racial Profiling: Issues and Impact

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California Commission on Peace Officer Standards and Training

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Racial Profiling: Issues and Impact

Facilitator's Guide

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Racial Profiling: Issues and Impact

Facilitator's Guide

Purpose

This Facilitator's Guide is designed to assist you in leading group discussions and activities. It provides directions, notes, and tips for you to utilize when introducing activities and video segments, answering questions, and transitioning between the segments. It is essential that you, as the facilitator, understand everything that is presented in the course as well as the instructional methods used to deliver the course content. It is also very important for the facilitator to read the materials that precede the actual lesson plans.

This course is designed for systematic delivery. Therefore you must follow the lesson plans closely. Although this approach seems to minimize the discretion of the facilitator, this continuity is crucial in guaranteeing consistent training among agencies statewide. It also helps maintain the flow of the presentation as each segment was designed to build upon the previous material.

At the end of the course, agencies may choose to add an optional segment to present agency-specific issues that relate to racial profiling. Such a presentation may include information on data collection, ethics, policies, or other relevant topics. Any additional topics that are covered in this segment are not a part of the minimum requirements of the training required in Penal Code Section 13519.4.

Section 1 - Racial Profiling Defined

In this section, students are introduced to the law that directed POST to create this training. Students are also given the opportunity to respond to an introductory video and voice their opinions about racial profiling. This activity is followed by a video presentation that examines the controversies about racial profiling and presents the conceptual definition of racial profiling.

Goal

The goal of this section is to help the students to focus on the subject of racial profiling and to clarify the controversies about, and the definition of, racial profiling.

Teaching Points

- Effective police work profiles behavior rather than race.
- Racial profiling and racism are not the same.
- Members of all racial groups commit crimes.
- Race cannot be used as a predictor of criminal behavior.
- Racial profiling does occur.
- Past practices that were once acceptable as good police work may constitute racial profiling.

Instructional Techniques

- **Class Discussion.** The discussion provides students with an opportunity to voice their perceptions about racial profiling and the racial profiling law. This activity is intended to break down the barriers students may have that will prevent them from getting the most out of the training. The desired outcome of this activity is that the students will be more willing to participate in subsequent activities.
- **Video.** The video segment presents the controversies associated with, and the definition of, racial profiling. It also presents some common misconceptions, statistics, and public perceptions about this subject.

Materials

- Name tents
- 3 x 5 cards
- Blackboard or flipchart with stand and paper
- Chalk or markers
- TV or projector (large enough for the class to see and hear)
- VCR

Preparation

- Place the flipchart where you can access it easily and all students can see it.
- Write guidelines for discussion on flipchart.
- Cue the videotape to the beginning of the tape.

SLIDES



ACTIONS

Course Introduction

20 minutes

Introductions

- 1.1 Introduce facilitator and course.
 - Provide a brief background about yourself.
 - Why are we here?
 - Senate Bill 1102 was enacted on January 1, 2001. It modified Penal Code Section 13519.4 to say: "a law enforcement officer shall not engage in racial profiling."
 - It also states "every law enforcement officer in this state shall participate in training as prescribed and certified by the Commission on Peace Officer Standards and Training (POST)."
 - 1.2 Student introductions.
 - Name
 - Agency
 - Assignment
- Activity: First Impressions**
- 1.3 Using the 3 x 5 card provided for students, have them write the first word(s) that come to mind when they think of racial profiling.
 - Give them 10 seconds, and have them pass it to you.

NOTES

0800 - 0820

- 1.3 Tip: Distribute the 3 x 5 cards before the students arrive. Using 3 x 5 cards maintains the anonymity of the students and may result in better responses than having the students express their responses.

SLIDES



ACTIONS

- 1.4 Collect the cards and read the students' responses.
- 1.5 Say: There is a lot of law enforcement experience in this room. There is not a clear consensus on what racial profiling is. Throughout this course, we are going to clarify what it is conceptually, using discussion, and legally, using discussion and scenarios.

Guidelines for Discussion

- 1.6 Present guidelines for course.
 - Use 'I' Statements. You only speak for yourself, not for any group or agency.
 - Use active listening.
 - Be honest and open.
 - Take risks. Take the risk to speak honestly.
 - Be respectful of each other and each other's views.
 - Ensure confidentiality. What is said here stays here.
- 1.7 Ask the class if there are any guidelines they would like to add to the list.
- 1.8 Record any additions on the flipchart.
- 1.9 Ask group to agree to guidelines.

NOTES

1.5 Note: Use inclusive language such as "we," "us," and "our" when introducing this course.

1.8 Note: Post the list with additions.

SLIDES



ACTIONS

VIDEO: “Why are we here?” length 4:30

- 1.10 Say: We are going to play a short video. Afterwards, you will have a chance to share/express your concerns.
- 1.11 Play video.

NOTES

- 1.10 Video Synopsis: This video segment examines the reasons why racial profiling is getting attention. It also discusses the responses that have been made by the media and politicians. The video concludes by listing the topics that will be covered in the course. The video also describes the instructional techniques that will be utilized in the course.

SLIDES



ACTIONS

Defining Racial Profiling 35 minutes

Discussion 10minutes

1.12 Ask: How has the issue of racial profiling affected you?

NOTES

0820 - 0855

1.12 Note: Student responses may include that racial profiling is a perception that the community has, and that it does not actually occur. You may also get remarks that the community needs to be educated on police procedures.

1.12 Tip: This activity is designed to give students an opportunity to discuss their concerns about racial profiling. It is intended to help students become more willing to participate in subsequent activities. However, it could present challenges if students want to use this time to monopolize the discussion in a negative way. At this point in the training, it is very important that you establish a positive rapport with the students.

Strategies that will help build a positive rapport include, but are not limited to:

- Being a good listener.
- Avoiding judgmental comments (even if they are complimentary).
- Allowing students to verbalize their points of view.

SLIDES



ACTIONS

- 1.13 Record the responses on the blackboard/flipchart. Inform the students that the video and class discussions are going to define racial profiling both conceptually and legally.

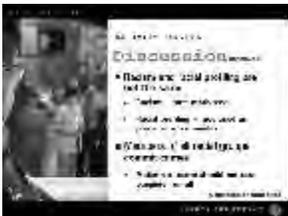
VIDEO: "Defining Racial Profiling" length 5:15

- 1.14 Introduce video segment.
- This segment will begin to address some of the issues you have raised.
 - This segment also defines racial profiling conceptually. (The legal aspects of racial profiling will be addressed later in the next video segment.)
 - After this segment, we will look into each issue in more depth.
- 1.15 Play video.

NOTES

- 1.13 Tip: Your responses to comments should be brief and serve to relieve anxieties about the consequences of the law. Do not use the students' remarks as a springboard for instruction. Reinforce that this course is designed to clarify the laws that involve racial profiling and their application. You should also inform the students that your answers might not be the answers the students want to hear.
- 1.14 Video Synopsis: The video presents some of the controversies surrounding racial profiling. It also provides a response to these controversies.
- 1.15 Tip: The tone of the video is neutral and non-threatening. Officers may feel that the video has made racial profiling more confusing and difficult to understand. If you know that certain points will be covered in another section of this course, you might consider deferring some questions.

SLIDES



ACTIONS

Discussion 25 minutes

- 1.16 Ask: What did you think about this segment?
- 1.17 Review the list of issues (parking lot) that were previously recorded on the flipchart/chalkboard. If the topic was covered in the video, briefly recap what was said in the video. If the topic was not covered in the video, initiate a discussion and conclude with the appropriate teaching point from the curriculum.
- 1.18 Review the main points from the video very quickly using the PowerPoint slides.

BREAK 10 minutes

NOTES

1.16 Note: As a facilitator, you will have to validate and work through the feelings shared by the students. The main points covered in the segment are provided on a PowerPoint slide. Points that you have discussed from the student list can be covered quickly. Points that were not discussed may need to be covered in greater detail.

On the topic of "You can still do your job effectively," out-of-state studies indicate that it is more effective to profile behavior rather than race. Bibliographic information is located in the Resources section of the Preparation Guide if students are interested in specific information. If you choose to refer to any information in the Resources section, take time prior to presenting the course to familiarize yourself with this information.

0855 - 0905

Note: Ensure that participants understand that the schedule is tight, and extended breaks will prolong the course.

Racial Profiling: Issues and Impact

Facilitator's Guide

Section 2 - Legal Considerations

In this section, students are presented with three scenarios and a case study. Each scenario focuses on a specific occasion where racial profiling may have occurred. The facilitator will play the video of each scenario and then use layered questions that examine the actions of the officer(s) involved as they relate to the laws and amendments pertaining to racial profiling. The layered questions accentuate the subtleties of the scenario. In the case study, students will have an opportunity to develop an action plan in response to community concerns. Students will then analyze their action plans as they pertain to racial profiling.

Goal

The goal of this section is to provide students with an opportunity to apply the law to situations that may or may not involve racial profiling.

Teaching Points

- Scenario 1. If race tips the scale in determining enforcement action, it is racial profiling.
- Scenario 2. Officers can use their intuition and make consensual contacts; however, they need to be cognizant of their motivations and biases, and act within the parameters of professional ethics and the law.
- Scenario 3. Persons of all races are entitled to travel wherever they want to in this country, including neighborhoods comprised entirely of persons of another race.

- **Case Study.** Targeted enforcement must be based on clear individualized suspicion. Statistics alone do not provide reasonable suspicion or probable cause. You cannot assume that all members of a particular racial/ethnic group commit crimes.

Instructional Techniques

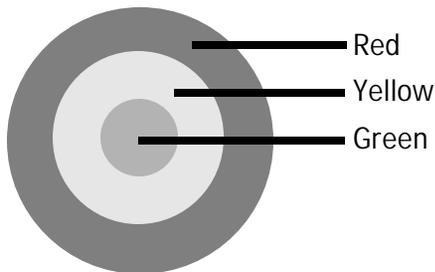
- **Video.** The video for this section presents a definition of racial profiling as it is written in the California Penal Code. It also discusses the application and interpretation of the law in light of the 4th and 14th Amendments and case law. The video also contains the scenarios for the application of the law activity. There are three scenarios that are each followed by a discussion.
 - Scenario 1 involves an officer who stops two Latino teens in a Chevy Caprice who do not come to a complete stop at a stop sign.
 - Scenario 2 depicts two male Vietnamese teens walking back and forth in front of a liquor store in a predominantly Vietnamese immigrant neighborhood.
 - Scenario 3 presents an officer who stops an African-American man who is riding a bicycle through an upper-middle class, white neighborhood.
- **Class Activity.** This activity is designed to clarify the concepts of individualized suspicion from the 4th Amendment. The students will categorize suspect descriptions provided by the facilitator. Students will also discuss how articulable behaviors can affect their decisions for enforcement action.

- **Class Discussion.** This discussion gives students an opportunity to evaluate the scenarios based on the laws that relate to racial profiling. Each scenario is followed by a discussion in which students are encouraged to discuss the scenario in detail. The facilitator is provided with question prompts that are designed to promote discussion. The facilitator is also given variables to add to the scenarios that will clarify the law. While it is unlikely that students will come to consensus on all the scenarios, it is important to state the correct answer in clear terms after the discussion of each question.

The purpose of this activity is to provide students with a context for gaining a better understanding of racial profiling and the laws that pertain to racial profiling. The value of this activity is that it captures the subtleties of racial profiling. While officers may have legal grounds under the 4th Amendment for making a traffic stop or performing a search, they still may be violating the 14th Amendment. Therefore, the entire interaction between the officer and the individual must be examined. Officers must be cognizant of all legal factors that involve an individual's rights.

Materials

- TV (large enough for the class to see and hear)
- VCR
- Copies of the “California and Federal Laws” handout
- Copies of the “Case Study” handout
- A flipchart with red, yellow, and green circles for the Individualized Suspicion activity



- Prepare three, 3 x 5 or 5 x 8 Post-it notes as listed below
 - Post-it note 1 write:
 - Male
 - Black
 - 18-20 years of age
 - Late model green sedan
 - Body damage on front passenger side
 - Post-it note 2 write:
 - Male
 - Black
 - 18-20 years of age
 - Late model sedan
 - Post-it note 3 write:
 - Male
 - Black
 - 18-20 years of age

SLIDES



ACTIONS

Legal Overview

60 minutes

VIDEO: "Legal Considerations" length 12:18

- 2.1 Introduce the video segment.
 - The next segment covers all the laws that pertain to racial profiling.
 - This is a fairly long section.
 - When it is done, we will review the key points and apply the law to sample scenarios.
- 2.2 Play video.

NOTES

0905 - 1005

- 2.1 Video Synopsis: The video provides the legal definition of racial profiling and a detailed presentation on the nuances of the law as they apply to racial profiling.

SLIDES



ACTIONS

Individualized Suspicion Activity 45minutes

2.3 Distribute "California and Federal Laws" handout.

2.4 Review the key points of "Legal Considerations." A synopsis of the teaching points is provided in the PowerPoint presentation.

NOTES

SLIDES



ACTIONS

- 2.5 Display the Individualized Suspicion diagram.
- 2.6 Inform class that we are going to discuss what is meant by individualized suspicion. Describe the meaning of each circle:
 - Red: Unacceptable to stop or detain
 - Yellow: Questionable to stop or detain
 - Green: Acceptable to stop or detain

Post-it Note 1

- 2.7 Introduce scenario. Dispatch notifies patrol that there have been residential burglaries in a neighborhood. Read the suspect description on the first Post-it note.
- 2.8 Ask: If the green circle represents the most specific description and red is the least specific description; where does this description belong?
 - Inform the students that the Post-it note can be moved anywhere on the diagram after they are given subsequent descriptions.

