

POLICY 6

Fair and Impartial Policing of Youth: Race, National Origin, and Immigration Status

PURPOSE

Ensure that: 1) consistent with federal civil rights statutes, the civil rights of Black, Latinx, Native American and Asian youth are respected in interactions with law enforcement¹; 2) law enforcement officers respond to these youth in a developmentally appropriate, trauma-informed, equitable manner;

and 3) officers are fair and impartial in their interactions with immigrant youth whose social, legal, and political status renders them uniquely vulnerable in interactions with law enforcement.

POLICY

This policy furthers the commitment to fair and impartial enforcement of the law and the protection of youths' constitutional and statutory rights. It recognizes and seeks to address the longstanding disparities in law enforcement contact with communities of color.

Officers are prohibited from engaging in bias-based policing of youth in law enforcement actions, including, but not limited to, investigative detention or stops, pedestrian and vehicle stops, frisks, arrests, searches, and property seizures. This policy provides

guidance to officers about how to conduct youth interactions consistent with these prohibitions.

This policy should be understood and implemented in conjunction with other relevant policies in this policy compendium, including:

- [Policy 2: Investigatory Stops, Non-Custodial Interviews, and Search and Seizure of Youth,](#)
- [Policy 3: Arrest, Transport, Booking, and Temporary Custody,](#)

1. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance. Similarly, the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) prohibit discrimination in service provision (as well as in employment) on the basis of race, color, national origin, religion and sex, in connection with any program or activity financed with specific criminal justice-related funds. 42 U.S.C. § 3789d(c).

- [Policy 4: Miranda Warnings, Waiver of Rights, and Youth Interrogations](#), and
- [Policy 5: Use of Force with Youth](#).

REASONS FOR YOUTH SPECIFIC POLICIES

Why Fair and Impartial Policing of Youth of Color and Immigrant Youth is Important

- Youth of color, particularly Black youth and Native American youth, are disproportionately subject to arrest. In addition, Black students are disproportionately subject to school-based arrests and referrals by schools to law enforcement.
- Many youth of color, particularly Black youth, are subjected to frequent and routine law enforcement surveillance, including being stopped solely based only on their apparent race and gender, solely because they are in a neighborhood where most people are of color or a perceived “high-crime” neighborhood, or because they are in a White neighborhood.
- Available data indicates that Black youth disproportionately experience the use of force by law enforcement.
- Youth of color may view and react to law enforcement encounters through the prism of their lived experience of negative interactions with law enforcement and from the perspective of troubled relationships and distrust between law enforcement and communities of color, including fears of mistreatment and violence.
- Immigrant youth, especially those who are Latinx and Black, are often policed differently than other immigrants and white youth, consistent with the disparate treatment and experiences of non-immigrant youth of color as described above.
- Local law enforcement has no obligation under federal law to inform federal immigration officials of the presence of immigrant youth (whether lawfully or unlawfully present in the United States) in their jurisdiction. However, in some jurisdictions, local law enforcement officers take advantage of the fact that immigrants may not understand the different legal authority of local law enforcement officers and federal immigration officers, and use their authority to:
 - Demand information from youth they are not entitled to request (e.g. birth certificate, proof of U.S. citizenship) and threaten deportation,
 - Conduct investigatory stops based on youth speaking another language, assuming that only youth who are not lawfully in the United States speak another language,
 - Conduct sweeps in areas where immigrant youth live or frequent, assuming that their national origin makes them predisposed or more likely to be gang-involved,

- Threaten, either implicitly or explicitly, to report youth to federal immigration officials if the youth fails to cooperate with law enforcement during an investigation, investigatory detention, or questioning.
- Discrimination and bias in policing undermine law enforcement agencies' ability to establish a productive relationship with affected communities and impairs the ability to protect and serve the public.

Additional source and background information for this policy can be found in the [Appendix to Policy 6](#).

DEFINITIONS

AGENCY

This law enforcement agency.

BIAS-BASED POLICING OF YOUTH

Use of a youth's actual or perceived race, color, ethnicity or national origin, religion, disability,² gender, gender identity or sexual orientation³ as a motivating factor in initiating or justifying law enforcement action against the youth, rather than the youth's behavior or other information or circumstances that link the youth to suspected unlawful activity.

