

# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	<b>SECTION NUMBER</b>  <b>22-109J</b>	<b>PAGE NUMBER</b>  <b>1 of 6</b>
		<b>SUBJECT:</b>  <b>ENFORCEMENT, APPREHENSIONS AND INVESTIGATIONS: Racial and Biased-Based Policing - Special Investigator</b>	
<b>Approved By:</b>   <b>Secretary of Corrections</b>		<b>Original Date Issued:</b> <b>04-16-15</b>	<b>Replaces Version Issued:</b> <b>N/A</b>
		<b>CURRENT VERSION EFFECTIVE: 04-16-15</b>	

<b>APPLICABILITY:</b>	_ ADULT Operations Only	<input checked="" type="checkbox"/> JUVENILE Operations Only	_ DEPARTMENT-WIDE
-----------------------	-------------------------	--	-------------------

**POLICY**

The Kansas Department of Corrections is committed to the elimination of racial or biased-based actions in investigations and the protection of constitutional rights for all persons regardless of race, ethnicity, national origin, gender, or religion.

**DEFINITIONS**

**Crime:** An act or omission defined by law and classified as felonies, misdemeanors, traffic infractions, or cigarette or tobacco infractions as provided in K.S.A 21-5102.

**Enforcement Action:** Any law enforcement act during a nonconsensual contact with an individual(s) in 1) determining the existence of probable cause to take into custody or to arrest an individual; 2) constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a vehicle; or 3) determining the existence of probable cause to conduct a search of an individual or a conveyance.

**Probable Cause:** Reasonable grounds to believe a person has committed or is committing a crime or that a place contains specific items connected with a crime, supported by specific and articulable facts, based on the officer's observations, knowledge, training and experience, including information from a reliable source.

**Racial or Other Biased-Based Policing:** The unreasonable use of race, ethnicity, national origin, gender or religion by a law enforcement officer in deciding to initiate an enforcement action. It is not racial or other biased-based policing when race, ethnicity, national origin, gender or religion is used in combination with other identifying factors as part of a specific individual description to initiate an enforcement action.

**Reasonable Suspicion:** A particularized and objective basis, supported by specific and articulable facts, to suspect a person has committed, is committing or is about to commit a crime. Reasonable suspicion may be based on the officer's observations, knowledge, and experience as well as reasonably trustworthy information known to the officer at the time an action is taken.

**Stop:** A seizure occurring when a law enforcement officer, by force or some show of authority, restrains a person's liberty.

## **PROCEDURES**

### **I. General Provisions**

- A. Special Investigators are prohibited from engaging in racial or other biased-based policing as provided in this policy or prohibited by law.
  - 1. Acts that constitute racial or other biased-based policing include but are not limited to:
    - a. Using race, ethnicity, national origin, gender, or religion as a general indicator or predictor of criminal activity.
    - b. Using the race, ethnicity, national origin, gender, or religion of a person in the course of any law enforcement action unless the officer is seeking to detain, apprehend, or otherwise be on the lookout for a suspect sought in connection with a crime who has been identified or described in part by race, ethnicity, national origin, gender, or religion.
    - c. Using the race, ethnicity, national origin, gender, or religion of a person in the course of any reasonable action in connection with a status offense, such as, runaways, child in need of care, missing persons, and other non-criminal care taker functions unless the person is identified or described in part by race, ethnicity, national origin, gender, or religion.
    - d. Using race, ethnicity, national origin, gender, or religion shall not be motivating factors in making law enforcement decisions and/or actions, unless the person is identified or described in part by race, ethnicity, national origin, gender, or religion.
    - e. Using race, ethnicity, national origin, gender, or religion as the basis for discretionary law enforcement i.e. who they will cite, arrest, warn, search, release or which person(s) to treat with respect and dignity.
- B. Special Investigators shall report to their supervisor any incidents of racial or other biased-based policing they have direct knowledge of.
- C. Special Investigators violating the provisions of this policy or the state or federal statutes pertaining to racial or other biased-based policing or violating the constitutional rights of any person as provided in this policy is subject to corrective action or discipline. Such discipline includes actions appropriate in response to the nature of the violation based on facts revealed in the investigation of the complaint and consistent with applicable laws, rules and regulations, labor contracts, resolutions, ordinances or policies, including but not limited to, suspension or termination of employment. Discipline may also include retraining, counseling, or any other action deemed appropriate to deter repeated violations.