Answer: Green.
- 2.9 Place Post-it note in green circle.
- 2.10 Ask: If you see an individual matching this description, would you stop him?

Answer: Yes.

NOTES

SLIDES

ACTIONS

NOTES

2.11 Ask: If you see the same individual in a different neighborhood would you stop him?

Answer: Yes.

2.12 Ask: What is a reasonable area in which you would stop him?

Answer: This is a very specific description. The degree of detail gives an officer/deputy substantial leeway as to when and where he or she can stop him. Acceptable answers include:

- In the same city, same jurisdiction.
- In the same county.
- Time may play a factor in the answers given.

Post-it Note 2

2.13 Read the second Post-it note.

2.14 Ask: Where does this description belong?

Answer: This Post-it note could be placed in the yellow or red circle. Let the students discuss the placement and decide the best location.

2.15 Place Post-it note in circle designated by the class.

SLIDES

ACTIONS

NOTES

2.16 Using the facts provided, relate the story below.

- While on patrol you observe and stop a black male you perceive to be 18-20 years of age in a late model vehicle. The driver checks out okay. He lives in the neighborhood.
- Another officer stops the same driver the next day. After running his plates, the officer tells the individual that he resembles the description of a burglary suspect and lets him go.
- That evening the individual is stopped a third time. The officer/deputy follows the same procedure of the other two.
- The next day the individual talks with a neighbor who describes similar, recent experiences.

Post-it Note 3

2.17 Read the third Post-it note to the class.

2.18 Ask: Where does this description belong?

Answer: Red.

2.19 Ask: What articulable factors could make stopping this individual acceptable?

Answer: Time, proximity to crime scene, or behavior. Time and proximity may be more restrictive because of lack of individualized description; i.e., no vehicle description.

SLIDES

ACTIONS

NOTES

- 2.20 Ask: If you see an individual matching the description on the third Post-it note driving in the same neighborhood, do you stop him?
- Answer: No. The descriptor is not specific enough to be considered individualized. No time or location is included in the suspect description.
- 2.21 Ask: What articulable factors could make the description more individualized (bring the description into the green circle)?
- Answer: Time (i.e., just occurred), proximity to crime scene. Behavior such as driving slowly, stopping in front of houses, etc., increases the individualized suspicion.
- 2.22 Ask: Where do you want to be operating? Why?
- Answer: The green zone, because you have the greatest amount of articulable facts.

Summary

- 2.23 Make these points:
- The "green zone" represents the greatest amount of articulable characteristics and behaviors with the least chance of racial profiling.
 - You always want to work within the "green zone."
 - If you are in the "yellow zone," consider what articulable descriptors, behaviors, or factors would bring you into the "green zone." When you operate in the "yellow," your actions can constitute racial profiling.

SLIDES



ACTIONS

- If you are in the "red zone," your actions constitute racial profiling.
- One factor can immediately take you from the "red zone" to the "green zone."
- If you do not have sufficient articulable factors, you can continue to observe the individual until you do. While observing, you should be looking for behaviors that indicate criminal activity.

Review

2.24 Review teaching points for Whren:

- Law enforcement has the ability to engage in pretext stops.
- This is a stop based on some violation of the law or reasonable suspicion, but the violation is not what motivates the stop.
- A stop or detention can be legal under the 4th Amendment and still be in violation of the 14th Amendment.

BREAK

10 minutes

NOTES

1005 - 1015

SLIDES

ACTIONS

NOTES

Applying the Law

55 minutes

Applying the Law to Scenarios

30minutes

- 2.25 Introduce the activity.
 - The best way to understand the law is to apply it.
 - The following scenarios will help clarify the legal definition presented in the video segment.
 - Emphasize that this activity provides an opportunity to examine the motivations that influence the actions of the officer.
 - If students have any questions after all four scenarios have been completed, announce that there will be time for questions at the end.

VIDEO: Scenario 1 length 0:54

2.26 Play Scenario 1.



1015 - 1110

2.25 Note: This activity is intended to give students an opportunity to evaluate scenarios in light of the information presented in the previous video. The activity gives students an opportunity to examine a set of circumstances and decide whether an officer violated the law by employing racial profiling. This activity is designed to foster discussion. While it is unlikely that students will come to consensus on all of the scenarios, it is important to state the correct answer in clear terms after the discussion of each question.

2.26 Note: Due to the short length of the scenarios, call the students attention to the video before starting it.

2.26 Scenario Synopsis: This scenario involves an officer who is parked near a high school where a stop sign is in view. Several cars pass through the stop sign after coming to a complete stop. A Mustang occupied by two white teens drives through the stop without coming to a complete stop. A Chevy Caprice occupied by two Latino teens then does the same thing. The officer makes a stop on the second vehicle.

SLIDES



ACTIONS

2.27 Ask students to state what they saw in the scenario. For example, "What did you see here?"

- Do not allow students to add hypothetical circumstances to the scenario.
- If necessary, emphasize the point that the officer observed both violations.

2.28 Ask: Was the stop legal?

- Include a reference to the 4th Amendment in your response.

Answer: The stop was legal under the 4th Amendment because there was reasonable suspicion that illegal conduct had occurred.

2.29 Ask: Did the stop constitute racial profiling?

Answer: We cannot determine the mindset of the officer based on what is shown in the scenario.

2.30 Ask: What would make this stop racial profiling?

Answer: If the officer had no specific descriptive information and based the stop solely on the race of the occupants.

NOTES

2.27 Note: Some students may say that this would not have occurred with them because they would have stopped the first car. If this response is given, refocus the students on the video that was presented.

2.27 Note: When students reply, have them articulate the facts that a crime has occurred, is occurring, or is about to occur.

SLIDES



ACTIONS

- 2.31 Make the point: Even if the stop was legal under the 4th Amendment (stop sign violation), it could be illegal under the 14th Amendment due to the motivation of the officer.
- 2.32 Make the point: If race tips the scale in any way in determining your enforcement action, that constitutes racial profiling.

VIDEO: Scenario 2

length 0:40

- 2.33 Play Scenario 2.

NOTES

- 2.32 Note: If a student asks about employing a patterned strategy for traffic stops, such as pulling over every fourth car that rolls through the stop sign, include the following in your response:
 - The officer might have to prove this is an established pattern if he or she is accused of racial profiling.
 - The officer must always keep in mind how the community perceives this enforcement.
- 2.33 Note: Due to the short length of the scenarios, call the students attention to the video before starting it.
- 2.33 Scenario Synopsis: Two male Vietnamese teens are walking in front of a liquor store in a predominantly Vietnamese neighborhood. Officers observe the teens and pull up next to them. The officers get out of the car and approach them. As they are approaching the boys, they begin asking questions.

SLIDES



ACTIONS

- 2.34 Ask: What did you see in the scenario?
Answers from the class may include:
- The boys were casing for 211.
 - They were planning a "grab and go."
 - They were looking for an adult to purchase alcohol or cigarettes.
- 2.35 Ask: Could the kids have just been hanging out?

NOTES

- 2.35 Note: When students reply, have them articulate the facts that a crime has occurred, is occurring, or is about to occur.

Some students may ask why the officers were parked/stopped in the location. Any of the following responses is acceptable:

- The officers were writing reports.
- The officers were stopped at the light.
- The officers were observing the intersection.

Do not respond by saying the officers were specifically observing the liquor store. This could be used to infer that officers have additional information regarding criminal activity that could lead to heightened suspicion.

SLIDES



ACTIONS

- 2.36 Ask: Did the officers' actions appear to be a contact or a detention?
- There may have been sufficient articulable behavior to warrant a detention based on officer experience and training. For the purpose of this discussion, we will call this a contact.
 - Consensual stops do not need to be based on specific observable behavior.
 - The contacted party must believe that he or she is free to end the contact at any time and free to leave.
 - Officers have broad discretion in making contacts.
 - Keep in mind, that even though the contact is consensual, individuals may argue in court that they were detained for the following reasons.
 - Color of authority
 - Command presence
 - Body language

NOTES

- 2.36 Note: The class may not agree whether the actions of the officers constitute a contact or a detention. The difference between a contact and a detention are not clear. The differences can be argued in court and may not be clearly resolved. For the purposes of discussion, tell the students that this scenario depicts a consensual contact.
- 2.36 Note: If a student wants more information on why this is considered a contact, refer to the following points:
- The officers did not impede the kids movement.
 - The officers did not order them to move in any particular direction.
 - The officers did not tell the kids to halt or stop.
 - The officers did not speak in an authoritative manner.

SLIDES



ACTIONS

2.37 Make the point: Officers must always examine their motives and biases. We are not telling you that officers cannot use their experiences and intuition when making consensual contacts. However, officers must always act within the parameters of professional ethics and the law.

- If all consensual contacts are people of a particular race, it could be a pattern and practice of racial profiling.
- In the interest of building community trust, consider explaining your reasons for initiating the contact.
- Explaining the contact can alleviate the individual's perception that he or she is being discriminated against or is being racially profiled.

VIDEO: Scenario 3

length 0:41

2.38 Play Scenario 3.



NOTES

2.38 Note: Due to the short length of the scenarios, call the students attention to the video before starting it.

2.38 Scenario Synopsis: An African-American male wearing sweats is riding a bicycle through an upper-middle class neighborhood. He is carrying a large package under his arm. An officer drives up, detains the man. The officer looks at a package the man is carrying and begins asking him questions about what he's doing and where he's going.

SLIDES



ACTIONS

- 2.39 Ask: What did you see in the scenario?
- 2.40 Ask: Could this happen?
Answer: Yes.
- 2.41 Ask: What appeared to be the reasonable suspicion for the stop?
Answer: Based on these facts, there is no reasonable suspicion. All we know is that an African-American carrying a package is riding a bicycle in an upper-middle class neighborhood.
- 2.42 Make the point: Persons of all races are entitled to travel wherever they want to in this country, including neighborhoods comprised entirely of persons of another race.
- 2.43 Make the point: "Race Out of Place" is an unconstitutional basis for conducting an investigative stop because it is unrelated to any specific suspect description.
- 2.44 Make the point: If the stop in this scenario is based on nothing more than this, it violates both the 4th Amendment because there is no reasonable suspicion, and it violates the 14th Amendment because it is based solely on race.

NOTES

SLIDES



ACTIONS

Applying the Law to the Case Study 25minutes

- 2.45 Divide the class into groups of 8-10 students.
- 2.46 Distribute "Handout 2: Case Study" to each group.
- 2.47 Give each group 5 minutes to create an action plan based on the information in the handout.
- 2.48 Ask a representative of each group to share one aspect of the group's strategy.

Responses could include:

- Increasing patrol.
- Initiating surveillance.
- Increasing traffic stops.
- Increasing field interview cards (stop 'n' chats).
- Initiating undercover operations.

- 2.49 Ask: What actions could lead to racial profiling?

Answer: Pretext traffic stops, increased field interrogation cards, detentions, and searches.

- 2.50 Ask: How could different community members perceive the increased enforcement?

Answer: It could be perceived as racial profiling.

NOTES

- 2.48 Note: Record the responses on a flipchart or blackboard.

SLIDES



ACTIONS

- 2.51 Relate the teaching points from the PowerPoint presentation:
- Communication with the community is important.
 - Targeted enforcement must still be conducted in the "green zone."
 - Statistics alone do not provide reasonable suspicion or probable cause.
 - You cannot assume all members of a particular race/ethnic group commit crimes.
- 2.52 If necessary, review the relevance that the factors of specific crimes, geography, and time elements have on establishing reasonable cause.

BREAK

10 minutes

NOTES

- 2.52 Tip: Refer back to the exercise on individualized suspicion (target) to clarify these points.

1110 - 1120

Racial Profiling: Issues and Impact

Facilitator's Guide

Section 3 - History of Civil Rights

This section uses video and class discussion to examine the history of civil rights in the United States and California and the relationship between law enforcement and the community it serves.

Goal

The goal of this section is to focus on the events that have adversely affected the relationship between law enforcement and minority communities in the past. It stresses the importance of understanding these events to improve the relationships between law enforcement and the community today. This section also examines how these events elevated the role of law enforcement from that of enforcing the laws of segregation to protecting the civil rights of all people.

Teaching Points

- Law enforcement had to enforce unjust laws in the past.
- The history of a community can have an affect on the relationship with law enforcement today.
- Enforcing unjust laws has had a negative impact on the relationship between law enforcement and the community.
- The role of law enforcement has been elevated to the enforcement of civil rights for all people.
- Law enforcement can increase the trust of the community it serves.

Instructional Techniques

- **Class Discussion.** This discussion examines the relationship between law enforcement and the communities it serves. Throughout the discussion, the facilitator should bring out the following points:
 - The history of the United States can adversely affect the relationship between certain minority groups and law enforcement.
 - This relationship must be improved by reestablishing trust and mutual respect.
 - Racial profiling has affected every community; however, it has had a particularly profound effect on minority communities.
- **Video.** The video presents a brief history of race relations in the United States and California. The video focuses on significant events that deal with race relations, such as Japanese internment, segregation in the South, school segregation in California, and the Los Angeles riots of 1965 and 1992. The video is not intended to offer a comprehensive review of the history of race relations.

