

# **RACIAL PROFILING**

4 HOURS

**REFERENCES:**

**ACA 12-12-1401**  
**ACA 12-12-1402**  
**ACA 12-12-1403**  
**ACA 12-12-1404**  
**CLEST RULE 1002**  
**ACA 12-12-1405**

Act 1207 of 2003

Act 2136 of 2005  
Act 1048 of 2007  
Arkansas Statutes 12-12-1401 through 12-12-1404  
Act 1458 of 2009

*A Resource Guide on Racial Profiling Data Collection Systems*, U.S. Department of Justice. 9-2002

*Critical Issues in Racially Biased Policing*, Police Executive Research Forum, Washington, D.C. 2-2003

**TRAINING AIDS:**

Power Point Presentation

**Course Name:**

Racial Profiling

**Terminal Objective:** To give the officer an overview of the concept of Racial Profiling and to give the officers guidelines to prevent the act of Racial Profiling.

**Enabling OBJECTIVES:** Following this block of instruction, the student will be able to:

- Recognize the legislative requirements governing law enforcement to ensure commissioned officers understand the requirements set forth in law regarding racial profiling.
- Describe a model policy that a department could potentially adopt concerning racial profiling.
- Define the following terms: culture, diversity, prejudice, implicit, discrimination, ethnic, and bias.
- List actions agencies and officers can take to ensure their agencies are not racial profiling.
- Discuss effective communication techniques.
- Understand the definition of racial profiling.
- Understand the concept of professionalism in the field of police work.
- Understand the Arkansas rules of Criminal Procedure the stop and detention of persons.

**TIME ALLOTTED:** 4 Hours

**INSTRUCTIONAL METHOD:** Lecture

## MODULE 1

### I. INTRODUCTION

During this block of instruction, we will discuss the legislative requirements governing law enforcement to ensure commissioned officers understand the requirements set forth in law regarding racial profiling. We will describe a model policy that a department could potentially adopt concerning racial profiling.

### II. BODY

#### A. Arkansas Statute 12-12-1401 Racial Profiling Defined Slide#3 &4

(a) As used in this subchapter, "racial profiling" means the practice of a law enforcement officer's relying to any degree on race, ethnicity, national origin, or religion in selecting which individuals to subject to routine investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity.

(b) "Racial profiling" does not include reliance on the criteria in combination with other identifying factors when the law enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect and the description is thought to be reliable and locally relevant.

In basic terminology, A law enforcement decision that is based on race, to ANY degree is racial profiling.

#### B. Arkansas Statute 12-12-1402 Prohibition on Racial Profiling Slide #5

(a) No member of the Division of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas Department of Transportation, a county sheriff's department, or a municipal police department, constable, or any other law enforcement officer of this state shall engage in racial profiling.

(b) The statements of policy and definitions contained in this subchapter shall not be construed or interpreted to be contrary to the AR Rules of Criminal Procedure or the US Constitution of the AR Constitution.

#### C. Arkansas Statute 12-12.1403 Policies Slide #6

(a) The Division of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas Department of Transportation, all county sheriffs' departments, municipal police departments, constables, and all other law enforcement agencies of this state shall adopt a written policy that:

- (1) Prohibits racial profiling as defined in § 12-12-1401;
- (2) Requires that law enforcement officers have reasonable suspicion prior to a stop, arrest, or detention;
- (3) Defines reasonable suspicion to ensure that individuals are stopped for valid reasons and that race, ethnicity, national origin, or religion is not the basis for stops for violations for which nongroup members would not be stopped;

**D. Reasonable Suspicion vs. Probable Cause**

**Slide #7**

(a) Reasonable Suspicion

(1) Facts or Circumstances which would lead a reasonable officer to believe a crime has been, is being, or will be committed.

(2) For Detention purposes: a felony or misdemeanor involving injury or theft of property.

(b) Probable Cause

(1) Facts or Evidence that would lead a reasonable person to believe that a crime has been, is being or will be committed and the person arrested is responsible.

**E. Arkansas Statute 12-12.1403 Policies**

**Slides #8 - 10**

(4) Requires law enforcement officers to identify themselves by full name and jurisdiction and state the reason for the stop and when possible present written identification;

(5) Provides for a systematic review process by supervising personnel within a department or law enforcement agency for investigating allegations of racial profiling to determine whether any officers of the law enforcement agency have a pattern of stopping or searching persons, and if the review reveals a pattern, requires an investigation to determine whether a trend is present indicating that an officer may be using race, ethnicity, national origin, or religion as a basis for investigating other violations of criminal law;

(6) When a supervisor or other reviewer has detected a pattern of racial profiling, provides timely assistance, remediation, or discipline for individual law enforcement officers who have been found to be profiling by race, ethnicity, national origin, or religion;

(7) Ensures that supervisors will not retaliate against officers who report racial profiling by others; and

(8) Provides standards for the use of in-car audio and visual equipment, including the duration for which the recordings are preserved.

