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# Iowa State University Department of Public Safety

Directive: 1.2

SUBJECT: LIMITS OF AUTHORITY

EFFECTIVE DATE: 09/01/2018

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## POLICY:

The Iowa State University Department of Public Safety shall take active measures to ensure that officers exercise their authority within constitutional and statutory limitations.

## DEFINITIONS:

"Bias profiling" refers to any police-initiated action that relies on the race, ethnicity, national origin, religion, sexual orientation, gender, or physical ability of an individual rather than the behavior of that individual or information that leads the police to a particular individual who has been identified as being engaged in or having been engaged in criminal activity. Two corollary principles follow from this definition:

1. Police may not use race, ethnicity, national origin, religion, sexual orientation, gender, or physical abilities as factors in selecting whom to contact, whom to stop, and whom to search; and
2. Police may use any of the above to determine whether a person matches a specific description of a particular suspect.

"Gender expression" refers to the physical manifestation of one's gender identity through clothing, hairstyle, voice, mannerisms, etc. (typically referred to as masculine or feminine.) Gender expression will generally correspond with gender identity, but not exclusively.

"Gender identity" refers to one's internal sense of being a man, a woman, neither, both, or another gender identity (e.g., non-binary).

"Interrogation" refers to the questioning of suspects and hostile witnesses from whom officers attempt to obtain crime-related facts, admissions, or confessions.

"Interview" refers to the planned questioning of the following: witnesses, victims, confidential informants, cooperating individuals, and/or others who have information regarding an accident, crime, or other incidents.

"Preferred name" refers to the non-birth name/pronouns that a transgender, gender non-conforming, or other individual uses in self-reference (this may or may not correspond to the individual's legal name.)

"Racial profiling" includes any law enforcement initiated action that relies upon the race, ethnicity, or national origin of an individual rather than the behavior of that individual.

"Strip Search," according to Iowa statute 702.23, means having a person remove or arrange some or all of the person's clothing so as to permit an inspection of the genitalia, buttocks, anus, female breasts or undergarments of that person or a physical probe of any body cavity.

"TGNC" refers to Transgender/Gender Non-Conforming.

"Transgender individual" refers to the term used both as an umbrella term and as an identity. Broadly, it refers to those who do not identify with or are uncomfortable with their assigned gender and gender roles. As an identity, the term often refers to anyone who transgresses traditional sex and gender categories. Trans people may or may not choose to alter their bodies hormonally or surgically.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except railroad trains. "Vehicle" does not include:

- a) Any device moved by human power.
- b) Any device used exclusively upon stationary rails or tracks.
- c) Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.

Any steering axle, dolly, auxiliary axle, or other integral part of another vehicle, which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.

## **PROCEDURE:**

### **1.2.1 LEGALLY MANDATED AUTHORITY OF SWORN OFFICERS**

The following shall define the legally mandated authority vested in sworn agency personnel:

- A. The U.S. Constitution, the Iowa Constitution, and the Iowa Code define the scope and limits of law enforcement authority as it pertains to the enforcement of laws, statutes, ordinances, and arrests.
  1. The legally mandated authority and responsibilities vested in sworn agency personnel are defined by applicable state statutes. The department does not have more than one category of sworn agency personnel.
  2. Pursuant to Code of Iowa section 262.13, the board of regents authorizes any institution under its control to commission employees as peace officers. Such officers shall have the powers, privileges, and immunities of regular peace officers when acting in the interests of the institution by which they are employed.
  3. Pursuant to Code of Iowa sections 80B.3 and 801.4, departmental officers shall be considered peace and/or law enforcement officers. Such officers shall be responsible for the enforcement of the criminal laws of this state as well as for the prevention and detection of crime.
  4. The department shall provide as rapidly as practicable for the adequate training of departmental officers at the Iowa Law Enforcement Academy or an equivalent program unless they have already received such training.
  5. Officers shall be formally certified by the Iowa Law Enforcement Academy upon graduation from their respectively assigned basic training schools.
- B. On duty authority and responsibilities shall include:
  1. On-duty officers working within jurisdictional boundaries shall be expected to take all steps reasonable and consistent with their assignment to protect life and property and to enforce state statutes.
  2. On-duty officers working outside of defined jurisdictional boundaries should avoid overzealous involvement in law enforcement-related situations; concerns for life and property must be paramount before taking action. Officers should then make every effort practicable to notify supervisory and affected agency personnel. Further actions should be taken only after carefully considering relevant tactical and liability issues.
  3. An on-duty officer who takes or causes enforcement action, regardless of jurisdiction, shall detail the pertinent facts and circumstances in appropriate documentation.
  4. As provided by 18 U.S. Code 3041, police officers may make arrests for federal crimes; however, such action shall only be taken upon the direction of a supervisor.
- C. Authority and responsibilities while off-duty shall include the following:
  1. Off-duty officers shall have the same law enforcement authority granted any citizen. Such officers shall be discouraged from taking enforcement action.
  2. Off-duty officers observing a situation requiring enforcement action within jurisdictional boundaries should first notify on-duty personnel whenever possible. Further actions should be taken only after carefully considering relevant tactical and liability issues.
  3. Off-duty officers observing a situation requiring enforcement action outside jurisdictional boundaries should notify the affected agency when safety concerns exist.