Materials

- TV (large enough for a large class to see and hear)
- VCR

SLIDES



ACTIONS

Historical Overview

35 minutes

VIDEO: “History of Civil Rights”

length 17:36

3.1 Introduce video.

- This video segment summarizes each scenario and reviews the teaching points for each.
- The scenario summary is followed by a brief history of civil rights.
- One of the mandates for this training is to present an overview of the history of civil rights in the U.S. and California. We are not showing this to you to beat you up with history. We want you to view it in light of how the history of a community can affect law enforcement today.

3.2 Play video.

Discussion

3.3 As we have seen in the video, significant events have occurred in our nation's history. What impact does this have on our profession?

3.4 Make these points: The main points from the discussion may include:

- Law enforcement has had to enforce unjust laws in the past.
- Law enforcement and the community must rebuild mutual trust.

NOTES

1120 - 1155

3.1 Note: This section starts with a review of the main teaching points of the scenarios to summarize the legal discussion in the last segment. This is followed by a documentary-style overview of the history of civil rights.

3.1 Video Synopsis: The video uses still images, narration, and interviews to present a brief history of race relations in the United States and California. The video starts with an overview of race relations on a national level and works toward race relations in California. The video culminates with video footage of the riots that occurred in Los Angeles after the Rodney King verdict the history of civil rights.

3.3 Note: This question attempts to point out that the life experiences of citizens (i.e., the civil rights movement, Rodney King riots, etc.) can affect their view of law enforcement. Law enforcement needs to continually re-evaluate its relationship with the community.

SLIDES

ACTIONS

NOTES

3.5 Ask: How does the history of race relations in California affect (insert your agency name)?

3.5 Note: This serves to focus the students on the issues, as they are directly relevant to them and to the student's agency. This question attempts to reinforce the point that in the past, law enforcement personnel have been used to enforce laws that violate the civil rights of citizens. The consequence of this history is a lack of trust in law enforcement.

3.6 Discuss historical events from your jurisdiction.

3.6 Note: Be prepared to discuss events that deal with the interaction of law enforcement and your community. Although the discussion does not have to focus on law enforcement, it would make the discussion more relevant. You may need to present one or two events to open the discussion.

3.7 Are we creating any new history for ethnic groups?

3.7 Note: Specific issues to discuss include:

3.8 Why do you think this is?

- Law enforcement's obligation to protect the community from terrorist threats.

3.9 In light of recent events, what are our responsibilities to Middle Eastern communities?

- Law enforcement's responsibility to ensure that other citizens do not violate the civil rights of the Arab community.

- We still need individualized, articulable behaviors, or a specific suspect description to merit a stop or detention.



SLIDES

ACTIONS

NOTES

3.10 Ask: What can we as law enforcement officers do to increase the trust between the community and ourselves?

Responses could include:

- Treating all community members fairly.
- Explaining why we make contacts.
- Learning about their cultures.
- Learning basic phrases in their language.
- Avoiding racial profiling.
- Interacting with the community on a non-enforcement basis (COPS).

SLIDES



ACTIONS

Impact of Racial Profiling 15 minutes

VIDEO: "Impact of Racial Profiling" length 8:39

- 3.11 Introduce video.
 - We've seen how our history has affected all of us and how racial profiling can be an echo of that past.
 - We have discussed the conceptual ideas and the legal definition of racial profiling. The next video segment explores the effect racial profiling has on everyone, including law enforcement.
 - The video also examines ways law enforcement can increase trust of the community it serves.

3.12 Play video.

LUNCH BREAK 1 hour

NOTES

1155 - 1210

3.11 Note: The video summarizes the discussion and segues to the Community Considerations section.

3.11 Video Synopsis: This segment reviews the main points of the civil rights discussion and examines the role law enforcement plays in the community, including the impact racial profiling has on citizens who are profiled as well as the entire community. The video presents accounts of officers who were racially profiled. The video segment also examines the impact of racial profiling as it pertains to the scenarios viewed in the Legal Considerations section. The video concludes with a brief discussion of the relationship between law enforcement and the communities it serves.

1210 - 1310

Racial Profiling: Issues and Impact

Facilitator's Guide

Section 4 - Community Considerations

Due to the varying demographics within the state, your Community Considerations segment will be unique. Therefore, this guide can only provide a framework for this section. We encourage you to team teach this segment with a representative of your community or to set up a panel with several different representatives who can provide information on their cultures and advice on how law enforcement can better relate to members of each community. It is important to select a co-instructor who is positive and interested in making the segment relevant and valuable to your students.

Goal

The goal of this section is to familiarize students with the various racial and ethnic groups that make up the communities they serve.

Teaching Points

The facilitator and/or community representatives should discuss the following indices in their presentation.

- Relevant issues in their communities.
- Values, ways of thinking about law enforcement.
- Identifying existing community partnerships.
- What do we do well?

Section 4 – Community Considerations

- What can we do to improve the partnerships between law enforcement and the community?
- Behaviors, customs, or traditions.
- Factors to consider in the neighborhoods you serve:
 - Eye contact
 - Phrases
 - Cultural and religious practices
 - Dress
 - Hair styles (dreadlocks, shaved heads)
 - Vehicle
 - Tattoos
 - History
 - Language

Instructional Techniques

- Video. The first part of the video for this section presents information on the impact racial profiling has had on our society and law enforcement. The video segues from the Civil Rights section to the Community Considerations section of the training.

The second part of the video presents some distinguishing indices that make up the culture of law enforcement.
- Presentation. The purpose of this section is to present the characteristics of the various cultures that make up the community that the officers serve.

Section 4 – Community Considerations

Although most of this activity will consist of presentations by community representatives, there will be time for the students to ask questions. The optimal method for presenting this segment is to assemble a panel of representatives based on the demographics of your community. If you are unable to develop a panel from within the community, it is your responsibility to research and present information on the main racial/ethnic groups your agency serves. Use the "Community Representative Questionnaire" to determine the information you need to gather.

Recording the community presentations can be a useful way to create a backup for future presentations. If a panel member is unable to present at a course in the future you can use the video.

Materials

- TV (large enough for a large class to see and hear)
- VCR

Guidelines

It is important that you meet with the representatives of your community prior to the training. In this meeting you should:

- Discuss the purpose of the segment; to provide information that will create positive change between law enforcement and the community.
- Define the role of the presenter in the segment.
- Explain the consequences of deviating from topics that have been agreed upon.

You can also use this meeting to answer any questions the representatives may have about the training. Meeting with the community representatives

Section 4 – Community Considerations

should help to establish a collaborative relationship for the training and can provide you with valuable resources for both instructional material and potential co-instructors. It is important that you are very familiar with, and comfortable with, the person selected to address the class. The information that is going to be presented by the panel members should be submitted in writing to you prior to the class for approval.

In selecting presenters for this section, emphasize the groups that are most concerned with police racial bias. The participants should include representatives from your jurisdiction's various minority groups. If you cannot find a presenter from a particular group, consider using an officer or civilian employee of the same race/ethnicity to do the presentation. Apply the same criteria to this presenter as you would to any potential presenter. You can also ask community groups to provide information and/or handouts for the officer to use in his/her presentation.

In determining the makeup of the community forum, the person responsible for selecting panel members should keep in mind that he or she will hear from critics within and outside the agency.

Consider the following when selecting co-instructors for the community panel include:

- Race
- Ethnicity
- Economic status
- Religion

You can use a variety of resources to find community members for your panel. These resources include:

Section 4 – Community Considerations

- Public Information Officer (PIO)
- Community Relations Officer (CRO)
- Chief/Commander
- Human Relations Office
- Crime Prevention Officer
- Chamber of Commerce (for demographic information)
- City Council (for demographic information)

Section 4 – Community Considerations

SLIDES



ACTIONS

Community Presentation

35 minutes *

Presentations

- 4.1 Introduce presenters.
 - Remind the students about the guidelines for discussion established at the start of the course.
 - Describe the role the presenters play in the training.
 - Give the background of each presenter.
 - Give the sequence of the presentations.

4.2 Presentations.

4.3 Q & A for presenters.

Discussion

- 4.4 Topics you may want to discuss include:
 - The importance of displaying professional and courteous demeanor during traffic stops.
 - The importance of communicating the purpose of the stop to the driver.

NOTES

1310 - 1345

Note: This is an estimate for the community panel presentations. The number of participants you invite will affect the actual time needed.

4.3 Note: Consider giving the students a 10-minute break after the presentations.

4.4 Note: If your department has a written procedure regarding proper conduct on a traffic stop, you may want to incorporate it into this discussion. If your department participates in community-oriented policing you may want to provide an overview of your program.

Section 4 – Community Considerations

SLIDES



ACTIONS

Ethical Issues

10 minutes

VIDEO: "Review of Community and Ethical Issues" length 5:55

- 4.5 Introduce video.
 - The last video segment of this course reviews the key points of the community segment and examines the ethical considerations of racial profiling.
- 4.6 Play video.

NOTES

1345 -1355

- 4.5 Video Synopsis: The video provides a summary of cultural indices. It also covers ethical issues and mandated reporting.

SLIDES



ACTIONS

Review

5 minutes

Discussion

- 5.1 Review the issues and concerns from the flipchart/blackboard.
- 5.2 Have we covered all of these concerns?
- 5.3 Briefly recap the teaching points if time permits.
- 5.4 Question and answer session.
- 5.6 Evaluations.

NOTES

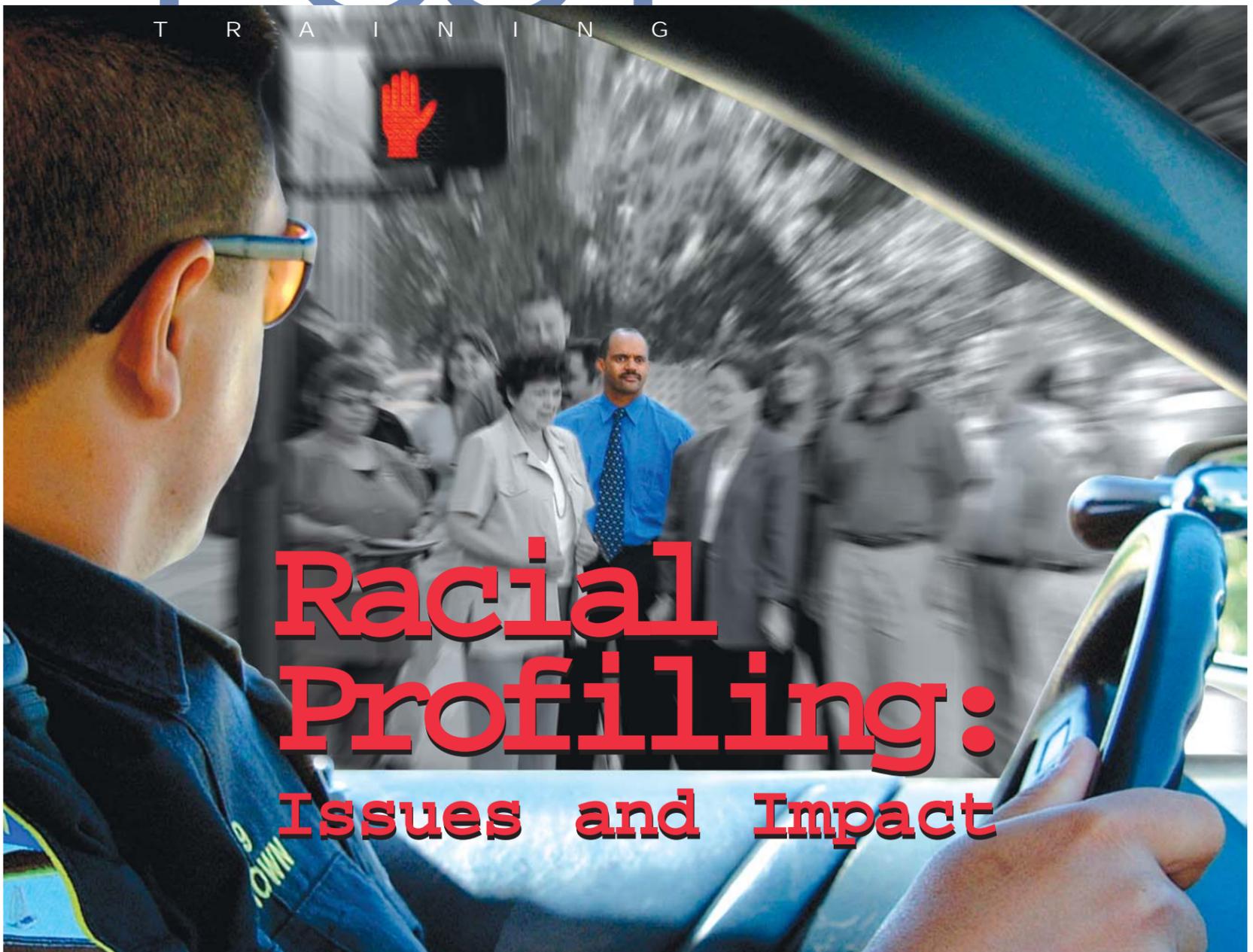
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T R A I N I N G



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Preparation Guide 

CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Racial Profiling: Issues and Impact



Preparation Guide

California POST

This *Preparation Guide* is part the Instructor Guide materials for the Racial Profiling: Issues and Impact course.

In collaboration with

This program was created in collaboration with the Simon Wiesenthal Museum of Tolerance, Los Angeles, California.

Racial Profiling: Issues and Impact

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The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California law enforcement in serving its communities.