**F. Arkansas Statute 12-12.1404 Training**

**Slide #11**

(a) Each law enforcement agency shall provide annual training to all officers that:

(1) Emphasizes the prohibition against racial profiling;

(2) Ensures that operating procedures adequately implement the prohibition against racial profiling and that the agency's law enforcement personnel have copies of, understand, and follow the operating procedures; and

(3) Includes foreign language instruction, if possible, to ensure adequate communication with residents of a community.

(b) The course or courses of instruction and the guidelines shall stress understanding and respect for racial, ethnic, national, religious, and cultural differences and development of effective and appropriate methods of carrying out law enforcement duties.

**G. CLEST RULE 1002**

**Slide #12**

In order to maintain continued employment, law enforcement officers must successfully complete a minimum of twenty-four (24) hours of CLEST approved training annually (to include firearms qualification, duty to intervene training, and 4 hours of racial profiling.)

**H. Arkansas Statute 12-12.1405 RACIAL PROFILING HOTLINE  
Slides #13 -14**

The Attorney General shall establish and publish procedures to receive complaints concerning racial profiling. The procedures shall include the operation of a toll-free hotline and may include procedures to receive written complaints through the mail, email, or facsimile. The Attorney General shall maintain statewide statistics on complaints received concerning racial profiling.

Arkansas Attorney General  
Racial Profiling Hotline  
(870) AGO-4404(246-4404)

The Attorney General annually shall report statewide statistics on complaints concerning racial profiling received under this section during a year no later than October 1 of the next year to the Legislative Council and the Task Force on Racial Profiling. If the Attorney General suspects that a violation of law has occurred, the Attorney General shall refer the matter to the appropriate prosecuting attorney or other appropriate legal authority.

**I. Model Policy for Racial Profiling**

**Slide #15**

Please go over the model policy for Bias-Based Policing from Arkansas Associations of Chiefs of Police.

**III. CONCLUSION**

During this block of instruction, we discussed the legislative requirements governing law enforcement to ensure commissioned officers understand the requirements set forth in law regarding racial profiling. We described a model policy that a department could potentially adopt concerning racial profiling.

MODULE 2

**I. INTRODUCTION**

THE STUDENT WILL BE ABLE TO GIVE AN OVERVIEW OF THE CONCEPT OF RACIAL PROFILING AND GIVE EXAMPLES OF GUIDELINES TO PREVENT RACIAL PROFILING. THE STUDENT WILL BE GIVEN AN OVERVIEW OF THE SKILLS NEEDED TO DEAL WITH OTHER CULTURES.

STUDENTS WILL BE ABLE TO:

DEFINE THE FOLLOWING TERMS: CULTURE, DIVERSITY, PREJUDICE, IMPLICIT, DISCRIMINATION, ETHNIC, AND BIAS.

LIST ACTIONS AGENCIES AND OFFICERS CAN TAKE TO ENSURE THEIR AGENCIES ARE NOT RACIAL PROFILING.

DISCUSS EFFECTIVE COMMUNICATION TECHNIQUES.

UNDERSTAND THE DEFINITION OF RACIAL PROFILING.

UNDERSTAND WHAT IT MEANS TO POLICE IN A WAY THAT IS BIAS-FREE.

UNDERSTAND THE CONCEPT OF PROFESSIONALISM IN THE FIELD OF POLICE WORK.

## II. BODY

### A. VOCABULARY Slide#3 &4

- **Culture** – the customary beliefs, social forms and material traits of a racial, religious, or social group.
- **Diversity** – the process of differing from one another.
- **Prejudice** – an emotional, rigid attitude toward a group of people.
- **Bias** – to cause to have a prejudice
- **Implicit** – implied or understood although not directly expressed.
- **Discrimination** – simply stated it means to draw a distinction.
- **Ethnic** – This term refers to those who share common traits of history, national origin, and cultural patterns.

### B. BIAS Slide #5

Bias is a normal human attribute – even well-intentioned people have biases.

- Biases are often unconscious or “implicit” and can influence our actions.
- Understanding how implicit bias can affect our perceptions and behavior is the first step to “override” implicit bias.

Policing based on biases can be unsafe, ineffective, and unjust.

### C. MECHANICS OF PREJUDICE Slide #6

Prejudice is a point of view.

