**Instructors:** M. Roth

**Course Goal:** To provide students with the awareness of their own personal biases.

**Module Goal:** To allow students to measure biases and assess how that might influence policing.

**Learning Objective:** Learners will distinguish biases and their relationships to current law, case law and policy.

**Module Time:** 2 hour

| Classroom size should have a projector, screen, and computer with internet access for PowerPoint. |
| Classroom large enough to accommodate up to 35 students |
| Computer or laptop with PowerPoint capabilities |
| Computer / laptop wireless remote |
| Computer / laptop with internet capabilities for instructor |
| Projector to use for PowerPoint presentation |
| Projector screen |
| Speakers |
| Extension cords with 4-outlets for each table (4) |
| Student roster |

**Module Summary:**

Learners, working collaboratively, will engage in a facilitated discussion on Bias-Free Policing.
### Lexipol 402 Racial or Bias Based Profiling

<table>
<thead>
<tr>
<th>Outline</th>
<th>Instructor notes</th>
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</thead>
<tbody>
<tr>
<td><strong>A.</strong> Purpose</td>
<td><strong>Show Video</strong> POST Bias Based Policing</td>
</tr>
<tr>
<td>1. Do not engage in racial/bias based profiling</td>
<td>Scenario 1</td>
</tr>
<tr>
<td>2. Do not violate related laws</td>
<td>Facilitated Discussion:</td>
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<td><strong>B.</strong> Definition 402.1.1</td>
<td><strong>ASK:</strong></td>
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<tr>
<td>1. An inappropriate reliance on factors such as</td>
<td>1.1 <em>Two cars committed the same violation. Why might the officer have stopped this one?</em></td>
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<tr>
<td>a) race,</td>
<td><strong>ASK:</strong></td>
</tr>
<tr>
<td>b) ethnicity,</td>
<td>What are the protected classes we are talking about?</td>
</tr>
<tr>
<td>c) national origin,</td>
<td><strong>SHOW:</strong> Discussion 1 - Sgt. briefing 14th Amendment/4th amendment- (7:30min)</td>
</tr>
<tr>
<td>d) religion,</td>
<td><strong>ASK/Discussion:</strong></td>
</tr>
<tr>
<td>e) sex,</td>
<td>1.2 <em>Describe the 14th Amendment of the US Constitution.</em></td>
</tr>
<tr>
<td>f) sexual orientation,</td>
<td>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 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.”</td>
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<tr>
<td>g) economic status,</td>
<td><strong>ASK:</strong></td>
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<td>h) age,</td>
<td>How does the 14th Amendment protect illegal immigrants?</td>
</tr>
<tr>
<td>i) cultural group,</td>
<td><strong>What in the 14th Amendment addresses the illegal immigrant who is arrested?</strong></td>
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<tr>
<td>j) disability or</td>
<td><strong>How does this relate in the current topic of Immigration?</strong></td>
</tr>
<tr>
<td>k) affiliation with any other similar identifiable group</td>
<td><strong>How does this affect your enforcement of US Immigration laws?</strong></td>
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<tr>
<td>2. Use as a factor in deciding whether to provide service or</td>
<td></td>
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<tr>
<td>3. Take law enforcement action without</td>
<td></td>
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<tr>
<td>a) <strong>Independent reasonable suspicion and/or</strong></td>
<td></td>
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<tr>
<td>b) <strong>Probable cause.</strong></td>
<td></td>
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<tr>
<td><strong>C.</strong> Policy 402.2 - Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used</td>
<td></td>
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</table>
as the basis for providing differing levels of law enforcement service or the enforcement of the law.

D. 402.3- Racial or Biased based Profiling Prohibited without other factors race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause such as suspect description

E. 402.4.1 Reason for Detention
1. Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.
2. To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.
3. Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

F. 402.5 Administration
1. Each January, the Patrol Division Commander shall
   a) Review the Department's effort to prevent racial/bias based profiling and submit an overview, including public

SHOW: Interviews 1: (6:10 min)
ASK: 1.3 Describe Whren v. United States

ASK: How does recent case law City of San Jose vs. Superior Court (Smith) relate to the Whren decision? (Cell Phones/CPRA)

Follow-Up: How are you mitigating those decisions currently within your unit?