DEVELOPMENTALLY APPROPRIATE LANGUAGE

Developmentally appropriate language uses vocabulary, syntax, and speed and complexity of communication that matches an individual's developmental level and capacity for understanding. Developmentally appropriate language is necessary to ensure meaningful communication and increases the likelihood that youth are able to understand and assert their constitutional rights.

IMMIGRANT

A person who leaves their country of origin to seek residence in another country.

2. Disability-based discrimination in policing is addressed in [Policy 8: Policing of Youth with Disabilities, Experiencing Mental Health Crises, or Impaired By Drugs and Alcohol](#).

3. See [Policy 7: Fair and Impartial Policing: LGBTQ+ Youth](#)

NATIONAL ORIGIN

Birthplace, ancestry, culture, or language.

PROCEDURAL JUSTICE FOR YOUTH

Procedural justice is predicated on four core principles. Officers: 1) treat people with dignity and respect regardless of social status, 2) give people voice during interactions, 3) use neutral and transparent decision-making as well as explanations for the officer's actions, and 4) treat people in a lawful and trustworthy manner.⁴ SFY believes that an additional two core principles are merited for interactions with youth: 1) express concern and care for the youth's well-being and safety, and 2) do not take advantage of the youth's lack of status and power to their disadvantage.

TRAUMA

As defined by the U.S. Department of Health and Human Services, individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being.

TRAUMA-INFORMED

A trauma-informed **officer**: 1) anticipates that exposure to and experience of trauma is widespread, 2) realizes that the impacts of trauma often lead to reactive, survival behaviors; 3) recognizes hallmarks of traumatic responses, which are often shaped by a perspective of powerlessness, and 4) responds by considering the role trauma may play in a person's response while taking steps to avoid re-traumatization.

A trauma-informed law enforcement **agency** supports its officers' trauma-informed responses by promoting awareness of and training about trauma, policies that require training for trauma-informed skills with the public and among officers.

4. Tom Tyler is the author of the term procedural justice. His definition was first published in *Why People Obey the Law*. (New Haven, CT: Yale University Press, 1990). He further explained this theory in "Procedural Justice, Legitimacy and the Effective Rule of Law," *Crime & Justice*, vol. 30, 2003, pp.283-357. JSTOR, <http://www.jstor.org/stable/1147701>. The operation and impacts of law enforcement's use of Procedural Justice are available on the U.S. Department of Justice website at: <https://cops.usdoj.gov/proceduraljustice>.

PROCEDURE

I. Prohibition on Racially and Ethnically-Biased Law Enforcement

A. Obligation Under the Law to Provide Fair and Unbiased Treatment

The Agency prohibits biased-based policing of youth, including policing based on race, ethnicity or national origin.

1. Law enforcement stops, searches, non-custodial questioning, and arrests of youth will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.
2. Law enforcement interrogations of youth will be conducted pursuant to youth's right of protection against self-incrimination, in accordance with the Fifth Amendment of the U.S. Constitution.
3. Race, color, ethnicity, or national origin can never be used as the sole basis for reasonable suspicion or probable cause in law enforcement actions against youth.
4. Officers shall not express—verbally, in writing, or by other gesture—any prejudice or derogatory comments concerning a youth's race, color, ethnicity, or national origin.
5. Officers shall not coerce and/or deceive youth during interactions, including interrogations, by threatening to arrest or detain youth in the juvenile legal system.

B. Prohibition on Racial and Ethnic Profiling

1. Except as set out in I.B.5 below, race, color, ethnicity, or national origin may not be used as a motivating factor for initiating law enforcement action against youth.
2. Except as set out in I.B.5 below, race, color, ethnicity, or national origin may not be used as a motivating factor for initiating encounters that do not amount to legal detentions or to request consent to search.
3. Youth may not be targeted for any enforcement action because they are members of a racial or ethnic group that appears more frequently in local crime suspect data or live in an area primarily populated by members of a racial or ethnic group.
4. Race, color, ethnicity, or national origin may not be used as motivation or justification for the stop when a stop is not based on a detailed and specific description.
5. When an officer is determining whether there is reasonable articulable suspicion or probable cause to take a law enforcement action against a youth, the officer may consider race, color, ethnicity, or national origin only when reasonable suspi-

cion or probable cause is based on a specific, locally relevant, detailed and reliable description that includes other identifying characteristics or information, and is not based solely on race, color, ethnicity, or national origin.