4. An off-duty officer who takes or causes enforcement action, regardless of jurisdiction, shall be considered on-duty at the time the action is taken. The officer shall detail the pertinent facts and circumstances in an incident report.

### **1.2.2 AUTHORITY TO CARRY AND USE WEAPONS**

The following shall define the authority for sworn officers to carry and use weapons:

- A. The authority granted peace officers by Code of Iowa section 262.13, Code of Iowa sections 80B.3 and 801.4, and board of regents policy, provides the legal authority to carry and use weapons by sworn personnel in the performance of their duties.
- B. Pursuant to Code of Iowa section 724.6, a professional permit to carry weapons issued to a certified peace officer shall authorize that peace officer to go armed anywhere in the state at all times.
- C. 18 U.S. Code 926B permits qualified active law enforcement officers to carry concealed firearms anywhere in the United States. Iowa State University Police Department officers electing to carry a concealed weapon under the authority granted by 18 U.S.C. 926B must, by law, be in possession of their Iowa State University Police Department photo identification card and must not be under the influence of an intoxicant. Furthermore, 18 U.S.C. 926B does not speak to a broadened police authority. Officers remain bound by department policy in matters related to the exercise of police authority.
- D. Additional direction in the carry and use of weapons by agency personnel in the performance of their duties is located in the department Use of Force and Firearms Regulations policies.

### **1.2.3 CONSTITUTIONAL REQUIREMENTS OBSERVED**

The following describes applicable constitutional requirements during interviews and interrogations and shall govern procedures for ensuring compliance with all applicable constitutional requirements associated with a person's access to counsel:

- A. Interrogations, including those of juveniles, shall be conducted in accordance with all applicable constitutional requirements, state statutes, and departmental directives.
  1. Information obtained from interrogations should be documented via one or more of the following approved methods: handwritten notes recorded by an officer, handwritten or typed voluntary statements, audiotape, and/or videotape.
  2. Due process definitions exclude confessions, and any evidence obtained thereof, when physical force, threats, promises, or coercive tactics are used; such methods shall not be used during interrogations.
  3. Factors compromising confession admissibility include suspect age, mentality, education, nationality, criminal experience, reasons for arrest, rights advisories, whether basic necessities were provided during questioning, and general interrogation methods.
  4. Generally, no more than two officers should conduct an interrogation. However, certain circumstances and officer discretion could dictate otherwise.
  5. The officers conducting the interrogation should be attentive to any undue stress or feelings of intimidation caused by the number of officers present and/or other related conditions.
  6. Restroom and refreshment needs shall not be denied or unduly delayed.
  7. The Miranda Warning shall be provided to suspects when the elements of custody and interrogation are both present. Custody shall exist when persons are under arrest or when they believe their freedom of movement is significantly curtailed. For purposes of this directive, interrogation shall mean asking incriminating questions.
  8. *Miranda v. Arizona* (1966) codified the following due process protections: that the suspect has the right to remain silent; that if the suspect gives up the right to remain silent, anything the suspect says can and will be used against him or her in a court of law; that the suspect has a right to speak to an attorney and have an attorney present when being questioned by law enforcement officers; and that if the suspect cannot afford an attorney, one will be appointed to represent the suspect before any questioning occurs.
  9. Officers should ensure that suspects understand each of the foregoing rights as have been read to them.
  10. Translators should be provided in a timely manner when deemed necessary.
  11. Officers shall obtain verbal and/or signed waivers before beginning custodial interrogations.
  12. Waivers should be recorded on departmentally-approved forms whenever possible.