- A pre-judgment about a person or class of persons composed of opinions or bias.
- It is socially learned and usually grounded in misconceptions, misunderstandings, and inflexible generalizations.

- Prejudice is the result of psychological filtering and screening which every person uses all the time.
- It is not a static attitude.

#### **D. MECHANICS OF DISCRIMINATION Slide #7**

Discrimination is an action or behavior.

- Discrimination is differential treatment based on unfair categorization.
- It is a denial of justice based on prejudice.
- When we act on our prejudices we engage in discrimination.
- Discrimination often involves keeping people out of activities or places because of the group they belong to.

#### **E. PREJUDICE VS. DISCRIMINATION Slide #8**

- Because prejudice is a point of view it is difficult, if not impossible to regulate.
- Discrimination is a behavior which can be addressed and corrected.

#### **F. STEREOTYPING Slides #9 - 12**

- A stereotype is an exaggerated belief associated with a particular group; the function of which is to justify or rationalize one's attitude and conduct towards members of that group.
- Stereotypes teach the basic principles of prejudice.
  - They are deliberately and systematically created to feed, sustain, and explain the need to repress, control, or have power over the targeted group.
  - Through systematic teaching, repetition, and reinforcement, stereotypes become firmly embedded in our thoughts and actions.
- Remember that stereotypes are based at least in part on fact.
- However, if police use stereotypes to justify a different enforcement approach to the targeted group it is wrong.
- Because stereotypes predetermine our perception and responses, they prevent us from interacting in an open and honest manner with individuals of the targeted group.

#### **G. PROFILING Slide #13**

- The principle of profiling is a viable and practical law enforcement activity when done correctly.
  - As an officer you will be taught what the profile of an individual criminal activity normally is.
- You should also be aware of the illegality of profiling *based on race, ethnicity, national origin, or religion*.



## **H. WHEN RACIAL PROFILING EXISTS: Slides # 14 -17**

- The Rights and Human dignity of the citizen are trampled.
  - Strains police-citizen community relations.
  - The credibility of Law Enforcement as well as the public perception and trust of the department is compromised.
  - Agency incurs expensive litigation.
- Law Enforcement will lose the ability to use certain evidence obtained as a result in court.
  - If done to ANY degree, likely to be thrown out of court, even if:
  - Cited for a violation.
  - Evidence is found.
  - Arrest has been made.
- Is not effective policing: criminals adjust.
- One of the greatest problems associated with racial profiling is the perceptions of the individuals involved in the process.
- Racial profiling does not include the use of a personal or vehicle description in the attempt to locate a particular suspect or suspects.

## **I. THE CHANGING LAW ENFORCEMENT ROLE**

**Slide #18 - 19**

- Our role now requires us to:
  - Intervene in conflicts between cultures.
  - Communicate effectively with cultures.
  - Develop positive relationships with different cultures.
  - Become integrated with the community you serve.
- STEPS LAW ENFORCEMENT CAN TAKE TO REDUCE IMPLICIT BIAS AND STEREOTYPING
  - Contact Theory
  - Controlled Behavior
  - Strong Communication Skills
  - Slow Down

## **J. COMMUNICATION**

**Slide#20-26**

Law Enforcement Officers must communicate at least on a fundamental level to do their job. The United States is becoming more and more diverse and law enforcement are dealing with communication issues more now than ever before.

Cultural groups develop their own language patterns. Even though cultural groups speak the same language, there are differences that are unique to a particular group.

Effective Communication techniques include: patience, effective listening, a clear, concise message, testing for understanding, and effective non-verbal communication.

Profanity should NEVER be used. Profanity has a negative effect on the professional image of the officer. Ethnically offensive terminology turns people off.

Any use of police jargon with the public is unacceptable. Most people in the public do not understand police jargon. The use of jargon can confuse and demean others, even if it is not your intention.

You should never have an overbearing demeanor. Your badge should not be used to accomplish task or discourage feedback. Your attitude should display understanding, sympathy, cultural awareness, and not display bias or prejudice.

You should never have an overbearing demeanor. Your badge should not be used to accomplish task or discourage feedback. Your attitude should display understanding, sympathy, cultural awareness, and not display bias or prejudice.

Make sure your body language is not inappropriate by having pleasant facial expressions, appropriate body position, appropriate eye movements and hand gestures.

#### **K. PROFESSIONALISM SLIDES #27-28**

While traffic enforcement and pedestrian contacts are routine for Law Enforcement, the encounters are often upsetting to motorist and pedestrians. Law enforcement should strive to make each contact valuable, leaving the individual with an understanding that the Law Enforcement Officer has performed a necessary task in a fair and professional manner.