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Racial Profiling: Issues and Impact

Preparation Guide

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Racial Profiling: Issues and Impact

Preparation Guide

Section 1 - Overview

Purpose

This Preparation Guide provides background information on the instructional methodology and design decisions that contributed to the development of this course. This guide provides the information required to present the course. It also will help you prepare for community meetings that must be conducted prior to presenting the course.

Background

This course was created in response to Senate Bill 1102 (Murray, August 2000), which modified Penal Code Section 13519.4. SB 1102 mandates that "Every law enforcement officer in the state shall participate in racial profiling training, with curriculum developed by the Commission on Peace Officer Standards and Training (POST)." POST collaborated with representatives from state and local organizations and representatives of several law enforcement agencies to produce this course.

You have been selected to present this mandated curriculum on racial profiling. Regardless of your level of experience as an instructor, this course will be challenging to teach due to the controversial and potentially emotional issues that will be discussed. The demeanor and attitude that you convey as a facilitator will have a direct impact on the success of this course. POST developed this course with the intention that it be a positive experience for attending law enforcement officers.

This course is designed to familiarize students with the concepts and issues of racial profiling and to provide them with an opportunity to apply the law to scenarios. Throughout the course, students will gain an understanding of racial profiling and the negative impact it can have on the entire community, not just the individuals targeted. Students will also learn that stereotyping of any group of people can lead to racial profiling or the practice of bias-based policing.

The course uses class discussions, video-based activities, and community presentations to examine the patterns and practices that make up racial profiling. This Preparation Guide includes materials and guidelines for presenting this course. The Facilitator Guide includes the course curriculum, as well as facilitation notes and suggestions.

Curriculum Description and Goals

This five-hour course is divided into four segments. Each segment meets the requirements for instruction as mandated in Penal Code Section 13519.4. The segments include: "Racial Profiling Defined," "Legal Considerations," "History of Civil Rights," and "Impact of Racial Profiling." Also covered in this course are the differences between criminal profiling and racial profiling, key indices of a community, and ethical issues dealing with racial profiling.

POST has designed this course to be interactive, which means that you will be responsible for facilitating several discussions throughout the training. Most of the discussions in this course elaborate on the information presented in the instructional video. This video will play an integral part in this training.

A PowerPoint presentation has been included to assist you in leading the class discussions. The slides contain question prompts to generate dialogue and the major teaching points to help you conclude and summarize the discussions.

The course has several primary goals:

- To provide an understanding of what racial profiling is.
- To provide students with the confidence that they can do their jobs effectively by targeting behavior versus race.
- To present the impact racial profiling can have on everyone.
- To inform students that the practice of racial profiling or bias-based policing can compromise public trust.
- To inform students that stereotyping of any group of people can lead to racial profiling or the practice of bias-based policing.
- To provide an understanding of the laws pertaining to racial profiling and a knowledge of how they apply to specific instances where racial profiling can be exhibited.

Preparation

As with any course you instruct, preparation is vital to a successful presentation. There are several things you should do ahead of time that will make the instruction of this course more effective.

Preparing for the Training

- Review the learning objectives, teaching points, lesson plan, exercises, and video.
- Review the facilitator notes and tips in the *Facilitator's Guide*.
- Familiarize yourself with the handouts.

- Familiarize yourself with the laws pertaining to racial profiling.
- Review the articles listed in the bibliography.

Preparing for the Community Segment of the Course

- Assemble a list of community leaders.
- Conduct a pre-course meeting with community leaders.
- Create a list of potential panel members for community presentation.
- Contact individuals to participate in the community presentation.
- Conduct a pre-course meeting with panel members.
- Familiarize yourself with your agency's policies that pertain to racial profiling (i.e., data collection).

Pre-Course Community Meeting

Guidelines

Holding a meeting with community leaders, prior to presenting this course, can help generate a positive relationship with the community. There are four goals for this meeting:

- To inform community leaders about the course content.
- To identify potential community representatives for presentations.
- To identify community concerns that may pertain to law enforcement.
- To respond to the concerns that may be raised in the meeting.

Participants should include representatives from your jurisdiction's various minority groups. In determining which groups to invite to the pre-course meeting, you should keep in mind that you may hear from critics, both inside and outside the agency, about the selections that are made. Consider the following factors when you select presenters for the community panel:

- Race
- Ethnicity
- Economic status
- Religion

You can use a variety of resources to find community members for your panel. These resources include:

- Public Information Officer (PIO)
- Community Relations Officer (CRO)
- Chief/Commander
- Human Relations Office

- Crime Prevention Officer
- Chamber of Commerce (for demographic information)
- City Council (for demographic information)

Meeting with the community leaders should help to establish a collaborative relationship for the training and can provide you with valuable resources for both instructional material and potential presenters. The meeting should also inform the community leaders as to the content of the overall course.

To assist you with this overview, a 19-minute video has been included in this course packet. The video can be used to introduce the content in the course as well as answer questions that the community leaders may have in regard to the curriculum.

Community Presentation Preparation

Guidelines

Due to the varying demographics within the state, your Community Considerations segment will be unique. Therefore, this guide can only provide a framework for this segment. We encourage you to have community involvement in this segment. This can be accomplished with one representative of your community who is familiar with the different cultures or a panel with several different representatives who can provide information on their own cultures.

It is important to meet with the presenters prior to the training. In this meeting you should:

- Discuss the purpose of the segment: to provide information that will create positive change between law enforcement and the community.
- Define the role of the presenter in the segment.
- Explain the consequences of deviating from topics that have been agreed upon.

Give each presenter a copy of the questionnaire provided in a PDF on the Racial Profiling CD. Request that participants complete the questionnaire ahead of time and return it to you so that you know what information will be presented during the class. Keep a copy of each panel member's questionnaire so that you may follow his or her presentation during the community segment. Having your copy of the questionnaire at the class can also be useful if a presenter comes without it.

You can also use this meeting to answer any questions the presenters may have about the training. The 19-minute video may be helpful for this purpose. It is important that you are very familiar with, and comfortable with, the people who are selected to address the class. The information that will be presented should be submitted to your department for review prior to the class.

The presenters should provide the students with advice on how law enforcement can better relate to members of the community. It is important to select presenters who are positive and are interested in making the segment relevant and valuable to your officers/deputies.

Presenters should also discuss the following indices in their presentation:

- Relevant issues in their community.
- Values, ways of thinking about law enforcement.
- What partnerships between law enforcement and the community exist?
- What is working well in those partnerships?
- What can law enforcement do to improve the partnerships?
- Behaviors, customs, or traditions:
 - Eye contact
 - Phrases
 - Cultural and religious practices
 - Dress
 - Hair styles (dreadlocks, shaved heads)
 - Vehicle
 - Tattoos
 - History
 - Language

It is recommended that a member of each community group present the information in this segment. If you cannot find a presenter from a particular group, consider using an officer/deputy or civilian employee of the same race/ethnicity to make the presentation. Apply the same criteria to this presenter as you would for any potential presenter. You can also ask community groups to provide information and/or handouts the officer/deputy or civilian employee can use in making presentations. If you cannot locate anyone to represent a group in your community, you should be prepared to research and present the information yourself.

Logistics

The environment you create will have a significant impact on the success of your presentation. Select a room large enough to accommodate classroom activities. If possible, arrange seating in the room in a U-shape to promote participation and discussion. Avoid arranging rows of chairs in a lecture or classroom format. Make sure you have enough room to post flipchart and/or butcher paper on the walls.

The following preparations should be considered for presenting the course:

- Have enough televisions in the room for all students to see the video clearly.
- If you have access to an LCD projector, you may want to consider projecting the video segments on a screen.
- You must make sure that the audio system is adequate to allow easy listening from all points of the room.
- You will also need a computer to run the PowerPoint presentation.
- Make copies of handouts. Master copies are located in this guide and in PDF on the Racial Profiling CD.
- If you do not have access to a computer or an LCD project, consider making overheads of the PowerPoint materials.

The following factors may also affect your presentation:

- The temperature of your training room.
- The likelihood of interruptions.
- The location of restrooms and vending machines.

Instructional Methodology

The key to engaging students in a meaningful way on the subject of racial profiling is to provide opportunities for them to internalize the content of the course. The process of internalization is complex. It requires that the learner confront his or her emotions toward the subject matter. This emotional element can present difficulties to the facilitator. To help you deal with these difficulties, we have incorporated safeguards into the learning activities. The safeguards are designed to separate the facilitator from any antagonism that may arise. Several techniques that are used in this course are described below:

- **Class Discussion.** Class discussion is used to engage students in a dialogue on a variety of subjects. Some discussions are designed to encourage students to think about controversial or potentially confusing topics. This may involve recording student responses on a flipchart. By recording the responses, you can prevent the comments of a few students from dominating the discussion. You need to help the free

flow of ideas. However, if incorrect statements are made during the discussion, you should make every effort to correct the statement at the earliest possible opportunity. It is important that all teaching points are clearly presented before the conclusion of all discussions.

Some discussions examine content that is presented in the video. In these discussions, you will be given discussion prompts and questions that enable the group to explore specific topics or circumstances as they apply to racial profiling. As mentioned previously, all teaching points must be clearly presented before the conclusion of all discussions.

The purpose of all the discussions is to deepen the internalization on the part of the students. Some anticipated responses have been provided to assist you in stimulating discussion if necessary. It is your responsibility, as a facilitator, to decide whether all topics have been adequately addressed.

- **Video.** The course uses a video to present points of view, legal explanations, and scenarios that require specific emphasis. The video helps to provide consistent instruction statewide. The video will also summarize the discussions by reinforcing the teaching points presented by the facilitator.

In cases where the video segments are followed by a class discussion, a text prompt, "Class Discussion," appears on a black screen for you to stop the video. Fifteen seconds of black screen separates each video segment. This will provide you with enough time to stop and start the video without running into another section.

- **Presentation.** There is one presentation segment in the course. This segment allows members of community groups to present information regarding their respective beliefs, values, customs, and traditions. It also allows the students to ask questions and interact in a classroom setting.

You may want to consider videotaping each of your individual presenters. The videotaped presentation will provide a backup presentation if a presenter is unable to make a presentation. Do not use the tape as a substitute if your presenters are available. The interaction between presenters and the students provides a more positive learning experience than viewing the videotape.

Refer to the Community Presentation Preparation section in this guide to help prepare for this course segment.

Facilitation Tips

Setting the Tone

Officers will bring pre-conceived attitudes about racial profiling to this training. The facilitator should encourage positive discussion and comments from the students and also model a positive attitude and proper behavior. It is important that you do not express your opinions if they conflict with the curriculum.

Time Management

Due to the limited time for this course, managing the discussions and completing the activities within the five-hour schedule will be challenging. Keep in mind that the five-hour requirement is a minimum. Agencies that choose to schedule this course over a longer period of time and add agency-specific topics after the conclusion of the mandated presentation may do so. It is also up to each agency to choose to schedule a lunch break. A logical time for this would be after the Impact segment so that community panel members can arrive during a class break and have time to prepare and meet with the facilitator.

The facilitator should be aware of the pace of the course. Allow time for discussion; but be careful not to get bogged down by peripheral topics. There are several strategies that can be effective in maintaining the focus of discussions. Recording comments or questions on a flipchart can help to delay discussion until it is more relevant. Redirecting the discussion toward purpose and objectives of the course can reduce or eliminate the opportunity to dominate discussions. If necessary, offer to meet with individual officers after the training or during a break to continue a discussion or provide supplementary information that may not be appropriate within the constraints of the discussion.

Community Presentations

The role of the facilitator during the Community Considerations presentation is that of a moderator. As a moderator, you will introduce each presenter, regulate the presentations, and present questions. In this section, the facilitator is not responsible for presenting information or answers to questions unless a presenter is unable to attend the course. Once the presenters have begun, the facilitator should then assume a role of monitoring the presentation and should intervene when it is necessary to keep the presentation focused.

The following items can help to produce positive and productive results while facilitating community sessions:

- Be flexible. Each presenter will have a unique style that suits his or her culture.

- Schedule enough time for the presentations. Your agency may have many cultures that need to be represented. Limiting the number of presentations could prevent the students from receiving the kind of information that could improve their job performance.
- Allow time for meaningful discussion. Often, the sharing of ideas and discussion has the most value for participants. Monitor participation so that individuals do not monopolize the conversation.
- Learn as much as possible about the presenters prior to the session.
- Ensure that all participants have a common understanding of the purpose and intended results of the session.

Workshop Supply List

The following supplies will be required:

- 3 x 5 cards
- Name tents
- Post-it Notes
- Flipchart stand(s)
- Flipchart or butcher paper
- Colored markers
- Masking tape
- TV (large enough for the group to see and hear) or projector
- VCR
- Computer (must have PowerPoint application)
- LCD Projector
- Overhead if not using computer or projector
- Training video
- Copies of handouts
- POST evaluation sheets (F-374-POST)
- Course Certification Request form (POST 2-103)
- Instructor Resume form

Racial Profiling: Issues and Impact

Preparation Guide

Section 2 – Resources

California Penal Code

13519.4

13519.4. (a) On or before August 1, 1993, the commission shall develop and disseminate guidelines and training for all law enforcement officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

(b) The course of basic training for law enforcement officers shall, no later than August 1, 1993, include adequate instruction on racial and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of cultural awareness and diversity.

(c) For the purposes of this section, "culturally diverse" and "cultural diversity" include, but are not limited to, gender and sexual orientation issues. The Legislature finds and declares as follows:

(1) Racial profiling is a practice that presents a great danger to the fundamental principles of a democratic society. It is abhorrent and cannot be tolerated.

