Racial or Other Bias-Based Policing
Overview of the Statutes

Definitions
Prohibition
Agency Policy
Annual Report
Complaint Procedure
Racial or Other Bias-Based Policing Statutes

• Definition of ROBBP:
  1. Unreasonable use
  2. Race, Ethnicity, Gender, Religion, National Origin
  3. In deciding to initiate a law enforcement action

Racial or Other Bias-Based Policing Statutes

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Racial or Other Bias-Based Policing Statutes

Reasonable Use:

To use those factors

\textit{in combination with}

other identifying factors as part of a

\textit{specific individual description}
Racial or Other Bias-Based Policing Statutes

- **Definition of ROBBP:**
  1. Unreasonable use
  2. Race, Ethnicity, Gender, Religion, National Origin
  3. In deciding to initiate a law enforcement action

Racial or Other Bias-Based Policing Statutes

Bias Bases

- **RACE**
- **ETHNICITY**
- **NATIONAL ORIGIN**
- **GENDER**
- **RELIGION**

*NOT age, disability, sexual orientation, gender identity, socio-economic...*

Racial or Other Bias-Based Policing Statutes

- **Definition of ROBBP:**
  1. Unreasonable use
  2. Race, Ethnicity, Gender, Religion, National Origin
  3. In deciding to initiate a law enforcement action
Law Enforcement Actions

- Nonconsensual, and...

Law Enforcement Actions

- Arrest, or
- Stop, or
- Search

Racial or Other Bias-Based Policing Statutes

It is unlawful
to use racial or other biased-based policing in [law enforcement actions].
Racial or Other Bias-Based Policing Statutes

- Not the only recourse
- Advantages of local complaints
- Exception

Agency Requirements

- Policy
- Officer Training
- Annual Reporting

Agency Requirements

- Policy
  - Definition
  - Prohibition
  - Training
  - Discipline
  - Community outreach and communication
  - Public record
Agency Requirements

Officer Training

Agency Requirements

Annual reporting

WWW.AG.KS.GOV
Agency Requirements

- Policy against Racial and Other Bias-Based Policing
- Officer Training
- Annual reporting

Community Members

- Training Advisory Board
  - Review & Recommend Training Curricula
- Community Advisory Board
  - Policy Development
  - Education
  - Community Outreach & Communications

Optional

- Advisory Boards
- Comprehensive Plans
- Data Collection (pedestrian/traffic stops)
Complaints

- Any person who feels subjected to Racial or Other Bias-Based Policing can file
- Forms online
- File with Local Agency or Attorney General
- Attorney General notifies Local Agency
- CPOST

Procedure for Complaints

Kansas Attorney General
Derek Schmidt

Fair and Impartial Policing:
A Science-Based Perspective
Fair and Impartial Policing, LLC

This session will address:

- **Foundational Issues:**
  - Stakeholder views
  - Terminology and Definitions
- **Rethinking Biased Policing:**
  - Research on human bias
  - Reframing the issue of biased policing
- **Implications and Interventions:**
  - Achieving Fair and Impartial Policing

Stakeholder Views
What do Community Members and LE think of Racial Profiling?

• Who thinks it exists?
• What do they say it is?
• When do they say it happens?
• What groups are subject to it?
• How do they define it?
• Why do they think it happens?
The Presumptive Equation

Police with explicit biases ("racist") \rightleftharpoons \text{Biased Policing Profiling}

Focus Groups-Community

- Traffic stops
- Racial profiling

Focus Groups - Community

- "It happens"
- "Bad" things = racial profiling (perception)
- Lack of Respect
  - Lack of Courtesy \rightleftharpoons \text{Race}
  - Lack of Information
Focus Groups - Community

- "It happens"
  - Kansas "Normative Experience"
  - Consideration in daily choices: route, car, etc

- Lack of Respect
  - Lack of Courtesy
  - Lack of Information ↔ Race

Focus Groups - LEO

- Traffic stops
- Racial profiling

Focus Groups – LEO

- Default stop "justification"
- Lose – Lose situation
Sum of Community and LEO

- Minority Community: Racial Profiling, even when it MAY NOT BE occurring
- LEO: No Racial Profiling, even when it MAY BE occurring

Terminology

Racial Profiling

Terminology

Racial Profiling

stops made solely on the basis of race
Kansas 2005 - 2011

"Racial profiling" means the practice of a law enforcement officer . . . relying, as the sole factor, on race . . . in selecting which individuals to subject to routine investigatory activities . . .

