

DIRECTIVE NUMBER 400-06-13

DATE: July 1, 2013

TO: Department of Labor Special Investigators

FROM: Lana Gordon, Secretary of Labor

SUBJECT: Racial and Other Biased Based Policing

I. Purpose

- A. The purpose of this policy is to prohibit the practice of racial and other biased-based policing by employees of the Kansas Department of Labor (KDOL).
- B. Individuals are free to walk and drive our streets, highways, and other public places without law enforcement interference so long as they obey the law. They also are entitled to enjoy personal safety and an expectation the government will engage in the prevention of crime and the apprehension of those persons who violate the law. This includes an expectation to drive and walk our public ways without subjection to risks posed by law breakers including drivers violating traffic laws.
- C. The government, including law enforcement, is charged with protecting these rights for all persons, regardless of race, ethnicity, national origin, gender, or religion.
- D. Law enforcement officers of the Kansas Department of Labor are required to be observant of unusual occurrences and suspected or actual law violations, and to act upon those observations. It is this proactive enforcement that keeps people free from crime, our streets and highways safe to drive upon, and leads to the detection and apprehension of criminals.
- E. This policy is intended to assist employees of the KDOL to safely accomplish their law enforcement mission in compliance with legal and constitutional requirements and in a manner respecting the dignity of all persons and to enhance positive relationships with the public. It is intended to support a strong deterrent message to actual and potential offenders that they are likely to be detected, identified, and prosecuted if they violate the law. This policy is also intended to protect our employees from unwarranted accusations when they act within the dictates of the law and policy.

II. Policy Statement

- A. It is the policy of the KDOL to function in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to only stop or detain persons when reasonable suspicion exists to believe they have committed, are committing, or are about to commit a violation of the law and to do so without interjecting personal biases into the law enforcement decision process.

III. Scope

A. This policy applies to all Kansas Department of Labor special investigators.

IV. Definitions

- A. "Crime" means 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.
- B. "Enforcement action" means 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.
- C. "Probable Cause" means 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 observation, knowledge, training and experience, including information from a reliable source.
- D. "Racial or other biased-based policing" means 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.
- E. "Reasonable suspicion" means 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.
- F. "Stop" is a seizure occurring when a law enforcement officer, by force or some show of authority, restrains a person's liberty.
- G. Acts that constitute racial or other biased-based policing include but are not limited to:
1. Using race, ethnicity, national origin, gender, or religion as a general indicator or predictor of criminal activity.
 2. 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.

3. 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 noncriminal care taker functions unless the person is identified or described in part by race, ethnicity, national origin, gender, or religion.
4. 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.
5. 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.

V. Procedures

- A. Law enforcement officers of the KDOL are prohibited from engaging in racial or other biased-based policing as provided in this policy or prohibited by law.
- B. Law enforcement officers of the KDOL shall report to their supervisor any incidents of racial or other biased-based policing they have direct knowledge of.
- C. Any law enforcement officer of the KDOL 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 not limited to, demerits, suspension or termination of employment. Discipline may also include retraining, counseling, or any other action deemed appropriate to deter repeated violations.
- D. All law enforcement officers of the KDOL are responsible for oversight to ensure all officers use reasonableness and properly apply the legal standards for taking enforcement actions or applying law enforcement discretion.
- E. The Chief Attorney of the Kansas Department of Labor shall review citizen complaints and reports filed on investigative actions by law enforcement officers of the KDOL and randomly observe officers actions on investigative actions.
- F. The Chief Attorney of the Kansas Department of Labor shall take appropriate action, including but not limited to coaching and discipline to assure compliance with this policy and related state and federal statutes.
- G. All Law enforcement officers of the KDOL should be cognizant of any pattern or practice of possible discriminatory treatment by individual officers or groups of officers. If such

pattern or practice is observed, the agency member must take immediate steps to further investigate; to intervene in such activity; take corrective action; and report the activity and action taken to superiors.

VI. TRAINING

- A. All Law enforcement officers of the KDOL 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 KSA 22-4610 subsection (d)(2)(F) shall be in accordance with the authority granted to the Executive Director of the Kansas Commission on Police Officer Standards and Training per KSA 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.

VII. COMPLAINTS OF RACIAL OR OTHER BIASED-BASED POLICING BY KSCPOST

- A. Any person who believes they have been subjected to racial or other biased-based policing by a law enforcement officer of the KDOL may file a complaint with the KDOL Chief Attorney and/or the Kansas Attorney General’s office.
- B. The KDOL Chief Attorney shall communicate directly with the complainant of any allegation of Racial or Bias-Based Policing by law enforcement officers of the KDOL. The Chief Attorney shall insure that a citizen complaint form is filled out and the complainant shall be assured that the allegation will be fully investigated. Sustained complaints shall result in appropriate disciplinary action that include, but not limited to, remedial training, censure, reprimand, probation, suspension and/or termination.
- C. 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.
- D. No person will be discriminated against or subjected to retribution because they have filed such a complaint.

VIX. AGENCY REQUIREMENTS

- A. The KDOL may conduct ongoing community outreach and communications efforts.
 - 1. Such outreach and communications may include:

- a) A statement of the person's right to file a complaint with the agency and/or the Office of the Attorney General;
- b) An explanation of how to file a complaint with the agency;
- c) An explanation of how to file a complaint with the Office of the Attorney General; and
- d) 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 KDOL shall file a report no later than July 31 of each year to the Attorney General as required by statute. Such report shall be for the period beginning July 1 of the previous year through June 30 of the current year. Such report shall be available for examination by any person requesting to see it during normal business hours.

Signature on file

Lana Gordon, Secretary of Labor

Rescissions: None	Expiration Date: Continuous
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