13. Once an individual has invoked the right against self-incrimination, questioning may not resume unless that person reinitiates the process. Any desire by a suspect to reinitiate an interrogation should be clearly documented by officers. Advice from prosecutorial officials may be sought as deemed necessary.
  14. *Massiah v. United States* (1964) established that once criminal prosecution has been initiated, the government may not deliberately elicit statements from a defendant without a waiver. The *Massiah* Rule does not require custody and is purely crime specific. Before interrogation may commence for an offense already charged, the defendant must have been advised of and voluntarily waived the right to counsel.
- B. Field interviews may be conducted when one or more of the following conditions are present:
1. The officer has reasonable suspicion that the subject may have committed, may be committing, or may be about to commit a crime;
  2. The officer believes the subject may be a hazard to self or others;
  3. The officer believes the interview may have a preventive effect.
- C. Interviews, including those with juveniles, shall be conducted in accordance with all applicable constitutional requirements, state statutes, and departmental directives.
1. Information obtained from interviews should be documented via one or more of the following approved methods: handwritten notes recorded by an officer, handwritten or typed voluntary statements, audio, and/or video recordings.
  2. Generally, no more than two officers should conduct an interview. However, certain circumstances and officer discretion could dictate otherwise.
  3. The officers conducting the interview should be attentive to any undue stress or feelings of intimidation caused by the number of officers present and/or other related conditions.
  4. Restroom and refreshment needs shall not be denied or unduly delayed.
  5. The Miranda Warning shall be provided when it becomes apparent that an individual being interviewed is a suspect, and the elements of custody and interrogation exist.
  6. Translators should be provided in a timely manner when deemed necessary.
- D. Defendants shall be informed of access to counsel in accordance with applicable constitutional requirements, state statutes, and departmental directives.
1. *Escobedo v. Illinois* (1964) established that when a person accused of committing a crime is being interrogated, such a person has a right to have an attorney present.
  2. Officers must cease an interrogation once an individual has expressed a desire to speak with an attorney or have an attorney present during questioning. This shall not preclude an interrogation from being conducted while an attorney is present.
  3. Officers shall bring arrested persons, unless they have been released on bond or their own recognizance, before a magistrate or other judicial official without delay, to file formal charges or complaints. Judicial officials shall then ensure that accused persons are guaranteed the right to court-appointed or private counsel.
  4. Occasionally, persons who have been charged will not request or receive the assistance of counsel until after the time of their initial court appearance and the filing of formal charges. When significant time has passed since initial appearance or the filing of charges, officers shall work with prosecutorial officials to determine whether such persons have obtained counsel and whether notice to counsel is required before having any further contact.
  5. Safety concerns require that a prisoner's right to communicate with attorneys shall not normally be exercised during the period that the prisoner is being transported. Supervisory approval shall be required before any such communication is allowed.
- E. The decision to waive a constitutional protection belongs to the accused individual. Officers will not attempt to coerce or unduly influence a suspect in the decision of whether or not to exercise any right.
- F. When a suspect invokes his or her right to counsel, all interrogation shall cease immediately. A request for counsel must be articulated clearly enough that a reasonable officer in the circumstances would understand the statement to be a request for an attorney. The suspect may not again be interrogated about the crime for which he or she is charged, other crimes, or by other officers (from this or another agency) unless:
1. The suspect's attorney is present at the questioning; or
  2. The suspect initiates new contact with the police. In this latter case, Miranda rights must again be administered, and a waiver obtained before any questioning may take place. Officers shall also document and, if possible, obtain written verification that the suspect initiated the communication.

- G. Upon request, a telephone will be provided for access to counsel. Audio recording of attorney-client conversation is prohibited.