Other Terminology

- National Organization of Black Law Enforcement Executives ("NOBLE") and
- Police Executive Research Forum ("PERF") moved away from the term "Racial Profiling"

- NOBLE/CALEA: "Bias-based policing"
- PERF: "Racially Biased Policing"

RBP Definition

- RBP occurs when LE inappropriately considers race or ethnicity in deciding with whom and how to intervene when acting as an enforcer of the law
"Inappropriately"

- Whom to watch, whom to investigate
- Whom to stop (pedestrian or driver)
- Whom to treat with dignity, respect, courtesy
- What questions to ask
- Whom to search, and whom will you ask for a consent to search
- Whom to arrest
- When to use force, including deadly force

Kansas

Racial and Other Biased-Based Policing

Racial and Other Biased-Based Policing

- Unreasonable use
- Race, Ethnicity, National Origin, Gender or Religion
- Law Enforcement Actions
  - Probable cause to arrest
  - Reasonable suspicion to detain
  - Probable cause to search
Fair and Impartial Policing

Definition ➔ Policy

Kansas

Fair and Impartial Policing

- Positive
- Aspirational
- The focus isn’t on “problem”
- Not blaming
- Neutral terms, not inflammatory
Fair and Impartial Policing

Tied to research

The Presumptive Equation

Ill-intentioned ("racist") LEO ↔ Racially Motivated Policing/Profiling

Produces distortions, thwarts change, it is inaccurate

Mischaracterization of Issue
The Presumptive Equation

| Police with explicit biases ("racist") | Biased Policing Profiling |

It is incorrect - It is too narrow

Science

- Human beings have biases
- All human beings: all races, all personalities, all people

Science

- Biases impact perceptions
- Biases impact behavior
- Biases impact decisions
Science

Because they are human, even the best officers have biases, and might practice biased policing.

Science

"Implicit System"

- Reactive rather than reasoned
- Processing constant sensory input
- Quick categorizations/generalizations
  - Safe – Dangerous
  - Strong – Weak
  - Friend – Foe

"Implicit System"

- Reactive rather than reasoned
- Processing constant sensory input
- Quick categorizations/generalizations

- Produces mental shortcuts – facilitating split second reactions
"Implicit System"

- Social Psychologists - "Implicit System"
  - Reactive rather than reasoned
  - Processing constant sensory input
  - Quick categorizations/generalizations
- Produces mental shortcuts – facilitating split second reactions

WORKS BELOW CONSCIOUS AWARENESS

"Implicit System"

WORKS BELOW CONSCIOUS AWARENESS

"Implicit System"

- Blink Response
- Thinking . . . Without Thinking

Blink by Malcolm Gladwell
“Implicit System”

Blink Response

Linking people, on sight, to the

STEREOTYPES

associated with their group

“Implicit System”

- All people, all professions
- All races, ethnicities,
genders

“Implicit System”

How does the Blink Response, or
our Implicit System Manifest?
"Implicit System"

✓ It is doctors not adequately treating patients of different races
✓ It is law firms not promoting blacks and women
✓ May be Sports Media being slow to hire women editors

"Implicit System"

• Image of RP white LEO picking on Black driver--- It's bigger than that:
• It's an officer perceiving danger when there is none
• It's a minority citizen equating a uniform with bias/racism

"Implicit System"

☐ Believing the BMW driver over the 'old beater' pick-up driver
☐ Treating the prostitute who reports rape unlike other victims
☐ Not patting down the white female when indicators are there
"Implicit System"

Stereotypes fill in when we are facing ambiguous stimuli

Linking people to stereotypes ....

**Britain's Got Talent**

Implicit System: Bias

*Employment Setting*

- 5,000 job applications/resumés
- 1,300 job newspaper ads
- Comparable qualifications

**EXCEPT**

- European American (Todd, Meredith) or African American names (Darnell, Tamika)
Implicit System: Bias

**Employment Setting**

- 5,000 job applications/resumés
- 1,300 job newspaper ads
- Comparable qualifications
- European names (Todd, Meredith)

- 50% more likely to be interviewed

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Implicit System: Bias

**Health Care Setting**

- 220 Physicians
- Hypothetical patient medical file (written)
- Randomly black or white patient
- Diagnose & recommend treatment


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Implicit System: Bias

**Health Care Setting**

- Higher diagnosis rate for blacks CAD
Implicit System: Bias

Health Care Setting

- Higher treatment rate for whites

Implicit System: Bias

- Assessed Doctors' explicit racial bias
- Assessed Doctors' implicit racial bias

Implicit System: Bias

- Assessed Doctors' explicit racial bias
  - No correlation
Implicit System: Bias

- Assessed Doctors' implicit racial bias
  - Yes correlation

Implicit System: Bias

- Pediatricians 'treating' child patients
- Surgery-related pain
- Pediatricians provided increased treatment (pain meds) to white children disproportionately to black children
- Consistent with pro-white bias on Implicit Attitude Test

Sabin & Greenwald 2012

Implicit System: Bias

- Ethnicity and race (e.g., Nosek, Banaji and Greenwald, 2002)
- Gender (e.g., Banaji and Hardin, 1996)
- Sexual orientation (e.g., Dasgupta and Rivera, 2008)
- Body shape (e.g., Bessenoff and Sherman, 2000)
- Age (e.g., Perdue and Gurtman, 1990)
- Etc.
Implicit System: Bias
Key Points