SHOW: Scenario 2

Facilitated Discussion:

ASK:
2.1 How would you ensure that the drivers knew your investigation would not be impacted by any bias?

Show Discussion 2 -Sgt. briefing 14th Amendment/4th amendment- (6:15 min)

Discussion
2.2 Describe additional ways to address this situation.

ASK What are some other things you might say to the drivers?

Show Interviews 2: (3:20 min)

Task 2.3
ASK Do you think the officers should address the driver's personal bias? Why, or why not?

Decision-Making

Show Intro (0:40)
Show Scenario 3 (2:00min)

Task 3.1
ASK: How would you handle this call?

Show Discussion 3- (6 min)

3.2 ASK: Would you have made contact with the individuals? Follow-Up: Why or why not?
concerns, to the Chief of Police.
b) This overview shall not contain any identifying information regarding any specific complaint, citizen, or officer.

G. 402.6 Supervision and Accountability
1. Supervisors shall ensure that all personnel in their command are familiar with the content of this policy and are operating in compliance with it.
   a) This supervisory responsibility includes monitoring employee compliance with this General Order
   b) Determining if noncompliance is
      (1) Intentional or
      (2) Because of a lack of training and initiating the appropriate

H. 402.7 Training
1. Every 5 years or sooner if deemed necessary to keep current with changing trends
2. Per Penal Code § 13519.4(i).

Show Interviews 3 (4 min)
3.3 ASK What steps could be taken to educate both sides of the community on issues like this?

The Community
Show Intro
Show Scenario 4

4.1 ASK: How would you resolve this situation?
Show Discussion 4 (6:45 min)

4.2 ASK What actions should the partner officer take?
Show: Interviews 4 (6:00 min)

4.3 ASK: What actions can officers take to help build community trust?
Show Scenario 5 (6:30 min)

5.1 ASK: Describe effective community partnerships in your area. What makes them successful?
Show Discussion 5 (5:30 min)

5.2 ASK As an individual, what can you do to build and maintain community trust?
Show Interview 5 (5:45 min)

5.3 ASK What community resources are available in your area? How do you maintain or improve agency interaction with those resources?

If time permits;
SHOW POST Procedural Justice Video
Resources:

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 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."

Case Law 14th

US v. Wong Kim (1898) Kim born here by Chinese Parents left to China, came back and denied entry. FTB citizen.

More recently, the U.S. Supreme Court ruled in Zadvydas v. Davis (2001) that "due process" of the 14th Amendment applies to all aliens in the United States whose presence may be unlawful, involuntary or transitory.

Three key Supreme Court decisions in 1886, 1896 and 1903 laid the 14th Amendment basis for the consistent ruling of the court that aliens, legal and illegal, have constitutional protection in criminal and certain civil affairs in the justice system.

In Yick Wo v. Hopkins (1886), the court ruled that:

Though the law itself be fair on its face, and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons of similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution [the 14th Amendment].

In Wong Win v. United States (1896), the court ruled that:

It must be concluded that all persons within the territory of the United States are entitled to the protection by those amendments [Fifth and Sixth] and that even aliens shall not be held to answer for a capital or other infamous crime, unless on presentment or indictment of a grand jury, nor deprived of life, liberty or property without due process of law.

In summary, the entire case of illegal aliens being covered by and protected by the Constitution has been settled law for 129 years and rests on one word: "person." It is the word "person" that connects the dots of "due process" and "equal protection" in the 14th Amendment to the U.S Constitution and it is those five words that make the Constitution of the United States and its 14th amendment the most important political document since the Magna Carta in all world history.

