

WEBER COUNTY SHERIFF'S OFFICE		POLICY AND PROCEDURES	
SUBJECT: Constitutional Safeguards - Criminal Investigations, Bias Based Profiling		CHAPTER/SECTION NO.: 1.7	
EFFECTIVE DATE: 10/7/03		REVIEW DATE:	
AMENDS/SUPERSEDES: See attached sheet		APPROVED: _____ Sheriff	
STANDARD NUMBER: 1.2.3, 1.2.9			

## 1.7 Policy

1.7.1 It is the policy of the Weber County Sheriff's Office to:

- A. Respect and protect the individual constitutional rights of all persons.
- B. Take firm and decisive action against any member who, in the course of duty, deliberately and knowingly, without justification, violates the individual constitutional rights of any person.
- C. Certain individual constitutional rights are viewed as being particularly susceptible to abuse during the conduct of law enforcement activities. Among these are constitutional prohibitions against:
  1. Unreasonable searches and seizures.
  2. Self incrimination.
  3. Deprivation of life or liberty without due process of law.
  4. Violating the right to assistance of legal counsel.
  5. Depriving persons of their First Amendment rights to freedom of speech, press and assembly.
  6. Cruel and Unusual Punishment.

- 1.7.2 Deputies must be sensitive to these constitutional issues and remain alert for case law interpretations and statutory augmentation arising out of the above topics. Some restrictions and considerations that apply are:
- A. Absent exigent circumstances, probable cause, or consent to search, search warrants will be obtained prior to searches, unless an exception to search warrant requirements applies.
  - B. Use of only necessary and proper physical force.
  - C. Ensuring the physical safety of persons in custody.
  - D. Arrests should be based on personal observation, probable cause, or as directed by a warrant.
  - E. **Persons in custody who are being questioned will be advised of their rights per the Miranda Decision.**
  - F. **Confessions and admissions should be voluntary and never the result of coercion or threat.**
  - G. **Allowing the arrestee's attorney to have reasonable access to his/her client in custody.**
  - H. **If possible, persons in custody are arraigned without delay and must appear before a judge within 48 hours unless a probable cause statement has been signed by a judge.**
  - I. **To the extent possible, no pretrial publicity will be allowed if it would tend to prejudice a fair trial.**
- 1.7.3 Intentional denial of a person's constitutional rights may result in criminal or civil sanctions against those involved, as

well as disciplinary action against Sheriff's Office employees.

1.7.4 Juvenile procedures are addressed in chapter 31 of this policy/procedure manual.

1.7.5 Bias Based Profiling; Unauthorized Stopping, Detaining, Searching of Persons.

- A. Weber County Sheriff's Deputies are prohibited from stopping, detaining, or searching any person or conducting asset seizures and forfeitures when the action is **solely motivated** by consideration of race, color, ethnicity, or gender. Refer to 45.13.2, Traffic Operations; 1.6.4, Limits to Authority.
- B. Bias based profiling does not include circumstances where the deputy has information that includes a race, color, ethnic or gender descriptor concerning a suspect for a specific crime, offense or incident that is subject to investigation, where that information is reliable and is likely to lead to the discovery of that individual.
- C. When conducting traffic stops or detaining or searching persons, deputies should focus on a persons conduct, behavior or other specific information that causes the deputy to have reasonable concerns for the safety, welfare or property rights of that person or others.
- D. Deputies must have reasonable suspicions supported by articulated facts, that the person contacted regarding their identification, activity, or location has been, is, or is about to commit a crime; or is currently presenting a threat or cause for alarm regarding the safety or property rights of themselves or others; or by behavior or demeanor appears to be in need of assistance or direction.

- E. All allegations of violation of this policy will be investigated by the Internal Affairs Section and a report of findings and determinations will be presented to the Sheriff for final disposition and appropriate disciplinary or corrective action if the allegations are substantiated. **Refer to Chapter 38, Internal Affairs, for policies governing citizen complaints, record keeping, internal audits, annual reports, and public access.**
1. Depending on the circumstances of the incident, disciplinary action may include but not be limited to any of, or combination of the following:
    - a. Documented Counseling
    - b. Notice of Reprimand
    - c. Notice of Administrative Action (includes suspension, demotion or termination)
    - d. Corrective Action Plan
  2. Complaints involving allegations of bias based profiling will be identified and summarized in an annual report on Internal Affairs Investigations by the Standards and Training Bureau.
    - a. In conjunction with this report, an annual administrative review of our agency's bias based profiling practice shall be documented, including any known citizen concerns in this area.
- F. **The Training Section will provide training on this policy during orientation of newly hired deputies and civilian employees, as well as include ongoing training on federal, state and case law and issues involving this policy at least annually and/ or during critical policy testing.**