- Impacts our perceptions
- Operates below consciousness (i.e. outside our own awareness)
- And

Even in people who consciously reject racial/ethnic stereotypes

Implicit System: Bias
Key Stereotype

Race ↔ Crime
Implicit System: Bias Research

The Black - Crime Association/Stereotype Influences Visual Processing

Implicit System: Bias Research

Visual Perception Study

- Subjects "primed" with images

- Subjects completed object recognition task

Research

Levels of Image Degradation

![Frame 1](image1.png)

![Frame 20](image2.png)

![Frame 41](image3.png)

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Research

Visual Perception Study: Hypothesis

- If:
  Subjects have Black – Crime implicit association

- Then:
  Black male face prime will result in ID of crime-relevant objects fastest

- And: faster than White male face prime

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9/16/2018
Research

Visual Perception Study: Hypotheses

- If: Black - Crime implicit association
- Then: Black male face prime = ID of crime-relevant objects fastest
- And: faster than White male face prime
- And: No effect of prime for crime-irrelevant objects

Crime Related Objects

![Bar chart](chart-title)

All objects

![Bar chart](darker-crime-faded-neutral)
Research
Visual Perception Study: Conclusions

- Exposure to Black male faces facilitated the identification of crime-relevant objects.

- Exposure to White male faces inhibited the identification of crime-relevant objects.

Research

The Black - Crime Association
Influences Behavior

Research
Shooter Study

- On the computer screen:
  - White or Black people
  - Armed or unarmed

- Threat/Shoot or No Threat/Don't Shoot

Research

• What is the impact of RACE on the perception of THREAT

• Two Measures
  – Speed
  – Errors

Summary of Results

• Reaction Times:
  – Slower to recognize "Threat" with a white target
  – Slower to recognize "No Threat" when it is a black target

Summary of Results

• Errors:
  – Incorrectly shoot the Black with No Gun
  – Incorrectly NOT shoot the White with gun
Research

More recent research reveals a "Turban Effect"

Similar methodology:
- Muslim-style clothing or turbans
- Armed and unarmed

Unkelbach, Forgas & Denson 2006

The Turban Effect

- Subjects were more likely to shoot Muslim-looking characters
  - even unarmed

- They also found a gender effect
  - Subjects were more likely to shoot men than women (even unarmed men)

Research

- Shoot/Don't Shoot Study
- Police as subjects

Pennebaker/Plant, 2006, Basic and Applied Social Psych 26(2)
Research Results

- Race based Over-vigilance
- Race based Under-vigilance

Research Implications?

- Increased scrutiny of people of color?
- Ambiguous behavior on the part of people of color interpreted as more aggressive?
- More aggressive response to people of color?
- Under-response to people not of color—Whites, Asians?

Research

Officer Surveys

- Years of experience
- Attitudes toward African-Americans*
- Beliefs about race & criminality*
- Level and Quality of contact with African-Americans – at work & off work
- Hours of diversity training
Research Results

➢ Weaker implicit bias-response:
  ➢ Positive personal contacts ("contact theory")
  ➢ Years of experience
  ➢ Repeated random exposure

Research Results

➢ Stronger implicit bias-response:
  ➢ Negative personal contacts
  ➢ Negative attitudes toward African-Americans

Research Results

➢ No effect on blink response:
  ➢ Diversity Training
Research Results

• 237 Officers
• 14 States
• Errors
• Speed


Summary of Research Results

• Not merely ill-intentioned or racist officers producing biased policing
• Brain’s implicit system
  – Produces mental shortcuts (“Blink responses”)
  – Links people on sight to group stereotypes
  – Including unconscious racial stereotypes
  – Possibly contradicting conscious values

The Double Edged Sword of Blink Response

• It is Unreliable
• It is Unsafe
• It is Ineffective
• IT IS UNJUST
The First Step

Is to Understand Blink Response

Realize we ALL have Unconscious Biases

Recognize our own Unconscious Biases

The 'old' equation

Police with explicit biases ("racist") → Biased Policing Profiling
The "New" Perspective
Science Based – Fair and Impartial Policing

- Allows minority community members to stop chasing that straw man, recognize shared human condition
- Can reduce police defensiveness and minimization, recognize shared human condition
- Can provide direction and motivation for change efforts

Change Efforts

- Racist officers
- Well meaning humans who aspire to fair and impartial policing

Key Implication of the Science

- EVERY HUMAN is subject to unconscious bias
- EVERY AGENCY, because they hire humans, must be proactive to produce fair and impartial policing
Where Bias May Manifest

- Recruitment, Hiring
- Policy, Enforcement
- Training

Where Bias May Manifest

- Supervision, Accountability
- Assessing Policies, Practices, Procedures
- Measurement of Progress

Comprehensive Plan to Produce FIP

- Policies
- Recruitment and hiring
- Training
- Measurement / Assessment