(2) Motorists who have been stopped by the police for no reason other than the color of their skin or their apparent nationality or ethnicity are the victims of discriminatory practices.

(3) It is the intent of the Legislature in enacting the changes to Section 13519.4 of the Penal Code made by the act that added this subdivision that more than additional training is required to address the pernicious practice of racial profiling and that enactment of this bill is in no way dispositive of the issue of how the state should deal with racial profiling.

(4) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of law enforcement officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.

(d) "Racial profiling," for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.

(e) A law enforcement officer shall not engage in racial profiling.

(f) Every law enforcement officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training. Training shall begin being offered no later than January 1, 2002. The curriculum shall be created by the commission in collaboration with a five-person panel, appointed no later than March 1, 2001, as follows: the Governor shall appoint three members and one member each shall be appointed by the Senate Committee on Rules and the Speaker of the Assembly. Each appointee shall be appointed from among prominent members of the following organizations:

- (1) State Conference of the NAACP.
- (2) Brotherhood Crusade.
- (3) Mexican American Legal Defense and Education Fund.
- (4) The League of United Latin American Citizens.
- (5) American Civil Liberties Union.
- (6) Anti-Defamation League.
- (7) California NOW.
- (8) Asian Pacific Bar of California.
- (9) The Urban League.

(g) Members of the panel shall not be compensated, except for reasonable per diem expenses related to their work for panel purposes.

(h) The curriculum shall utilize the Tools for Tolerance for Law Enforcement Professionals framework and shall include and examine the patterns, practices, and protocols that make up racial profiling.

This training shall prescribe patterns, practices, and protocols that prevent racial profiling. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial profiling.

The course of instruction shall include, but not be limited to, adequate consideration of each of the following subjects:

- (1) Identification of key indices and perspectives that make up cultural differences among residents in a local community.
- (2) Negative impact of biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations.

(3) The history and the role of the civil rights movement and struggles and their impact on law enforcement.

(4) Specific obligations of officers in preventing, reporting, and responding to discriminatory or biased practices by fellow officers.

(5) Perspectives of diverse, local constituency groups and experts on particular cultural and police-community relations issues in a local area.

(i) Once the initial basic training is completed, each law enforcement officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial and cultural trends.

(j) The Legislative Analyst shall conduct a study of the data being voluntarily collected by those jurisdictions that have instituted a program of data collection with regard to racial profiling, including, but not limited to, the California Highway Patrol, the City of San Jose, and the City of San Diego, both to ascertain the incidence of racial profiling and whether data collection serves to address and prevent such practices, as well as to assess the value and efficacy of the training herein prescribed with respect to preventing local profiling. The Legislative Analyst may prescribe the manner in which the data is to be submitted and may request that police agencies collecting such data submit it in the requested manner. The Legislative Analyst shall provide to the Legislature a report and recommendations with regard to racial profiling by July 1, 2002.

The United States Constitution

4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The United States Constitution

14th Amendment

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Michael A. Whren and James L. Brown, Petitioners v. United States

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

U.S. Supreme Court
No. 95-5841
Decided June 10, 1996

Justice Scalia delivered the opinion of the Court. In this case we decide whether the temporary detention of a motorist who the police have probable cause to believe has committed a civil traffic violation is inconsistent with the Fourth Amendment's prohibition against unreasonable seizures unless a reasonable officer would have been motivated to stop the car by a desire to enforce the traffic laws.

I.

On the evening of June 10, 1993, plainclothes vice-squad officers of the District of Columbia Metropolitan Police Department were patrolling a "high drug area" of the city in an unmarked car. Their suspicions were aroused when they passed a dark Pathfinder truck with temporary license plates and youthful occupants waiting at a stop sign, the driver looking down into the lap of the passenger at his right. The truck remained stopped at the intersection for what seemed an unusually long time—more than 20 seconds. When the police car executed a U-turn in order to head back toward the truck, the Pathfinder turned suddenly to its right, without signalling, and sped off at an "unreasonable" speed. The policemen followed, and in a short while overtook the Pathfinder when it stopped behind other traffic at a red light. They pulled up alongside, and Officer Ephraim Soto stepped out and approached the driver's door, identifying himself as a police officer and directing the driver, petitioner Brown, to put the vehicle in park. When Soto drew up to the driver's window, he immediately observed two large plastic bags of what appeared to be crack cocaine in petitioner Whren's hands. Petitioners were arrested, and quantities of several types of illegal drugs were retrieved from the vehicle.

Petitioners were charged in a four-count indictment with violating various federal drug laws, including 21 U. S. C. Section(s) 844(a) and 860(a). At a pretrial suppression hearing, they challenged the legality of the stop and the resulting seizure of the drugs. They argued that the stop had not been justified by probable cause to believe, or even reasonable suspicion, that petitioners were engaged in illegal drug-dealing activity; and that Officer Soto's asserted ground for approaching the vehicle—to give the driver a warning concerning traffic violations—was pretextual. The District Court denied the suppression motion, concluding that "the facts of the stop were not controverted," and "[t]here was nothing to really demonstrate that the actions of the officers were contrary to a normal traffic stop." App. 5.

Petitioners were convicted of the counts at issue here. The Court of Appeals affirmed the convictions, holding with respect to the suppression issue that, "regardless of whether a police officer subjectively believes that the occupants of an automobile may be engaging in some other illegal behavior, a traffic stop is permissible as long as a reasonable officer in the same circumstances could have stopped the car for the suspected traffic violation." 53 F. 3d 371, 374-375 (CADDC 1995). We granted certiorari. 516 U. S. ___ (1996).

II.

The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a "seizure" of "persons" within the meaning of this provision. See *Delaware v. Prouse*, 440 U.S. 648, 653 (1979); *United States v. Martinez-Fuerte*, 428 U.S. 543, 556 (1976); *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). An automobile stop is thus subject to the constitutional imperative that it not be "unreasonable" under the circumstances. As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred. See *Prouse*, *supra*, at 659; *Pennsylvania v. Mimms*, 434 U.S. 106, 109 (1977) (*per curiam*).

Petitioners accept that Officer Soto had probable cause to believe that various provisions of the District of Columbia traffic code had been violated. See 18 D. C. Mun. Regs. Section(s) 2213.4 (1995) ("An operator shall . . . give full time and attention to the operation of the vehicle"); 2204.3 ("No person shall turn any vehicle . . . without giving an appropriate signal"); 2200.3 ("No person shall drive a vehicle . . . at a speed greater than is reasonable and prudent under the conditions"). They argue, however, that "in the unique context of civil traffic regulations" probable cause is not enough. Since, they contend, the use of automobiles is so heavily and minutely regulated that total compliance with traffic and safety rules is nearly impossible, a police officer will almost invariably be able to catch any given motorist in a technical violation. This creates the temptation to use traffic stops as a means of investigating other law violations, as to which no probable cause or even articulable suspicion exists. Petitioners, who are both black, further contend that police officers might decide which motorists to stop based on decidedly impermissible factors, such as the race of the car's occupants. To avoid this danger, they say, the Fourth Amendment test for traffic stops should be, not the normal one (applied by the Court of Appeals) of whether probable cause existed to justify the stop; but rather, whether a police officer, acting reasonably, would have made the stop for the reason given.

A Petitioners contend that the standard they propose is consistent with our past cases' disapproval of police attempts to use valid bases of action against citizens as pretexts for pursuing other investigatory agendas. We are reminded that in *Florida v. Wells*, 495 U.S. 1, 4 (1990), we stated that "an inventory search [1] must not be used as a ruse for a

general rummaging in order to discover incriminating evidence"; that in *Colorado v. Bertine*, 479 U.S. 367, 372 (1987), in approving an inventory search, we apparently thought it significant that there had been "no showing that the police, who were following standard procedures, acted in bad faith or for the sole purpose of investigation"; and that in *New York v. Burger*, 482 U.S. 691, 716 -717, n. 27 (1987), we observed, in upholding the constitutionality of a warrantless administrative inspection, [2] that the search did not appear to be "a 'pretext' for obtaining evidence of . . . violation of . . . penal laws." But only an undiscerning reader would regard these cases as endorsing the principle that ulterior motives can invalidate police conduct that is justifiable on the basis of probable cause to believe that a violation of law has occurred. In each case we were addressing the validity of a search conducted in the absence of probable cause. Our quoted statements simply explain that the exemption from the need for probable cause (and warrant), which is accorded to searches made for the purpose of inventory or administrative regulation, is not accorded to searches that are not made for those purposes. See *Bertine*, supra, at 371-372; *Burger*, supra, at 702-703.

Petitioners also rely upon *Colorado v. Bannister*, 449 U.S. 1 (1980) (per curiam), a case which, like this one, involved a traffic stop as the prelude to a plain-view sighting and arrest on charges wholly unrelated to the basis for the stop. Petitioners point to our statement that "there was no evidence whatsoever that the officer's presence to issue a traffic citation was a pretext to confirm any other previous suspicion about the occupants" of the car. *Id.*, at 4, n. 4. That dictum at most demonstrates that the Court in *Bannister* found no need to inquire into the question now under discussion; not that it was certain of the answer. And it may demonstrate even less than that: if by "pretext" the Court meant that the officer really had not seen the car speeding, the statement would mean only that there was no reason to doubt probable cause for the traffic stop.

It would, moreover, be anomalous, to say the least, to treat a statement in a footnote in the per curiam *Bannister* opinion as indicating a reversal of our prior law. Petitioners' difficulty is not simply a lack of affirmative support for their position. Not only have we never held, outside the context of inventory search or administrative inspection (discussed above), that an officer's motive invalidates objectively justifiable behavior under the Fourth Amendment; but we have repeatedly held and asserted the contrary. In *United States v. Villamonte-Marquez*, 462 U.S. 579, 584, n. 3 (1983), we held that an otherwise valid warrantless boarding of a vessel by customs officials was not rendered invalid "because the customs officers were accompanied by a Louisiana state policeman, and were following an informant's tip that a vessel in the ship channel was thought to be carrying marihuana." We flatly dismissed the idea that an ulterior motive might serve to strip the agents of their legal justification. In *United States v. Robinson*, 414 U.S. 218 (1973), we held that a traffic-violation arrest (of the sort here) would not be rendered invalid by the fact that it was "a mere pretext for a narcotics

search," *id.*, at 221, n. 1; and that a lawful postarrest search of the person would not be rendered invalid by the fact that it was not motivated by the officer-safety concern that justifies such searches, see *id.*, at 236. See also *Gustafson v. Florida*, 414 U.S. 260, 266 (1973). And in *Scott v. United States*, 436 U.S. 128, 138 (1978), in rejecting the contention that wiretap evidence was subject to exclusion because the agents conducting the tap had failed to make any effort to comply with the statutory requirement that unauthorized acquisitions be minimized, we said that "[s]ubjective intent alone . . . does not make otherwise lawful conduct illegal or unconstitutional." We described *Robinson* as having established that "the fact that the officer does not have the state of mind which is hypothecated by the reasons which provide the legal justification for the officer's action does not invalidate the action taken as long as the circumstances, viewed objectively, justify that action." 436 U.S., at 138.

We think these cases foreclose any argument that the constitutional reasonableness of traffic stops depends on the actual motivations of the individual officers involved. We of course agree with petitioners that the Constitution prohibits selective enforcement of the law based on considerations such as race. But the constitutional basis for objecting to intentionally discriminatory application of laws is the Equal Protection Clause, not the Fourth Amendment. Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis.

- B. Recognizing that we have been unwilling to entertain Fourth Amendment challenges based on the actual motivations of individual officers, petitioners disavow any intention to make the individual officer's subjective good faith the touchstone of "reasonableness." They insist that the standard they have put forward—whether the officer's conduct deviated materially from usual police practices, so that a reasonable officer in the same circumstances would not have made the stop for the reasons given—is an "objective" one.

But although framed in empirical terms, this approach is plainly and indisputably driven by subjective considerations. Its whole purpose is to prevent the police from doing under the guise of enforcing the traffic code what they would like to do for different reasons. Petitioners' proposed standard may not use the word "pretext," but it is designed to combat nothing other than the perceived "danger" of the pretextual stop, albeit only indirectly and over the run of cases. Instead of asking whether the individual officer had the proper state of mind, the petitioners would have us ask, in effect, whether (based on general police practices) it is plausible to believe that the officer had the proper state of mind.

Why one would frame a test designed to combat pretext in such fashion that the court cannot take into account actual and admitted pretext is a curiosity that can only be explained by the fact that our cases have foreclosed the more sensible option. If those cases were based only upon the evidentiary difficulty of establishing subjective intent,

petitioners' attempt to root out subjective vices through objective means might make sense. But they were not based only upon that, or indeed even principally upon that. Their principal basis—which applies equally to attempts to reach subjective intent through ostensibly objective means—is simply that the Fourth Amendment's concern with "reasonableness" allows certain actions to be taken in certain circumstances, whatever the subjective intent. See, e.g., *Robinson*, supra, at 236 ("Since it is the fact of custodial arrest which gives rise to the authority to search, it is of no moment that [the officer] did not indicate any subjective fear of the [arrestee] or that he did not himself suspect that [the arrestee] was armed"); *Gustafson*, supra, at 266 (same). But even if our concern had been only an evidentiary one, petitioners' proposal would by no means assuage it. Indeed, it seems to us somewhat easier to figure out the intent of an individual officer than to plumb the collective consciousness of law enforcement in order to determine whether a "reasonable officer" would have been moved to act upon the traffic violation. While police manuals and standard procedures may sometimes provide objective assistance, ordinarily one would be reduced to speculating about the hypothetical reaction of a hypothetical constable—an exercise that might be called virtual subjectivity.