#### **1.2.4 WARRANTLESS SEARCHES & SEIZURES**

The following shall govern procedures associated with warrantless search and seizure by agency personnel:

- A. Officers shall document in an incident report any warrantless search that is conducted. Officers will document in an incident report any stop and frisk that occurs.
- B. Persons should be searched as soon as possible when taken into custody. As a safety precaution, everyone in police custody who is placed in a police facility must be searched immediately upon entry to the facility. This search is mandatory even though a preliminary search has been conducted in the field prior to transport. This search can include, but is not limited to:
  - 1. A pat-down of clothing and the emptying of all pockets;
  - 2. Inspection of all packages, luggage, book bags, wallets or purses; and
  - 3. Removal of boots and shoes for inspection.
- C. Any item that may be used as a weapon by the person in custody is to be seized. Evidentiary material is to be seized and held.
- D. No persons in custody shall be left unattended in a temporary detention room.
- E. Officer discretion will prevail as to whether any of these items are returned when, and if, the person is released from custody. Contraband will be destroyed in the presence of another officer and documented if not used for evidence. If held and used for evidence, it will be destroyed at the completion of the trial unless ordered otherwise by the court.
- F. Officers may search property or persons when voluntary consent has been given by a person who has the authority to do so; no threats or coercion may be used by officers to obtain such permission. The consent may be withdrawn by the authorizing person at any time during the search. Consent to search forms should be utilized by officers whenever possible.
- G. Terry v. Ohio (1968) established that officers may stop and frisk an individual under circumstances in which officers are able to articulate reasons to fear for their safety. Officers performing this type of action shall limit their scope to a protective pat-down search for weapons.
- H. Carroll v. United States (1925) established that officers may search a vehicle without a warrant under a movable vehicle exception. A motor vehicle, including the trunk and other containers, may be searched without a warrant if officers have probable cause to believe they contain evidence. California v. Carney (1985) declared that this exception also applies to motor homes or mobile campers.
- I. Mincey v. Arizona (1978) established that there is no crime scene exception to the search warrant requirement. In this decision, the Supreme Court held that the seriousness of the offense under investigation does not in and of itself create exigent circumstances of the kind that would justify a warrantless search.
- J. Officers may search a person or property without a warrant under exigent circumstances, such as where public safety is endangered. An exigent circumstance occurs when an emergency exists, and there is no time for officers to obtain a search warrant. That is, the evidence could be destroyed or displaced by the time a search warrant is obtained. Generally, the more serious the crime or greater the threat to public safety, the more likely it is that the courts will recognize the situation as a true emergency justifying a search based on exigent circumstances.
- K. Officers may search a suspect's residence to execute an arrest warrant if they have probable cause to believe the suspect is present. Officers may not conduct a search of any other residence or location even though they possess an arrest warrant. For other locations, a search warrant must be obtained.
- L. Chimel v. California (1969) established that officers may search a person for weapons and evidence incident to arrest. This search must be limited to the area within the arrestee's immediate control. The entire interior of a motor vehicle may be searched if the person was an occupant at the time of arrest.

- M. *Arizona v. Gant* (2009) established that a police officer may perform a search incident to arrest of a defendant's vehicle if one of two factors is present:
  1. The arrestee is within reaching distance of the vehicle's passenger compartment at the time of the search.
  2. The police have "reason to believe" that the vehicle contains evidence supporting the arrest.
- N. Officers may seize evidence in plain view, provided they have a legal right to be at the location where the evidence was observed.
- O. *Oliver v. United States* (1984) established that officers may search open fields without a warrant. However, residences and their respective curtilage are generally protected from unreasonable or warrantless searches.
- P. Officers may search abandoned property, including bags or purses discarded while being chased, without a warrant. Garbage that has already been placed for collection may be searched, provided that it is located where the actual pickup is normally performed.

