has always been unconstitutional—that police actions cannot be based solely on race.4

The policy we propose specifies when it is and is not appropriate to consider race/ethnicity in making law enforcement decisions. This policy defines “racialy biased policing” building on Fourth Amendment (Search and Seizure)3 and 14th Amendment (Equal Protection)3 principles. The complementary provisions clarify when officers can use race/ethnicity as a factor to establish reasonable suspicion or probable cause and provide similar clarity for using race/ethnicity in making other law enforcement decisions. It also includes procedures that can reduce perceptions of racially biased policing.

We start by setting forth the policy itself. We then discuss and elaborate on the content.

THE POLICY

Title: Addressing Racially Biased Policing and the Perceptions Thereof

Purpose: This policy is intended to reaffirm this department’s commitment to unbiased policing, to clarify the circumstances in which officers can consider race/ethnicity when making law enforcement decisions, and to reinforce procedures that

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4 For example, in U.S. v. Brignoni-Ponce, a Fourth Amendment case regarding a vehicle stop near a border, the Supreme Court held that police cannot stop motorists based solely on their racial or ethnic appearance, even if the officers are investigating illegal aliens (422 U.S. 873, 1975).

3 “The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated: and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

6 “No State shall make or enforce any law which shall . . . deny to any person within its jurisdiction the equal protection of the laws.”
serve to assure the public that we are providing service and enforcing laws in an equitable way.

Policy:
A) Policing impartially
1. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests nonconsensual searches, and property seizures.

   Except as provided below, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.

   Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion.

2. Except as provided above, race/ethnicity shall not be motivating factors in making law enforcement decisions.

B) Preventing Perceptions of Biased Policing
In an effort to prevent inappropriate perceptions of biased law enforcement, each officer shall do the following when conducting pedestrian and vehicle stops:

- Be courteous and professional.
• Introduce him- or herself to the citizen (providing name and agency affiliation), and state the reason for the stop as soon as practical, unless providing this information will compromise officer or public safety. In vehicle stops, the officer shall provide this information before asking the driver for his or her license and registration.
• Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the citizen understands the purpose of reasonable delays.
• Answer any questions the citizen may have, including explaining options for traffic citation disposition, if relevant.
• Provide his or her name and badge number when requested, in writing or on a business card.
• Apologize and/or explain if he or she determines that the reasonable suspicion was unfounded (e.g., after an investigatory stop).

Compliance:
Violations of this policy shall result in disciplinary action as set forth in the department’s rules and regulations.

Supervision and Accountability:
Supervisors shall ensure that all personnel in their command are familiar with the content of this policy and are operating in compliance with it.

DISCUSSION

Title and Purpose
We titled the policy “Addressing Racially Biased Policing and the Perceptions Thereof” to reflect our strong preference for the term “racially biased policing” over “racial profiling,” and to reflect the importance of addressing both the instances of and the perceptions of its practice. The policy’s stated purpose is “to reaffirm [the] department’s commitment to unbiased policing, to clarify the circumstances in which officers can con-