Moreover, police enforcement practices, even if they could be practicably assessed by a judge, vary from place to place and from time to time. We cannot accept that the search and seizure protections of the Fourth Amendment are so variable, cf. *Gustafson*, supra, at 265; *United States v. Caceres*, 440 U.S. 741, 755 -756 (1979), and can be made to turn upon such trivialities. The difficulty is illustrated by petitioners' arguments in this case. Their claim that a reasonable officer would not have made this stop is based largely on District of Columbia police regulations which permit plainclothes officers in unmarked vehicles to enforce traffic laws "only in the case of a violation that is so grave as to pose an immediate threat to the safety of others." Metropolitan Police Department-Washington, D. C., General Order 303.1, pt. 1, Objectives and Policies (A)(2)(4) (Apr. 30, 1992), reprinted as Addendum to Brief for Petitioners. This basis of invalidation would not apply in jurisdictions that had a different practice. And it would not have applied even in the District of Columbia, if Officer Soto had been wearing a uniform or patrolling in a marked police cruiser.

Petitioners argue that our cases support insistence upon police adherence to standard practices as an objective means of rooting out pretext. They cite no holding to that effect, and dicta in only two cases. In *Abel v. United States*, 362 U.S. 217 (1960), the petitioner had been arrested by the Immigration and Naturalization Service (INS), on the basis of an administrative warrant that, he claimed, had been issued on pretextual grounds in order to enable the Federal Bureau of Investigation (FBI) to search his room after his arrest. We regarded this as an allegation of "serious misconduct," but rejected Abel's claims on the ground that "[a] finding of bad faith is . . . not open to us on th[e]

record" in light of the findings below, including the finding that "the proceedings taken by the [INS] differed in no respect from what would have been done in the case of an individual concerning whom [there was no pending FBI investigation]," *id.*, at 226-227. But it is a long leap from the proposition that following regular procedures is some evidence of lack of pretext to the proposition that failure to follow regular procedures proves (or is an operational substitute for) pretext. *Abel*, moreover, did not involve the assertion that pretext could invalidate a search or seizure for which there was probable cause—and even what it said about pretext in other contexts is plainly inconsistent with the views we later stated in *Robinson*, *Gustafson*, *Scott*, and *Villamonte-Marquez*. In the other case claimed to contain supportive dicta, *United States v. Robinson*, 414 U.S. 218 (1973), in approving a search incident to an arrest for driving without a license, we noted that the arrest was "not a departure from established police department practice." *Id.*, at 221, n. 1. That was followed, however, by the statement that "[w]e leave for another day questions which would arise on facts different from these." *Ibid.* This is not even a dictum that purports to provide an answer, but merely one that leaves the question open.

III.

In what would appear to be an elaboration on the "reasonable officer" test, petitioners argue that the balancing inherent in any Fourth Amendment inquiry requires us to weigh the governmental and individual interests implicated in a traffic stop such as we have here. That balancing, petitioners claim, does not support investigation of minor traffic infractions by plainclothes police in unmarked vehicles; such investigation only minimally advances the government's interest in traffic safety, and may indeed retard it by producing motorist confusion and alarm—a view said to be supported by the Metropolitan Police Department's own regulations generally prohibiting this practice. And as for the Fourth Amendment interests of the individuals concerned, petitioners point out that our cases acknowledge that even ordinary traffic stops entail "a possibly unsettling show of authority"; that they at best "interfere with freedom of movement, are inconvenient, and consume time" and at worst "may create substantial anxiety," *Prouse*, 440 U.S., at 657. That anxiety is likely to be even more pronounced when the stop is conducted by plainclothes officers in unmarked cars.

It is of course true that in principle every Fourth Amendment case, since it turns upon a "reasonableness" determination, involves a balancing of all relevant factors. With rare exceptions not applicable here, however, the result of that balancing is not in doubt where the search or seizure is based upon probable cause. That is why petitioners must rely upon cases like *Prouse* to provide examples of actual "balancing" analysis. There, the police action in question was a random traffic stop for the purpose of checking a motorist's license and vehicle registration, a practice that—like the practices at issue in the inventory search and administrative inspection cases upon which petitioners rely in making their "pretext" claim—involves

police intrusion without the probable cause that is its traditional justification. Our opinion in *Prouse* expressly distinguished the case from a stop based on precisely what is at issue here: "probable cause to believe that a driver is violating any one of the multitude of applicable traffic and equipment regulations." 440 U.S., at 661. It noted approvingly that "[t]he foremost method of enforcing traffic and vehicle safety regulations . . . is acting upon observed violations," *id.*, at 659, which afford the "quantum of individualized suspicion" necessary to ensure that police discretion is sufficiently constrained, *id.*, at 654-655 (quoting *United States v. Martinez-Fuerte*, 428 U.S., at 560). What is true of *Prouse* is also true of other cases that engaged in detailed "balancing" to decide the constitutionality of automobile stops, such as *Martinez-Fuerte*, *supra*, which upheld checkpoint stops, see 428 U.S., at 556-562, and *Brignoni-Ponce*, *supra*, which disallowed so-called "roving patrol" stops, see 422 U.S., at 882-884: the detailed "balancing" analysis was necessary because they involved seizures without probable cause.

Where probable cause has existed, the only cases in which we have found it necessary actually to perform the "balancing" analysis involved searches or seizures conducted in an extraordinary manner, unusually harmful to an individual's privacy or even physical interests—such as, for example, seizure by means of deadly force, see *Tennessee v. Garner*, 471 U.S. 1 (1985), unannounced entry into a home, see *Wilson v. Arkansas*, 514 U.S. ____ (1995), entry into a home without a warrant, see *Welsh v. Wisconsin*, 466 U.S. 740 (1984), or physical penetration of the body, see *Winston v. Lee*, 470 U.S. 753 (1985). The making of a traffic stop out-of-uniform does not remotely qualify as such an extreme practice, and so is governed by the usual rule that probable cause to believe the law has been broken "outbalances" private interest in avoiding police contact.

Petitioners urge as an extraordinary factor in this case that the "multitude of applicable traffic and equipment regulations" is so large and so difficult to obey perfectly that virtually everyone is guilty of violation, permitting the police to single out almost whomever they wish for a stop. But we are aware of no principle that would allow us to decide at what point a code of law becomes so expansive and so commonly violated that infraction itself can no longer be the ordinary measure of the lawfulness of enforcement. And even if we could identify such exorbitant codes, we do not know by what standard (or what right) we would decide, as petitioners would have us do, which particular provisions are sufficiently important to merit enforcement.

For the run-of-the-mine case, which this surely is, we think there is no realistic alternative to the traditional common-law rule that probable cause justifies a search and seizure.

Here the District Court found that the officers had probable cause to believe that petitioners had violated the traffic code. That rendered the stop reasonable under the Fourth Amendment, the evidence thereby discovered admissible, and the upholding of the convictions by the Court of Appeals for the District of Columbia Circuit correct.

Judgment affirmed.

Footnotes

- [1] An inventory search is the search of property lawfully seized and detained, in order to ensure that it is harmless, to secure valuable items (such as might be kept in a towed car), and to protect against false claims of loss or damage. See *South Dakota v. Opperman*, 428 U.S. 364, 369 (1976).
- [2] An administrative inspection is the inspection of business premises conducted by authorities responsible for enforcing a pervasive regulatory scheme—for example, unannounced inspection of a mine for compliance with health and safety standards. See *Donovan v. Dewey*, 452 U.S. 594, 599 -605 (1981).

Source: <http://laws.findlaw.com/us/000/u20005.html>

Sample Letter to Community Leaders

Date

Name

Address

City, State, Zip

Dear _____:

Our department is implementing training on racial profiling for law enforcement personnel. To make this training relevant and applicable we are planning a panel presentation to generate dialogue between our (officers/deputies) and representatives of the cultures that comprise the community they serve.

We would like to invite you to meet and discuss this upcoming training. We are interested in the issues that are pertinent to your organization and information that would promote positive contacts between law enforcement and the community. We are also seeking recommendations for panel members.

Please contact me by (date) at (contact information). I'm looking forward to meeting with you and collaborating on this very important topic.

Sincerely,

Name

Title

Community Representative Questionnaire

1. Describe your community. Subjects to discuss may include: family structure (patriarchal or matriarchal), cultural challenges, how you want to be referred to, etc.

2. What is working well in your community's relationship with law enforcement?

3. How can the community and law enforcement improve our relationship as a team?

Bibliography

The article titles below are offered as a sample of the variety of viewpoints and information currently published on the topic of racial profiling. This information does not necessarily reflect the opinions of, or endorsement by, either the Commission on Peace Officer Standards and Training or the Museum of Tolerance.

- Caldero, Michael, *Values, Hiring and Early Organizational Experience*, private print, 2001 is an article discussing the ethics and values segment of a curriculum recently completed for New Jersey State Police. It discusses how agencies can analyze group values and decision making in a moral environment.
- Fridell, Lorie, *Racially Biased Policing: A Principled Response*, Police Executive Research Forum, 2001 is a report that defines the issues surrounding racial profiling and suggested practices to be put into effect by agencies to form stronger relationships with the community and end racial profiling.
- Harris, David A., *Profiles in Injustice: Why Racial Profiling Does Not Work*, New York: New Press, 2002 is an analysis traffic stop data from of East Coast states. The thesis of this book is that statistics exist that support the theory that profiling behavior is more effective than profiling race. This conclusion was drawn from the "hit" rate of drugs and contraband found on stops.
- McDevitt, Jack, *A Resource Guide on Racial Profiling Data Collection Systems, Promising Practices and Lessons Learned*, Northeastern University, November 2000 is a guide to assist jurisdictions in developing and implementing their own data collection systems.
- San Jose Police Department, *Five Essential Elements to Data Collection*, 2001 is an article explaining how San Jose set up the volunteer data collection from traffic stop information.
- San Jose Police Department, *Vehicle Stop Demographic Study*, December, 2000 is an analysis of San Jose Police Departments compiled traffic stop data.
- Schrantz, Dennis, *Reducing Racial Disparity in the Criminal Justice System, A Manual for Practitioners and Policymakers*, The Sentencing Project, October 2000 is an analysis of the causes and consequences of racial disparity and the practical responses to these problems. Its target audience is policymakers who set the tone for agencies.
- Sweeney, Earl M, *Ohio's Statewide Effort to End Profiling*, The Police Chief/July 2001 is an article that discusses the main topics of the state of Ohio's law enforcement training to end racial profiling. It also includes a model policy drafted by a statewide committee for use by law enforcement agencies.

- US Department of Justice, *Contacts Between Police and the Public*, Bureau of Justice Statistics, 1999 is the results of a national survey that was sent to members of the public relating to their contacts with law enforcement.
- US Department of Justice, *Minorities in the Juvenile Justice System*, Juvenile Justice Bulletin, December, 1999 is a report that analyzes the number of minorities in the juvenile justice systems and discusses the theory that disparity in law enforcement practices may result in an imbalance in the system.
- US Department of Justice, *Mutual Respect in Policing: A Trainer's Guide*, January 17, 2001 is a compilation of several articles by several difference state and national agencies. It covers policies and data analysis on traffic stops, as well as numerous new articles from all over the nation on profiling. It is designed to give extensive information to anyone wanting to teach a course on racial profiling.
- US Department of Transportation, *Conducting Complete Traffic Stops, Instructor Manual*, September 2000 is an instructor manual for a course on making traffic stops without racial profiling. It takes officers through several "phases" of the stop discussing the laws pertaining to search. It stresses how officers should end contacts to prevent perceptions of racial profiling.

Racial Profiling: Issues and Impact

Preparation Guide

Section 3 – Student Handouts

California and Federal Laws

California Penal Code

Section 13519.4 (d)

“Racial profiling,’ for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.”

Key Points

- Penal Code Section 13519.4 does not create a new legal requirement or obligation on the part of law enforcement.
- It does restate existing obligations imposed by the 4th and the 14th Amendments to the United States Constitution.

The United States Constitution

Amendment IV

“The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated and no warrant shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.”

Key Points

- The 4th Amendment generally requires that before any individual can be stopped or detained, law enforcement must have individualized suspicion that the person being stopped is either engaged in unlawful activity, is about to engage in unlawful activity, or has engaged in unlawful activity.
- The 4th Amendment describes unreasonable search and seizure. Law enforcement needs to have reasonable suspicion or probable cause to search, whether it's a vehicle or a person.

Amendment XIV

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Key Points

- The 14th Amendment requires that all government officials, including law enforcement officers, go about their business without regard to race, that they be colorblind in the conduct of their responsibilities and in the conduct of their business.
- The 14th Amendment is violated when law enforcement officers focus enforcement efforts on one particular ethnic group while ignoring similar unlawful conduct by other ethnic groups.
- The 14th Amendment is also violated when law enforcement officers use a person's race as a factor in forming suspicion of an individual, unless race was provided as a specific descriptor of a specific person in a specific crime.

Whren et al. v. United States, __U.S.__ (1996)

The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.