### **1.2.5.1 ARREST PROCEDURES WITH OR WITHOUT A WARRANT**

The following shall specify procedures for any arrest, made with or without a warrant:

- A. Pursuant to Code of Iowa section 804.5, an arrest is defined as the taking of a person into custody when and in the manner authorized by law, including restraint of the person or the person's submission to custody.
- B. Officers shall have arrest authority as conferred upon them by state statute. Pursuant to Code of Iowa section 804.6, an arrest by warrant shall be made only by a peace officer. In other cases, an arrest may be made by a peace officer or by a private citizen as allowed by statute.
- C. As provided by Code of Iowa 804.7, Iowa State University Police Department sworn personnel have full arrest authority. This statute permits a law enforcement officer to make an arrest:
  1. For a public offense committed or attempted in the peace officer's presence.
  2. Where a public offense has in fact been committed, and the peace officer has reasonable ground for believing that the person to be arrested has committed it.
  3. Where the peace officer has reasonable ground for believing that an indictable public offense has been committed and has reasonable ground for believing that the person to be arrested has committed it.
  4. Where the peace officer has received from the department of public safety, or from any other peace officer of this state or any other state or the United States an official communication by bulletin, radio, telegraph, telephone, or otherwise, informing the peace officer that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge.
  5. If the peace officer has reasonable grounds for believing that domestic abuse, as defined in section 236.2, has occurred and has reasonable grounds for believing that the person to be arrested has committed it.
  6. As required by section 236.12, subsection 2.
- D. Pursuant to Code of Iowa section 804.11, persons may be arrested with or without a warrant when there is probable cause to believe they are necessary and material witnesses to a felony and might be unavailable for service of a subpoena.
- E. Pursuant to Code of Iowa section 804.14, persons to be arrested shall be informed of the following: the intention to arrest; the reason for arrest, and that the person making the arrest is a peace officer. Such notifications shall not be required when there is no time or opportunity to do so, such as when the person to be arrested escapes or is actually engaged in the commission of, or is attempting to commit, an offense.
- F. Pursuant to Code of Iowa section 804.16, arrests may be made on any day and at any time of the day or night. Officers will adhere to all fingerprinting requirements, as written in Iowa Code section 690, whether it is a custodial arrest or the person is released on citation.
- G. Pursuant to Code of Iowa section 804.20, any peace officer or other person having custody of any person arrested or restrained of the person's liberty for any reason whatever, shall permit that person, without unnecessary delay after arrival at the place of detention, to call, consult, and see a member of the person's family or an attorney of the person's choice, or both. Such person shall be permitted to make a reasonable number of telephone calls as may be required to secure an attorney. If a call is made, it shall be made in the presence of the person having custody of the one arrested or

restrained. If such person is intoxicated or a person under eighteen years of age, the call may be made by the person having custody. An attorney shall be permitted to see and consult confidentially with such person alone and in private at the jail or other place of custody without unreasonable delay. A violation of this section shall constitute a simple misdemeanor.

- H. In addition to statutory requirements, officers shall abide by all federal laws and court decisions pertaining to the following: use of authority, arrests; searches; seizures; interrogations; and due process issues.

### **1.2.5.2 ARREST PROCEDURES, SPECIFICALLY WITHOUT A WARRANT**

The following shall specify procedures for arrests made without a warrant:

- A. An arrest on the strength of a warrant is preferable to a warrantless arrest; however, the immediacy of many police arrest situations makes it impractical to delay matters while a warrant is obtained.
- B. The decision to make a custodial arrest shall be based on the gravity of the offense, likelihood of flight, safety of the public, and the need to collect and preserve evidence essential to prosecution.
- C. The alternative to a custodial arrest is to complete an offense report documenting the alleged criminal activity and refer the report to the district attorney for review and the issuance of a criminal complaint and warrant or summons to appear.
- D. When circumstances permit an officer to effect an arrest without a warrant, and the arrest will be made at a private residence, officers shall be required to knock, state their identity and purpose, and await permission to enter. Without permission to enter, warrantless entries are generally considered unreasonable unless the following circumstances exist:
  - 1. Probable cause exists to make a felony arrest, and the officer has a reasonable belief the suspect is engaged in the destruction of evidence.
  - 2. Probable cause exists to make a felony arrest, and the officer has a reasonable belief the suspect is attempting to escape.
  - 3. Probable cause exists for making an arrest, and officers are justified in the belief that they, or the persons within, are in imminent peril of bodily harm.
  - 4. Officers with probable cause to make an arrest for a criminal offense are in fresh pursuit of a defendant.
- E. When forcible entry is required, officers shall perform the following:
  - 1. Locate and control all persons on the premises and any property that might potentially serve as a weapon.
  - 2. Photograph any damage occurring as a result of the forcible entry and describe in the offense report how the damage occurred.