### **II. Special Investigator Supervisor Responsibilities**

- A. Supervisors are responsible for oversight to ensure all Special Investigators use reasonableness and properly apply the legal standards for taking enforcement actions or applying law enforcement discretion.
- B. Supervisors shall review citizen complaints and reports alleging violations of this policy referred by the Office of the Attorney.
- C. Supervisors shall take appropriate action, including but not limited to coaching and discipline, to assure compliance with this policy and related state and federal statutes.
- D. Supervisors should be cognizant of any pattern or practice of possible discriminatory treatment by individual Special Investigators or groups of Special Investigators. If such pattern or practice is observed, the supervisor must take immediate steps to further investigate; to intervene in such activity; take corrective action; and report the activity and action taken to superiors.

### **III. Training**

- A. All Special Investigators shall attend and successfully complete annual racial or other biased-based policing training.
  - 1. Distance learning training technology is allowed for racial or other biased-based policing training.
  - 2. The required racial and other biased-based policing training may include directly or indirectly related to training intended to address racial and biased-based policing issues.
- B. Training exemptions referenced in K.S.A. 22-4610 subsection (d)(2)(F) shall be in accordance with the authority granted to the Executive Director of the Kansas Commission on Peace Officers Standards and Training per K.S.A. 74-5607a, which in pertinent part provides "The director may extend, waive or modify the annual continuing education requirement, when it is shown that the failure to comply with the requirements was not due to the intentional avoidance of the law."

### **IV. Complaints of Racial or other Biased-Based Policing**

- A. Any person who believes he/she has been subjected to racial or other biased-based policing may file a complaint with the Office of the Kansas Attorney General.
  - 1. Complaint forms may be obtained at the Attorney General's Office, Memorial Hall, 2nd Floor, 120 SW 10th Street Topeka, KS 66612, on the website at [www.ksag.org](http://www.ksag.org), or by calling the Kansas Attorney General's Office at (785) 296-3751 (toll-free at 800-432-2310.)
  - 2. Complaints may be mailed to the Kansas Attorney General's Office located at Memorial Hall, 2nd Floor, 120 SW 10th Street Topeka, KS 66612, or via fax at 785-291-3699.
- B. No person who believes they have been subjected to racial or other biased-based policing shall be discouraged, intimidated, or coerced from filing such a complaint.
- C. No person shall be discriminated against or subjected to retribution because they have filed such a complaint.

### **V. Agency Requirements**

- A. This agency will conduct ongoing community outreach and communications efforts. Such outreach and communications shall include:
  - 1. A statement of the person's right to file a complaint with the agency and/or the Office of the Attorney General.
  - 2. An explanation of how to file a complaint with the agency,
  - 3. An explanation of how to file a complaint with the Office of the Attorney General, and
  - 4. A description of the agency's complaint process.
- B. This policy is a public document and any person requesting to see it during normal business hours will be provided an opportunity to examine it.
- C. The agency shall file a report no later than July 31 of each year to the Office of the Attorney General as required by statute.
  - 1. The report is available through the Office of the Attorney General's website at [www.ksag.org](http://www.ksag.org).

- a. Such report shall be for the period beginning July 1 of the previous year through June 30 of the current year.
- b. Such report shall be available for examination by any person requesting to see it during normal business hours.

**VI. This IMPP shall serve as agency policy for the Kansas Department of Corrections and no facility orders shall be allowed on this subject matter.**

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None.

**REFERENCES**

K.S.A. 21-5102, 22-4610, 74-5607a

**ATTACHMENTS**

None