"Aliens," legal and illegal, have the full panoply of constitutional protections American citizens have with three exceptions: voting, some government jobs and gun ownership

http://thehill.com/blogs/pundits-blog/immigration/255281-yes-illegal-aliens-have-constitutional-rights
Whren v US

Facts of the case

Whren and Brown were driving in a 'high drug area.' Some plainclothes officers, while patrolling the neighborhood in an unmarked vehicle, noticed Whren and Brown sitting in a truck at an intersection stop-sign for an usually long time. Suddenly, without signaling, Whren turned his truck and sped away. Observing this traffic violation, the officers stopped the truck. When they approached the vehicle, the officers saw Whren holding plastic bags of crack cocaine. Whren and Brown were arrested on federal drug charges. Before trial, they moved to suppress the evidence contending that the officers used the traffic violation as a pretext for stopping the truck because they lacked either reasonable suspicion or probable cause to stop them on suspicion of drug dealing. The District Court denied the motion to suppress and convicted the petitioners. The Court of Appeals affirmed. The Supreme Court granted certiorari.

Question

Did the officers conduct an unreasonable search and seizure in violation of the Fourth Amendment?

Conclusion

UNANIMOUS DECISION - MAJORITY OPINION BY ANTONIN SCALIA

No. The unanimous Court held that as long as officers have a reasonable cause to believe that a traffic violation occurred, they may stop any vehicle. In the present case, the officers had reasonable cause to stop the petitioners for a traffic violation since they sped away from a stop sign at an 'unreasonable speed' and without using their turn signal. Thus, since an actual traffic violation occurred, the ensuing search and seizure of the offending vehicle was reasonable, regardless of what other personal motivations the officers might have had for stopping the vehicle. Furthermore, the Court rejected the claim that the anxiety, confusion, and haste which the petitioners experienced from the stop-and-search outweighed the government's interest in traffic safety. While the Fourth Amendment does require a balancing test between a search-and-seizure's benefits and the harm it might cause to the individual, such a test only applies to unusually harmful searches and seizures. There was nothing unusually harmful about this traffic stop.
Bias Free Policing

Racial Profiling VS Racism

- What is the definition of Racial Profiling?
- What is the definition of Racism?
- What is the difference between Racial Profiling and Racism?

INTRO

- INTRODUCTION
- Who's at Risk?
- MACRO PC 13519.4

Racial Profiling VS Racism

- Racism = HATE-MOTIVATED
- Racial Profiling = Using RACE as a PRETEXT for engaging in criminal activity
- RACIAL PROFILING IS NOT RACISM
- What does that mean?

We cannot be engaged in racial profiling action without being racist.

PC 13519.4

- Provides definition of Racial Profiling
- Defines obligations of the 4th and 14th Amendments, including the obligation to RaciallyNeutral Policing

Avoiding Racial Profiling

- UNDERSTAND
  - Members of ALL races/demographic groups must be engaged. ALL behaviors that are
    nondiscriminatory are acceptable - not engaging in racial profiling.
  - Members of ALL races/demographic groups must
    - NOT engage in racial profiling.
  - Members of ALL races/demographic groups must
402 - Bias-Based Policing

- Bias-Based Policing - An inappropriate reliance on characteristics such as race, ethnicity, national origin, religion, sexual orientation, gender, or any combination of the above, as the basis for providing differing law enforcement services or treatment (Penal Code § 153.2).
Whren v United States
- CIRCS
- Did not form a vehicle occupied by "police". African American man at high altitude.
- Inexperienced officer said it was a step in the normal course of events.
- Accused is alleged to have engaged in illegal activity.
- Told to stop and officers observe contraband in the vehicle.
- October 2019, arrested, 46 y.o.

14th Amendment
- All persons have the right to the equal protection of the laws. A defendant is presumed innocent until proven guilty.
- Governmental officials police all accused as a public official without a warrant or judicial process or any other proceeding.

4th and 14th Amendments
- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.
- Unreasonable searches and seizures are prohibited by the 4th Amendment.
- All searches and seizures must be reasonable. A warrant is required for searches and seizures.
- If a warrant is obtained, the search cannot exceed the scope of the warrant.
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