### **1.2.5.3 ARREST PROCEDURES, SPECIFICALLY WITH A WARRANT**

The following shall specify procedures for arrests made with a warrant:

- A. An arrest warrant provides for independent prosecutorial or judicial review of an incident. Whenever time and circumstances allow, the warrant process should be used for an arrest.
- B. In situations in which the arresting officer is not in possession of the warrant, the officer shall be responsible for confirming the validity of the warrant.
- C. Temporary detention of an individual for the purpose of verifying warrant status is permissible.
- D. Upon making an arrest on the strength of a warrant, the arresting officer shall inform the defendant as soon as practicable of the nature of the crime with which the defendant is charged. If available, a copy of the warrant shall be provided to the defendant.
- E. An arrest warrant may be lawfully served at any time, though certain restrictions shall apply to the service of warrants for minor forfeiture actions, i.e., violations of administrative codes, municipal ordinances, and non-criminal traffic statutes. These warrants may be served at any time when the person named on the warrant is contacted during the course of a lawful stop or observed in a public place. The preferred time for service of these warrants is between

07:00 and 22:00 hours. This does not, however, preclude officers from serving such warrants outside of these hours if circumstances are reasonable.

- F. The officer making an attempt at warrant service shall document the action and disposition regardless of the outcome. The officer shall document via CAD event number and link it to the associated case number (if applicable). Outside agency warrants require report completion under the Iowa State University Police Department case number. In addition, successful service of a department warrant requires a supplemental report to the original case number.
- G. When serving an arrest warrant at a residence, officers shall be required to knock, state their identity and purpose, and await permission to enter, with the following exceptions:
  - 1. When executing a warrant for a felony and, after announcement of identity and purpose, entry is refused;
  - 2. When those within, upon being made aware of the presence of someone outside, engage in activity that justifies officers in the belief that destruction of evidence is being attempted;
  - 3. When those within, upon being made aware of the presence of someone outside, engage in activity that justifies officers in the belief that escape is being attempted;
  - 4. When officers are justified in the belief that they, or the persons within, are in imminent peril of bodily harm.
- H. When forcible entry is required, officers shall perform the following:
  - 1. Locate and control all persons on the premises and any property that might potentially serve as a weapon.
  - 2. Photograph any damage occurring as a result of the forcible entry and describe in the offense report how the damage occurred.

### **1.2.6 ALTERNATIVES TO ARREST AND CONFINEMENT, PRE-TRIAL RELEASE**

The following shall define and govern alternatives to arrest, pre-arraignment confinement, and/or pre-trial release:

- A. Officers may elect to exercise alternatives to arrest, pre-arraignment confinement, and/or pre-trial release when deemed appropriate. Such alternatives may include the following: issuing verbal and written warnings, referring persons to social service agencies and counseling organizations, issuing citations in lieu of arrest, and releasing persons on bond.
- B. The use of verbal and written warnings may provide a satisfactory solution to many cases. When determining whether a warning should be issued, officers should consider the following: the seriousness of the offense, the circumstances surrounding the violation, the likelihood that the violator will heed the warning, and the offense history of the violator. All warnings should be documented via CAD records and/or approved forms.
- C. Pursuant to Code of Iowa section 805.1 and the restrictions outlined therein, a peace officer may issue a citation in lieu of making an arrest. If a warrantless arrest has already been made, a citation may be issued in lieu of continuing custody. Officers may refer to this same statute when seeking guidelines regarding the issuance of citations for traffic and other violations.

### **1.2.7.1 USE OF DISCRETION BY SWORN OFFICERS**

The following shall govern the use of discretion by sworn officers:

- A. Officers shall use discretion in furtherance of established Department goals and objectives, but only when in compliance with applicable laws and the law enforcement code of ethics.
- B. The exercise of discretion shall be guided by a combination of written enforcement policies, training, and supervision.
- C. Reasonableness and probable cause shall vary with each situation, and different facts may justify investigation, detention, search, arrest, warning, or no action at all. In each case, officers shall act reasonably and within the limits of authority as defined by statute and judicial interpretation.
- D. Arrests or other enforcement actions should generally be taken or effected when there is probable cause to believe that a person has committed a serious crime.
- E. For minor offenses, officers should consider the action that would most likely deter future violations. Such actions may include the following: physical arrest, citation, written warning, or verbal warning.