WHAT YOU SAY AND HOW YOU SAY IT DIRECTLY REFLECTS YOUR LEVEL OF PROFESSIONALISM.

You can show your professionalism when dealing with the public and each other by doing the following:

be tactful in performing your duties

control your temper

exercise discretion

do not engage in argumentative discussions

be attentive to persons seeking assistance or information

be attentive to persons desiring to register complaints or give evidence.

YOU SHOULD CONDUCT YOURSELF IN A WAY THAT INSPIRES THE CONFIDENCE AND TRUST OF THE ARKANSAS PUBLIC

#### **L. AGENCY ACTIONS SLIDE #29**

It is important that your agency have a policy concerning racial profiling and at the very minimum:

When complaints are made, act on them.

Collect data on vehicle stops.

First-line supervisors must be aware of what the street officers are doing.

Attempt to hire and retain only the best officers.

Do not use the requirement of data collection as an excuse for not doing your job.

Make use of the data

## **M. PROCEDURAL JUSTICE SLIDES #31 -34**

- Describes the idea that how individuals regard the justice system is tied more to the perceived fairness of the process and how they were treated rather than to the perceived fairness of the outcome.”
- “In other words, even someone who receives a traffic ticket or loses his case in court will rate the system favorable if he feels that the outcome is arrived at fairly.”
  
- Professor Tom Tyler of Yale Law School  
The Four Principles of Procedural Justice:
  - 1) being fair in processes
  - 2) being transparent in actions
  - 3) providing opportunity for voice
  - 4) being impartial in decision making“External procedural justice also leads to relationships in which the community has increased trust and confidence in the police and believes there are shared interests, goals and values between the community and police.”
- “Underlying procedural justice is the idea that the criminal justice system must constantly be demonstrating its legitimacy to the public it serves.
- “If the public ceases to view its justice system as legitimate, dire consequences ensue.”
- “People are more likely to comply with the law and cooperate with law enforcement efforts when they feel the system and its actors are legitimate.”
- Five strategies for implementation by police departments:
  - 1) “Humanize the experience by being approachable, accessible, making eye contact with suspects/witnesses , using body language to convey respect and thanking citizens for cooperation.”
  - 2) “Explain what you are doing and why; avoid confusion and intimidation while promoting compliance.”
  - 3) “Create opportunities for individuals to be heard. Give people an opportunity to speak.”
  - 4) “Consider environmental factors in criminal justice facilities. Ensure that building rules and instructions are clearly posted and easy to read.”
  - 5) “Use research to show the value of procedural justice, helping to counteract skepticism.”

## **N. CHECK YOURSELF**

**Slide #35**

- Make sure you check your ego PRIOR to your shift.
  - Remember you are only one decision away from being the story or being the difference.
  - Don't take things personal.
  - Know your limitations.
  - If you witness it, have that Courageous Conversation with them and/or report to your Chain of Command.
  - Accountability and Ethics
  - Our rights end where the other persons rights begin.

## **O. HOTLINE SLIDE #36**

**Arkansas Attorney General Racial Profiling Hotline**  
**(877) AGO-4404**  
**(877) 246-4404**

## **III. CONCLUSION**

During this block of instruction, we given an overview of the concept of racial profiling and given examples of guidelines to prevent racial profiling.

MODULE 3 & 4

## **I. INTRODUCTION SLIDE #1**

THE STUDENT WILL UNDERSTAND THE ARKANSAS RULES OF CRIMINAL PROCEDURE FOR THE STOP AND DETENTION OF PERSONS.

## **II. BODY**

### **A. PRE-ARREST CONTACTS SLIDES #2 - #4**

**Rule 2.1 Definitions** (For the purposes of this Article, unless the context otherwise plainly requires: "Reasonable Suspicion" means a suspicion based on facts or circumstances which of themselves do not give rise to the probable cause requisite to justify a lawful arrest, but which give rise to more than a bare suspicion; that is, a suspicion that is reasonable as opposed to an imaginary or purely conjectural suspicion.

- This is more than a gut feeling. An officer must be able to articulate the reason or reasons that give rise to the suspicion. Before taking action to detain a person, the officer should determine the reason or reasons for the stop. The officer most likely will be required to document the reasons for the stop and possibly testify about those actions in court at a later date.

## **Rule 2.2 Authority to Request Cooperation**

- (a) A law enforcement officer may request any person to furnish information or otherwise cooperate in the investigation or prevention of crime. The officer may request the person to respond to questions, to appear at a police station, or to comply with any other reasonable request.
- (b) In making a request pursuant to this rule, no law enforcement officer shall indicate that a person is legally obligated to furnish information or to otherwise cooperate if no such legal obligation exists. Compliance with the request for information or other cooperation hereunder shall not be regarded as involuntary or coerced solely on the ground that such a request was made by a law enforcement officer.