(a) Detention of a motorist is reasonable where probable cause exists to believe that a traffic violation has occurred. See, e.g., *Delaware v. Prouse*, 440 U.S. 648, 659. Petitioners claim that, because the police may be tempted to use commonly occurring traffic violations as means of investigating violations of other laws, the Fourth Amendment test for traffic stops should be whether a reasonable officer would have stopped the car for the purpose of enforcing the traffic violation at issue. However, this Court's cases foreclose the argument that ulterior motives can invalidate police conduct justified on the basis of probable cause. See, e.g., *United States v. Robinson*, 414 U.S. 218, 221, n. 1, 236. Subjective intentions play no role in ordinary, probable cause Fourth Amendment analysis.

(b) Although framed as an empirical question—whether the officer's conduct deviated materially from standard police practices—petitioners' proposed test is plainly designed to combat the perceived danger of pretextual stops. It is thus inconsistent with this Court's cases, which make clear that the Fourth Amendment's concern with "reasonableness" allows certain actions to be taken in

Section 3 – Handout: California and Federal Laws

certain circumstances, whatever the subjective intent. See, e.g., *Robinson*, supra, at 236. Nor can the Fourth Amendment's protections be thought to vary from place to place and from time to time, which would be the consequence of assessing the reasonableness of police conduct in light of local law enforcement practices.

Interests inherent in Fourth Amendment inquiries does not support enforcement of minor traffic laws by plainclothes police in unmarked vehicles, since that practice only minimally advances the government's interest in traffic safety while subjecting motorists to inconvenience, confusion, and anxiety. Where probable cause exists, this Court has found it necessary to engage in balancing only in cases involving searches or seizures conducted in a manner unusually harmful to the individual. See, e.g., *Tennessee v. Garner*, 471 U.S. 1. The making of a traffic stop out-of-uniform does not remotely qualify as such an extreme practice.

Scalia, J., delivered the opinion for a unanimous Court.

KeyPoint

- When gives law enforcement the power and the ability to engage in pretext stops. A pretext stop is a stop that is based on some violation of the law or at least some reasonable suspicion that the law has been violated.
- The legal violation is not what's actually motivating the stop; it's simply a pretext for law enforcement to pull the driver over and to interrogate the driver, to ask questions, to observe the interior of the vehicle, or to explore the possibility that some other kind of unlawful activity is afoot.
- When conducting a vehicle stop, a pretext stop under *Whren*, law enforcement officers have to ask themselves two questions.
 - Has the individual violated the vehicle code (i.e., a lane change without a blinker or a tail light out, etc.)?
 - Does the stop comply with the 14th Amendment?

Racial Profiling: Issues and Impact

Preparation Guide

Section 3 – Student Handouts

Case Study

Scenario 4

Over the past six to eight months, there has been a steady increase in drug related activity and crime in the vicinity of 5th and Kyle. This location is in a lower income Latino community. Many community members and organizations have approached the local police/sheriff's department to request their assistance in stopping the criminal activity to make the streets safer for the children. They are also concerned that drug activity is having a negative impact on the businesses in the area. In addition to this, the Chief/Sheriff regularly receives phone calls from political and business leaders demanding that the department "take action" to remedy this problem.

A report distributed to the patrol division indicates that there have been 20 arrests for possession of cocaine in and around the area of 5th and Kyle within the past three months. The ethnicity of the buyers was mixed; however, interviews with those arrested indicate that all but three of them purchased their narcotics from male Hispanics between 20-40 years of age.

Your supervisor has asked you to prepare an enforcement strategy for responding to the community's concerns and requests to "clean up" this area.

Take 5 minutes with your group members and design an action plan. The plan should include, but not be limited to, short-range goals, long-range goals, resources-internal/external, and follow-up.

Racial Profiling: Issues and Impact

Preparation Guide

Section 4 – Certification Packet

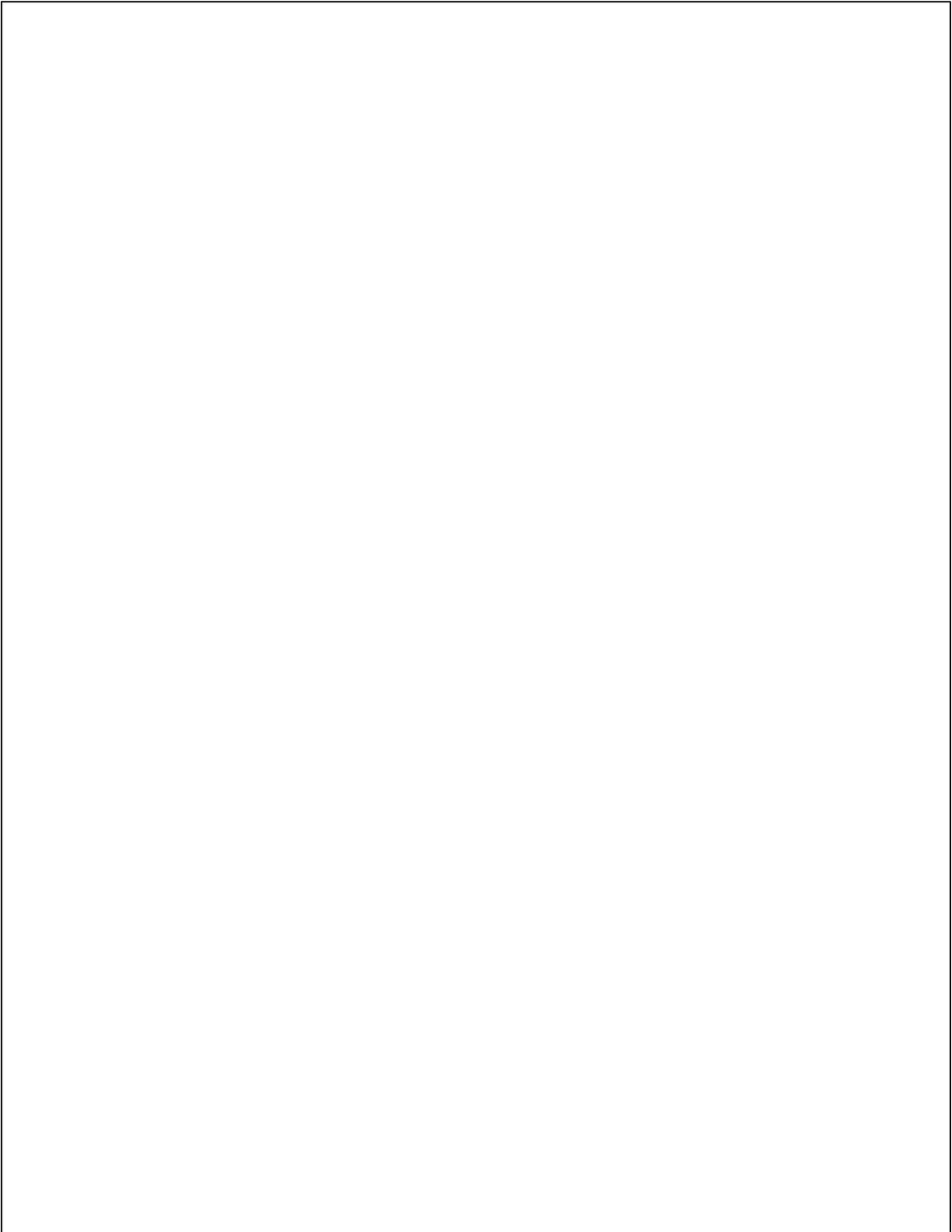
Submission Requirements

To assist your agency in certifying this course, we have enclosed a sample of the documents that must be submitted to POST. We have filled out the information on the forms that is applicable to all agencies. All other agency-specific information will need to be added prior to submission. Your completed certification packet needs to contain the following:

1. 2-103 Course Certification Request Form
See sample on page 34. *Available online at www.post.ca.gov.*
2. Course Hourly Breakdown
See sample on page 35. *PDF file available on the Racial Profiling CD.*
3. Expanded Course Outline
See sample on page 36. *PDF file available on the Racial Profiling CD.*
4. 2-112 Instructor's Resume Form
See sample on page 47. *Available online at www.post.ca.gov.*
5. Copy of instructor's Certificate of Completion from the Racial Profiling Train the Trainer Course.

For any questions regarding the certification of this course, your training manager can contact your agency's POST Regional Area Consultant.

2-103 Course Certification Request Form **SAMPLE**

A large, empty rectangular box with a thin black border, occupying the central portion of the page. It is intended for the user to fill out the certification request form.

Hourly Distribution Schedule

Introduction and Why Are We Here?	20 Min	0800 - 0820
Defining Racial Profiling	35 Min	0820 - 0855
<i>Break</i>	10 Min	0855 - 0905
Legal Considerations	60 Min	0905 - 1005
<i>Break</i>	10 Min	1005 - 1015
Applying the Law	55 Min	1015 - 1110
<i>Break</i>	10 Min	1110 - 1120
Historical Overview of Civil Rights	35 Min	1120 - 1155
Impact of Racial Profiling	15 Min	1155 - 1210
<i>Lunch</i>	60 Min	1210 - 1310
Community Presentations	35 Min	1310 - 1345
Ethical Issues	10 Min	1345 - 1355
Wrap Up	5 Min	1355 - 1400

Expanded Course Outline

Course Objective

This course will provide students with an understanding of what racial profiling is and the negative impact it can have, not only on the individual targeted, but also on the entire community. The practice of racial profiling or bias-based policing can compromise public trust. Students will learn that stereotyping of any group of people can lead to racial profiling or bias-based policing practices. Finally, students will be exposed to real-life examples designed to enhance their ability to critically analyze their own beliefs and distinguish between when race is a legitimate factor in identifying a suspect and when it is not.

I. Why Are We Here?

- A. Introduction
 - 1. Instructor
 - 2. Student
- B. Explain background of legislation and course
 - 1. Law enforcement shall not engage in racial profiling
 - 2. Law enforcement will participate in racial profiling training
- C. Ten seconds to write first words they think of about racial profiling
 - 1. Read the student responses out loud
 - 2. Tell students that even with all the experience represented in the room there is still confusion about racial profiling
 - 3. Tell students we will discuss racial profiling both conceptually and legally
- D. Guidelines for discussion
 - 1. Use "I" statements
 - 2. Active listening
 - 3. Be honest and open
 - 4. Take risks
 - 5. Be respectful of others and their views
 - 6. Confidentiality

II. Racial Profiling Defined

- A. Small group discussion
 - 1. Acknowledge that there is a lot of confusion about what racial profiling is or is not

2. Ask the class: "How has the issue of racial profiling had an effect on you?"
 - a. Capture information on flip charts
 - b. Possible student responses
 - i. I won't be able to stop minorities.
 - ii. I will have to write the same number of tickets to all races.
 - iii. I won't be able to make consensual searches anymore.
 - iv. If I arrest or stop too many minorities, I will get sued.
- B. Clarifying the controversies about the issues
 1. You can still do your job effectively
 - a. Profiling behavior is more effective than profiling race
 2. Racial profiling and racism are not the same
 - a. Racism is hate-motivated
 - b. Racial profiling occurs when race is used as a predictor of criminality
 3. Members of all racial groups commit crimes
 - a. Actions of some should not cast aspersions on all
 4. You cannot assume all members of a particular group commit a specific crime even if members of that group are associated with that crime
 - a. Terrorism is not just committed by Middle Easterners
 - b. Two white males committed the Oklahoma City bombing
 5. The majority of all groups are law abiding
 - a. The crime rate is a measure of police activity versus criminal activity
 - b. Statistics indicate no higher contraband "hit rate" in minority vehicles stops or searches
 6. Racial profiling does occur
 - a. December 1999 Gallup Poll indicates that nationally, 60% of adults perceive that racial profiling is widespread
 - b. That percentage is higher in minority communities
 - c. Perception is reality as far as the affect it has on the public
 7. Data Collection Issues
 - a. Many law enforcement agencies in California and nationwide have elected to collect data on traffic stops

- b. There are mixed interpretations of the data
 - i. Early data indicates there may be a higher contact with minorities
 - ii. There appears to be a difference in the type of action taken with minorities after the stop
 - a) More searches
 - b) Longer detentions
 - c. Currently, there is no uniform method for collecting data
 - i. Agency-specific
 - ii. Several volunteer
 - iii. Several under consent decree (involuntary)
 - iv. Final outcome can be court mandates
8. No one group has a monopoly on racial profiling
- a. It is frequently precipitated as an institutional practice
 - b. It can be learned or a trained practice

III. Legal Considerations

A. California specific laws

- 1. Senate Bill 1102
 - a. Modified Penal Code Section 13519.4 PC
 - b. Law enforcement shall not engage in racial profiling
 - c. Racial profiling is the practice of detaining individuals based on a broad view of a particular group of people

B. Federal laws

- 1. 4th Amendment
 - a. Reasonable suspicion or probable cause
 - i. Must be individualized
 - ii. Focused on the person to be stopped or detained
- 2. 14th Amendment
 - a. Equal application of the law
 - b. Law enforcement must be colorblind in conduct of its responsibilities
 - c. Individualized suspicion cannot be based on race unless race was provided as a specific descriptor