6. Officers must be able to articulate specific facts and circumstances that support their use of race, color, ethnicity, or national origin in establishing reasonable suspicion or probable cause of youth.

II. Fair and Unbiased Treatment of Immigrant Youth

A. Obligation Under the Law to Provide Fair and Unbiased Treatment

In addition to procedures requiring fair and unbiased treatment of youth based on race, color, ethnicity, and national origin, the Agency prohibits policing of youth motivated by perceived immigration status.

1. All investigatory stops, searches, non-custodial questioning, and arrests of youth will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.
2. Officers may not imply, deceive, or otherwise confuse youth about any connection with officers who have the authority to enforce immigration laws, detention, and deportation.
3. Officers shall not express—verbally, in writing, or by other gesture—any prejudice or derogatory comments concerning a youth's immigration status or national origin.

B. Prohibition on Profiling Immigrant Youth

1. Immigration status can never be used as the sole basis for reasonable articulable suspicion or probable cause in law enforcement actions against youth, nor can officers use the stop to pursue prosecution based on the suspected youth's immigration status.
2. Immigration status may not be used as a motivating factor for initiating law enforcement action against youth.
3. Immigration status may not be used as a motivating factor for initiating nonconsensual encounters, even if they do not amount to legal detentions or to request consent to search.

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4. Youth may not be targeted for any enforcement action because they are members of a racial or ethnic group that appears more frequently in local crime suspect data or inhabits areas where immigrants are believed to live.
5. Immigrant status as manifested by language, race, color, ethnicity, or national origin may not be used as motivation or justification for the stop that is not based on a detailed and specific description.

C. Interviews and Interrogations of Immigrant Youth

1. Officers may not demand proof of nationality or birth country during investigatory stops of youth.
2. Officers may not seek information from youth about immigration status of friends or family members.
3. Officers shall not coerce and/or deceive youth during interactions, including interrogations, by threatening immigration sanctions—including the threat of detention in an ICE facility, or deportation of the youth and/or their families.
4. Officers will ensure effective communication with immigrant youth who have limited English proficiency, consistent with [Policy 4, Miranda Warnings, Waiver of Rights, and Youth Interrogations](#), Sections V.C.2, V.D, and IX.E.

III. Agency Obligations to Ensure Fair and Unbiased Policing

A. Supervisors shall ensure that all personnel in their command are familiar with the content of this policy and operate in compliance with it.

1. Officers will provide information on how to make a complaint of bias-based policing to any youth who seeks to complain on their own behalf, or any other person who seeks to complain on behalf of a youth.
2. If the person is unwilling to make a complaint directly to the officer, the officer shall inform the person about procedures to contact a supervisor, or about another means within the Agency to make or file a complaint.
3. Supervisors shall ensure that no retaliation, intimidation, coercion, or adverse action is taken against any person, including a member of the Agency, who disclosed information and/or participates in the investigation of a complaint.

B. The Agency will hold officers accountable for any violations of this policy.

1. Officers and employees who have observed or are aware of officers who have engaged in bias-based policing must specifically report such incidents to a supervisor and through any existing Agency internal investigations protocol, providing all information known to them before the end of the shift during which they made the observation or became aware of the incident.
2. The Agency will investigate and resolve allegations of bias-based policing in accord with the Agency's supervision and disciplinary processes.
3. The Agency will investigate and resolve allegations that officers or employees knew of incidents of bias-based policing but did not report them. Supervisors will use the Agency's supervision and/or disciplinary processes to hold officers and employees accountable for failing to report bias-based policing.
4. The Agency will protect officers and employees who report allegations of bias-based policing from retaliation and harassment.
5. The Agency will investigate any situations in which officers used language, displayed symbols, or made gestures commonly viewed as offensive to, or indicative of, bias towards any person based on ethnic or racial characteristics.

IV. Response to Calls for Service and Complaints Based on Bias Against Youth

Officers shall not take law enforcement action based on information from members of the public about youth that— based on the totality of circumstances of the incident—of-ficers know or should know is the product of, or motivated by, bias based on any of the personal characteristics listed above in the definition of Biased-Based Policing of Youth.