## **Rule 2.3 Warning To Persons Asked To Appear At A Police Station**

- If a law enforcement officer acting pursuant to this rule requests any person to come to or remain at a police station, prosecuting attorney's office or other similar place, he shall take steps as are reasonable to make clear there is no legal obligation to comply with such a request.
- If a reasonable person would conclude he or she is not free to leave or deny the request, then a court may conclude that an arrest has occurred.

## **B. RULE 3. DETENTION WITHOUT ARREST SLIDES #5-8**

### **Rule 3.1 Stopping and Detention of Person: Time Limit**

- A law enforcement officer lawfully present in any place may, in the performance of his duties, stop and detain any person who he reasonably believes is committing, has committed, or is about to commit (1) a felony, or (2) a misdemeanor involving danger of forcible injury to persons or of appropriation of or damage to property, if such action is reasonably necessary either to obtain or verify the identification of the person or to determine the lawfulness of his conduct. An officer acting under this rule may require the person to remain in or near such place in the officer's presence for a period of time as is reasonable under the circumstances. At the end of such period the person detained shall be released without further restraint, or arrested and charged with an offense.

### **Rule 3.2 Advice as to Reason for Detention.**

- A law enforcement officer who has detained a person under Rule 3.1 shall immediately advise that person of his official identity and the reason for the detention.

### **Rule 3.3. Use of Force**

- A law enforcement officer acting under the authority of Rule 3.1 may use such nondeadly force as may be reasonable under the circumstances to stop and detain any person for the purposes authorized by Rules 3.1 through 3.5

### **Rule 3.4. Search for Weapons.**

- If a law enforcement officer who has detained a person under Rule 3.1 reasonably suspects that the person is armed and presently dangerous to the officer or others, the officer or someone designated by him may search the outer clothing of such person and the immediate surroundings for, and seize, any weapon or other dangerous thing which may be used against the officer or others. In no event shall this search be more extensive than is reasonably necessary to ensure the safety of the officer or others.
  - Note: Reasonable suspicion to conduct a stop does not automatically authorize the officer to conduct a frisk. The officer must be able to articulate the reasons that give rise to the belief the person is armed and presently dangerous to the officer or others.

### **Rule 3.5 Stop of Witness to Crime**

- Whenever a law enforcement officer has reasonable cause to believe that any person found at or near the scene of a felony is a witness to the offense, he may stop that person. After having identified himself, the officer must advise the person of the purpose of the stop and may then demand of him his name, address, and any information he may have regarding the offense. Such detention shall in all cases be reasonable and shall not exceed fifteen (15) minutes unless the person shall refuse to give such information, in which case the person, if detained further, shall immediately be brought before any judicial officer or prosecuting attorney to be examined in reference to his name, address, or the information he may have regarding the offense.

## **C. RULE 10. GENERAL PROVISIONS SLIDES #9 - 11**

### **Rule 10.1. Definitions**

For the purpose of this Article, unless a different meaning is plainly required:

- (a) "Search" means any intrusion other than an arrest, by an officer under color of authority, upon an individual's person, property, or privacy, for the purpose of seizing individuals or things or obtaining information by inspection or surveillance, if such intrusion, in the absence of legal authority or sufficient consent, would be a civil wrong, criminal offense, or violation of the individual's rights under the Constitution of the United States or this state.
- (b) "Seizure" means the taking of any person or thing or the obtaining of information by an officer pursuant to a search or under color of authority.
- (h) "Reasonable cause to believe" means a basis for belief in the existence of facts which, in view of the circumstances under and purposes for which the standard is applied, is substantial, objective, and sufficient to satisfy applicable constitutional requirements.
- (i) "Reasonable belief" means a belief based on reasonable cause to believe.

### **Rule 10.2. Permissible Objects of Seizure**

(a) Unless prohibited by other express provision, the following are subject to seizure:

- (i) evidence of or other information except privileged information concerning the commission of a criminal offense or other violation of the law;
- (ii) contraband, the fruits of crime, or things possessed in violation of the laws of this state;

- (iii) weapons or other things used or likely to be used as means of committing a criminal offense; and
- (iv) an individual for whose arrest there is reasonable cause, or who is unlawfully held in confinement or other restraint.

### **III. CONCLUSION**

During this block of instruction, we have examined the Arkansas Rules of Criminal Procedure for the Stop and Detention of Persons