3. Case law
 - a. Whren v United States
 - i. Creates powerful discretion on the part of the officers to make pretext stops
 - a) An officer stops a driver for a minor traffic violation to investigate a hunch that the driver is engaged in a more serious activity
 - b) It's what motivates the pretext stop that must be considered
- C. Legal/ethical exercise of this discretion is the key
 1. A stop can be legal under the 4th Amendment and still illegal under the 14th Amendment
- D. Differences between criminal profiling and racial profiling
 1. Criminal profiling is a legitimate practice based on psychological characteristics that can be analyzed and evaluated
 2. Criminal profiling is based on articulable behaviors or characteristics
 3. Racial profiling is the use of race alone as a predictor
- E. Lawfully applying your discretion
 1. Law enforcement officers may only consider factors such as race, ethnicity, religion, national origin, sexual orientation, gender, or lifestyle when they are a reported descriptor which links a specific person or persons to a particular unlawful incident.
- F. Scenario 1. An officer is parked at a stop sign in proximity to an upper-class neighborhood high school. Two white teens, in a Ford Mustang, roll through the stop sign. The officer does not stop the vehicle. Two Latino teens, in a late model sedan, also rolls the stop sign. The officer makes a stop on that vehicle.
 1. Was the stop legal?
 - a. Yes - 22450 (a) V.C.
 2. Did the stop constitute racial profiling?
 - a. We don't know until we know what was in the mind of the officer
 3. What would make this stop racial profiling?
 - a. If the decision to stop was based on race
 - b. Unequal application of the law
 4. Anytime race tips the scale for the decision to take enforcement action, it is racial profiling

- G. Scenario 2. Two Vietnamese teens are walking in front of a liquor store in a high-crime, low-economical area. There are community members in the background walking or talking. Officers watch the two boys walk back and forth, looking in, pointing, etc. The officers then pull up to the curb and get out of the unit. The passenger officer contacts the boys, saying, "Hey, guys, how ya doing?"
1. Could the kids have just been "hanging around?"
 - a. Yes
 2. Did this appear to be a contact or a detention?
 - a. May have merited a detention
 - b. Appeared to be a contact
 3. Consensual contacts
 - a. Do not need to be based on specific observable behavior
 - b. Subjects believe they can leave at any time
 - c. It may be argued in court whether the contact is consensual or was actually a detention
 4. You can still use your intuition within the law
 5. Always examine your motives and biases
 - a. If all consensual contacts are people of a particular race, the contacts could be a pattern and practice of racial profiling
 6. Consider explaining the reason for the contact
- H. Scenario 3. A black middle-aged male in sweats is riding a bicycle and carrying a package under his arm. This is in an upper middle-class, predominately white neighborhood. An officer driving by makes a U-turn, pulls up alongside the bicyclist and says, "Hey, pull over to the curb." The officer gets out and contacts the man, asking him where he is coming from and going to.
1. Could this happen?
 - a. Yes
 2. What appeared to be the reasonable suspicion for the stop?
 3. All persons of any race have a right to go anywhere
 4. Race out of place is racial profiling
 - a. Violates 4th and 14th Amendments
- I. Scenario 4 Class Exercise. Over the past six to eight months, there has been a steady increase in drug-related activity and crime in the vicinity of 5th and Kyle. This location is in a lower income Latino community. Many community members and organizations have approached the local police/sheriff's department to request their assistance in stopping the criminal activity to make the streets safer for the children. They are also

concerned that drug activity is having a negative impact on the businesses in the area. In addition to this, the Chief/Sheriff regularly receives phone calls from political and business leaders demanding that the department "take action" to remedy this problem.

A report distributed to the patrol division indicates that there have been 20 arrests for possession of cocaine in and around the area of 5th and Kyle within the past three months. The ethnicity of the buyers was mixed; however, interviews with those arrested indicate that all but three of them purchased their narcotics from male Hispanics between 20-40 years of age.

Your supervisor has asked you to prepare an enforcement strategy for responding to the community's concerns and requests to "clean up" this area.

Take 5 minutes with your group members and design an action plan. The plan should include, but not be limited to, short-range goals, long-range goals, resources-internal/external, and follow-up.

1. What activities do you plan to respond to this request for service?
 - a. Increased patrol
 - b. Surveillance
 - c. Increased traffic stops
 - d. Increased field interview cards (stop 'n' chats)
 - e. Undercover operations
2. What actions could lead to racial profiling?
 - a. Pretext stops and detentions
 - b. Increased field interviews
 - c. Searches
3. How could different members of the community perceive the increased enforcement?
 - a. Possibly racial profiling
4. Communication with the community is important
5. Targeted enforcement must still be in the "green zone"
6. Statistics alone are not reasonable suspicion or probable cause
 - a. Officers cannot assume that all members of a particular race/ethnic group commit crimes

IV. History of Civil Rights

A. Evolution of race relations in America

1. Nationally

- a. During WWII, this country participated in widespread racial profiling when thousands of Japanese Americans were incarcerated based solely on their race
 - i. This occurred while hundreds of Japanese fought for this country in all branches of the military
- b. Throughout the country, for the most part, minorities and whites lived in separate communities
- c. Minorities had fewer opportunities educationally and economically
- d. In the 50's, the civil rights movement was the largest mass movement to address American ideals of justice and equality
- e. Law enforcement was put in the position of enforcing State laws, which supported segregation
- f. Civil rights was not a movement for minority rights but for the rights of every citizen in the United States
 - i. "Injustice anywhere is a threat to justice everywhere."

— Dr. Martin Luther King, Jr.
- g. As a society, we dismantled the major practice of discrimination
 - i. The laws pertain to all people equally
 - ii. Segregation was legally abolished

2. California

- a. Racially restrictive covenants were in existence up to forty years ago
 - i. Race alone was probable cause to be stopped in certain neighborhoods
- b. School segregation of Mexican, Asian, and Native Americans existed until 1947 (*Mendez v Westminster* - Orange County)
- c. Los Angeles Riots - August 1965
 - i. In the 60's every major riot was a result of some police action
 - ii. Began in response to police action and perceived prejudice
- d. Los Angeles Riots - 1992
 - i. Result of police action with Rodney King

B. Group discussion

1. What impact does the history we've just learned about have on our profession today?
 - a. Law enforcement has had to enforce unjust laws in the past
 - b. Law enforcement and the community must build and maintain mutual trust
2. What impact does history have on our own agency?
 - a. Discuss historical events from your jurisdiction
3. Are we creating any new history for ethnic groups today?
 - a. Yes - Middle Eastern communities
4. In light of recent events, what is our responsibility to Middle Eastern communities?
 - a. Protect them from terrorist threats
 - b. Ensure their safety
 - c. Still need to use individualized behaviors or specific descriptors for reasonable cause to stop or detain
5. What can we do as individuals to increase the trust between the community and law enforcement?
 - a. Treat them fairly
 - b. Explain why we make contacts
 - c. Learn about their cultures
 - d. Learn basics of their languages
 - e. Do not racial profile
 - f. Interact with the community on a non-enforcement basis
 - g. COPS, CPOPS, etc.

C. Lessons learned

1. The civil rights movement had a profound effect on the nation and on law enforcement
2. One of the biggest legacies from the civil rights movement was to elevate the role of law enforcement to protect and enforce civil rights for all people
 - a. This means there is a higher expectation for the ethical standards from law enforcement
3. Civil rights movement also led to the desegregation of law enforcement
4. Law enforcement transitioned from enforcement approach to community oriented policing (COPS/CPSPS)

- D. Racially-biased policing is a human rights issue
 - 1. Protecting civil rights is not an inconvenience for modern police; it is the foundation of policing
 - 2. Racially-biased policing is not just a law enforcement problem
 - a. It can only be solved through police-citizen partnerships
 - b. There must be mutual trust and respect
 - 3. Professional law enforcement personnel wants to respond effectively to the concerns regarding racially biased policing
 - 4. Combating racial profiling requires ongoing discussions

V. Impact of Racial Profiling

- A. Racial profiling has a negative impact on everyone
 - 1. There is a direct impact on the individual citizen profiled
 - 2. There is a collective impact on the entire community
 - 3. There is a residual impact on the individual officer
 - a. Affects credibility
 - b. Can compromise officer safety
 - c. Can impede criminal investigations due to lack of community support and assistance
 - 4. On the entire criminal justice system
 - a. Jurors who have been profiled may have a negative perception of law enforcement
 - b. Officer credibility issues can result in refusals to file by the prosecution
- B Racial profiling does impact everyone
 - 1. Eliminating this practice, by understanding the laws and working more closely with your communities in a community oriented policing atmosphere, will benefit you as well as the people your agency serves

VI. Community Considerations

- A. Recognizing and respecting the key elements or indices that make up evolving culture among the residents of a community
 - 1. Shared beliefs
 - 2. Values, ways of thinking (including about law enforcement)
 - 3. Behaviors, customs, or traditions

4. Factors to consider:
 - a. Eye contact
 - b. Phrases
 - c. Cultural and religious practices
 - d. Dress
 - e. Hair styles (dreadlocks, shaved heads)
 - f. Vehicle
 - g. Tattoos
 - h. History
 - i. Language
5. Law enforcement is a subculture
 - a. Most officers share beliefs
 - b. Values, ways of thinking, including perceptions about different cultures
 - c. Behaviors, customs, or traditions
 - d. History and language
6. We must give the respect to other cultures that we in law enforcement want ourselves
 - a. Every community has its own culture
 - b. Within that community, everyone is still an individual
7. Community Oriented Policing is an excellent avenue for law enforcement to eradicate racial profiling
 - a. Communities want to be involved
 - b. Communities want to respect law enforcement
 - c. Communities want to be respected

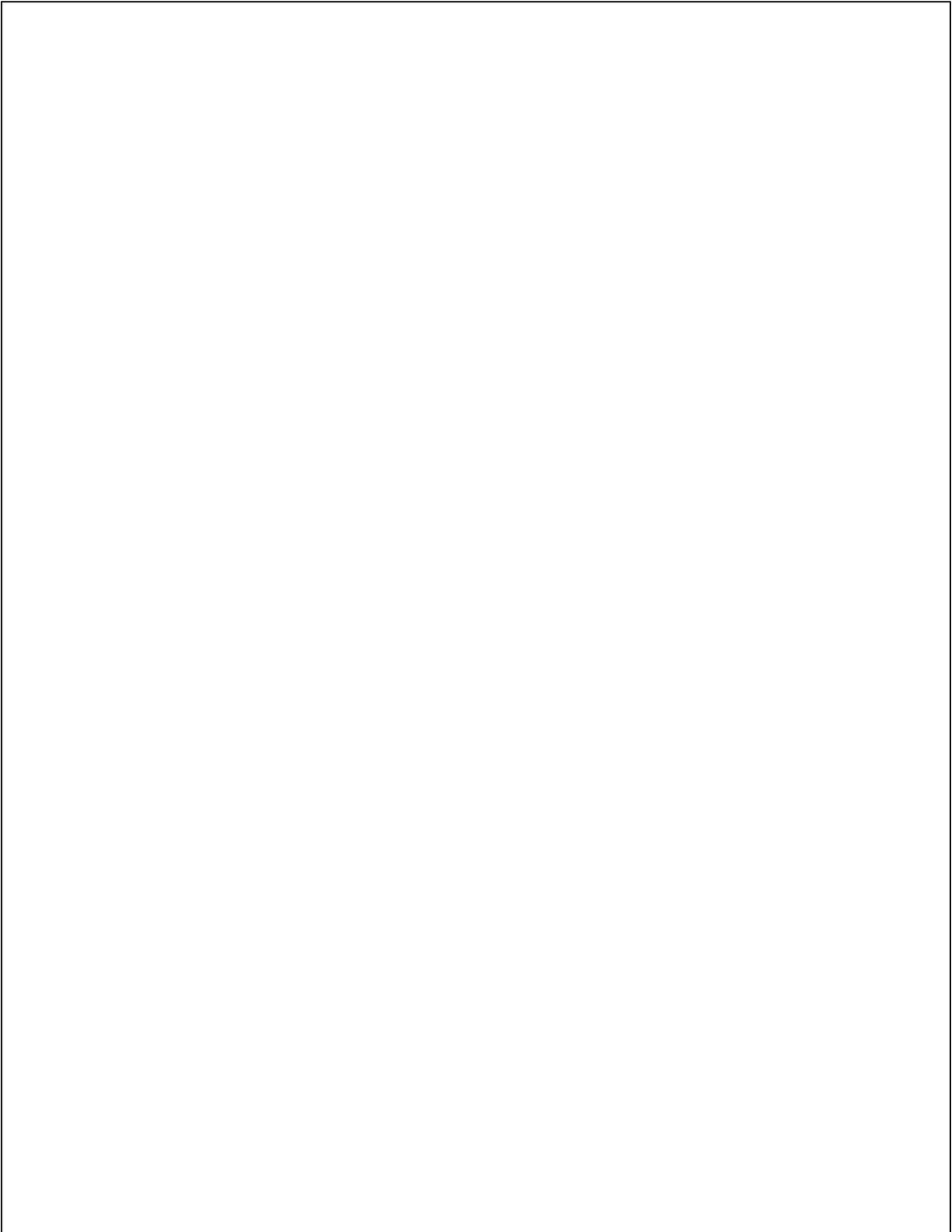
VII. Ethical Considerations

- A. Law enforcement responsibilities
 1. Racial profiling runs counter to the type of policing California agencies want to do
 2. Penal Code Section 13519.4 - Duty to Report
 - a. The obligations of officers to prevent, report, and respond to discriminatory or biased practices by fellow officers
 3. The change in the perception of the community about racial profiling will not happen with policy but as a result of the actions of individual officers

VIII. Wrap Up

- A. Review
- B. Questions and answers
- C. Evaluations

2-112 Instructor's Resume Form SAMPLE

A large, empty rectangular box with a thin black border, intended for an instructor to write their resume. The box occupies most of the page below the header.