- F. The degree of enforcement action or inaction used by officers shall not be influenced by malice, vengeance, or prejudice based on race, gender, ethnic background, religious belief, economic status, sexual orientation, physical ability, or political affiliation.
- G. Enforcement action shall not be more severe than can be reasonably and objectively justified. Officer contact shall not be extended unnecessarily for the purpose of delaying the release or inhibiting the free movement of any person.

#### **1.2.7.2 EMERGENCY CONTACT OF STUDENTS**

The following shall govern the situations where sworn officers may enter a classroom when class is in progress:

- A. Officers may enter a classroom when class is in progress for any active emergency involving threats of violence or actual violence, medical emergencies, or other crimes in progress.
- B. Officers may enter classrooms when class is in progress in response to 911 calls or other summons for help or assistance.
- C. Officers may make notifications to students in an active classroom setting to deliver emergency messages that involve a death, illness, injury, accident, or a threat to a student's livelihood or property.
- D. Classroom interruptions when class is in progress for all other than emergencies will be avoided.

#### **1.2.8 STRIP AND BODY CAVITY SEARCHES**

The following shall govern the use of strip searches:

- A. When conducting strip searches, officers shall adhere to Code of Iowa 804.30.
- B. A person arrested for a simple misdemeanor shall not be subjected to either a strip search or a visual strip search unless there is probable cause to believe that the person is concealing a weapon or contraband, and written authorization of the supervisor on duty is obtained.
- C. A person arrested for a scheduled violation shall not be subject to either a strip search or a visual strip search unless there is probable cause to believe that the person is concealing a weapon or contraband, and a search warrant is obtained.
- D. A strip search conducted pursuant to this section that involves the physical probing of a body cavity, other than the mouth, ears, or nose, shall require a search warrant and shall only be performed by a licensed physician unless voluntarily waived in writing by the arrested person.
- E. Any person arrested for a scheduled violation or a simple misdemeanor may be subjected to a search probing the mouth, ears, or nose.
- F. All searches conducted pursuant to this section shall be performed under sanitary conditions.
- G. All searches conducted pursuant to this section, except for the probing of the mouth, ears, or nose, shall be conducted in a place where the search cannot be observed by persons not conducting the search.
- H. All searches conducted pursuant to this section shall be conducted by a person of the same sex as the arrested person, except for the probing of the mouth, ears, or nose, unless the search is conducted by a physician.
- I. Subsequent to a strip search pursuant to this section, a written report shall be prepared which includes the written authorization required by this section, the name of the person subjected to the search, the names of the persons conducting the search, the time, date, and place of the search, and a copy of the search warrant, if applicable authorizing the search. A copy of the report shall be provided to the person searched.
- J. The department shall provide annual training regarding the policies and procedures to any employee or agent of the department who may conduct a strip search.

### 1.2.9 BIAS-FREE POLICING

The following shall govern procedures regarding bias-based profiling:

- A. The purpose of this directive is to reaffirm the long-standing position against bias-based policing or any other type of discriminatory practice, including racial profiling or race-based decision making. The department has not tolerated, and will not tolerate, discrimination against any person based on race, color, ethnic background, gender, cultural group, sexual orientation, religion, economic status, age, physical ability, or other identifiable group.
- B. Bias-based profiling constitutes discrimination. Such activities alienate a significant percentage of the population and foster distrust of law enforcement by the community. Related practices invite corruption, judicial/legislative intervention, disciplinary action, and media scrutiny.
- C. Employees shall be strictly prohibited from engaging in bias-based profiling when conducting any law enforcement activity, to include traffic and field contacts, searches, investigatory detentions, asset seizure, and forfeiture proceedings. Such actions shall be based on a standard of reasonable suspicion or probable cause as required by federal laws, state statutes, and department directives.
- D. Department personnel may not use racial or ethnic stereotypes as factors in selecting whom they stop and whom to search. Department personnel may use race or ethnicity in selecting whom they stop and whom they search when a person matches the specific description of an individual who is suspected of engaging in criminal behavior.
- E. To help prevent misperceptions of bias-based profiling, officers shall utilize the following strategies when conducting pedestrian and vehicle stops:
  - 1. Being courteous and professional;
  - 2. Providing officer name and agency affiliation;
  - 3. Explaining the reason for the stop as soon as practical, unless doing so compromises safety;
  - 4. Ensuring the length of the detention is no longer than necessary;
  - 5. Answering any questions and explaining options related to enforcement action;
  - 6. Providing officer identification when requested;
  - 7. And explaining the credible, reliable, or locally-relevant information that led to the contact when no enforcement action is taken and/or when it is determined the suspicions are unfounded.
- F. Officers shall use approved interview techniques when contacting and detaining all individuals. Officers shall maintain professional objectivity through constant self-examination, evaluation, and awareness of personal prejudices. Accepted community and problem-oriented policing practices shall be utilized to identify problems and reduce crime.
- G. Enforcement personnel shall receive annual training in bias-based profiling issues, including legal aspects, as deemed necessary and appropriate. Recruit and in-service training should be used to address the following: cultural diversity, constitutional requirements; department directives; and other agency practices.
- H. Corrective measures shall be immediately implemented if bias-based profiling occurs. Remedial training and employee counseling may be conducted when deemed appropriate for the situation. Any officer found to be involved in such activity may also be subject to disciplinary action, to include written warning, suspension, demotion, or termination.
- I. The Chief of Police or designee shall be responsible for conducting a documented annual administrative review of agency practices, including citizen concerns, as they relate to bias-based profiling. The review should be disseminated to all personnel and, at a minimum, include an analysis of citizen complaints, concerns, and comments; a summary of pertinent statistical data; an overview of any training conducted, and procedural or policy recommendations, if any.
- J. Bias-based profiling should not be confused with criminal profiling, which is recognized as a legitimate law enforcement tool. Criminal profiling is an investigative method in which officers, through observation of activities and the environment, identify suspicious people, and develop a legal basis to stop them for questioning. Bias-based profiling refers to the decision by officers to stop and question people when their physical characteristics and/or surroundings are used as indicators of suspicious activity or criminal tendency.
- K. All ISUPD employees have a duty to intervene or request assistance if they witness another employee or sworn officer engaging in an activity they believe to be a violation of civil rights or an unjustified or excessive use of force. If an

employee so intervenes or requests assistance based on their observations, the employee shall notify a supervisor as soon as possible for possible investigation. Failure for an employee to intervene or report such violations of civil rights or unlawful use of force shall be investigated and may result in discipline.

- L. If an employee intervenes or requests assistance based on their observations of a civil rights violation, or unjustified or excessive use of force, they shall not be disciplined for their actions. Retaliation against an employee who intervenes or requests assistance is prohibited and shall be subject to disciplinary action.

#### **1.2.10 INTERACTIONS WITH TRANSGENDER AND GENDER NON-CONFORMING (TGNC)**

The following shall govern procedures regarding interactions with transgender and gender non-conforming (TGNC).

- A. Officers shall not consider a person's gender identity or sexual orientation as reasonable suspicion or prima facie evidence that an individual is or has engaged in a criminal act.
- B. Absent illegal, indecent, or otherwise problematic behavior, officers shall not use an individual's perceived gender and the restroom they are utilizing as a basis for police contact.
- C. Employees should address TGNC individuals by the individual's preferred name, even if the individual has not received legal recognition of the preferred name, or it is different than the name listed on their government-issued identification.
- D. In addressing or discussing a TGNC individual, employees should use the pronouns appropriate for that person's gender identity (e.g., she/her/hers, he/him/his, they/them/theirs, etc.) If an employee is uncertain about which pronouns are appropriate, the employee should respectfully ask the individual.
- E. Employees shall not use language that a reasonable person would consider demeaning or derogatory; in particular, language aimed at a person's actual or perceived gender identity, gender expression, or sexual orientation.
- F. Employees shall not disclose an individual's TGNC identity or sexual orientation to any other person or group, absent a proper law enforcement purpose, or to comply with open records requests.
- G. LGBTQ+ related incidents or calls involving LGBTQ+ individuals should be brought to the attention of the department's engagement and inclusion officer(s), whenever possible.
- H. LGBTQ+ specific training shall be provided to all personnel.