

## Bias Free Policing

### 1.0 PURPOSE

1.1 The intent of this policy is to reaffirm the Vermont State Police commitment to unbiased policing, to clarify the circumstances in which members can consider race, ethnicity, gender or other potentially improper criteria when making law enforcement decisions, and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in an equitable and impartial way.

### 2.0 POLICY

2.1 It is the policy of the Vermont State Police that the department shall not condone the use of any bias based policing in the services our employees provide to the community in connection with our law enforcement activities.

### 3.0 DEFINITIONS

(1) "Personal Criteria" may include, but are not limited to, race, ethnicity, immigration status, national origin, color, gender, sexual orientation, gender identity, marital status, mental or physical disability, religion, and socio-economic level.

### 4.0 PROCEDURE

#### 4.1 Bias-Free Policing: General Principles

(1) As required by statutes, Chapter I, Article 11 of the Vermont Constitution and Amendment IV of the United States Constitution, all enforcement actions by law enforcement officers, such as investigative detentions, traffic stops, arrests, searches and seizures, etc., must be based on reasonable suspicion, probable cause, or other required standards.

(A) Law enforcement officers must be able to articulate specific facts, circumstances, and conclusions which support the required standard for enforcement actions.

(B) Law enforcement officers may take into account the reported race, ethnicity or other personal criteria of suspects based on credible, reliable, locally-relevant information that links persons of specific description criteria to particular criminal incidents.

(2) Except as provided in 4.1(1) above:

(A) Law enforcement officers will not consider race, ethnicity, or other personal criteria in establishing either reasonable suspicion or probable cause.

(B) Law enforcement officers will not single out or otherwise treat persons differently because of their race, ethnicity, or other personal criteria. Law enforcement officers may allow for special accommodations to be made for individuals with disabilities.

#### 4.2 Preventing Perceptions of Biased Policing

In an effort to prevent inappropriate perceptions of biased law enforcement, each member shall do the following when conducting pedestrian and vehicle stops:

(1) be courteous and professional;

(2) identify himself/herself to the individual (providing name and agency) and state the reason for the stop as soon as practical, unless providing this information will compromise the member's or public safety;

(3) ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the individual understands the purpose of reasonable delays;

(4) answer any questions the individual may have;

(5) Provide the member's name and duty assignment verbally, when requested. Members may also provide the information in writing or on a business card.

(6) Explain if the member determines that the reasonable suspicion was unfounded (e.g., after an investigatory stop).

#### 4.3 Responding to Bias-Based Reports:

(1) If any member of the agency receives a call for service, whose only foundation has to do with an individual's race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, gender identity, marital status, religion, disability, socioeconomic level, immigration status, or other potentially

improper personal criteria, the employee will attempt to explore if there are any specific behaviors that call for police response. If no specific behavior is identified, the caller's contact information will be obtained and he/she will be advised that the member in charge of the shift will contact him/her.

(2) The member will contact the shift supervisor and provide the circumstances of the call. The shift supervisor will contact the caller and explain that we do not respond to calls for service that are based solely on a person's race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, gender identity, marital status, religion, disability, socioeconomic level, immigration status or other potentially improper personal criteria.

(3) The shift supervisor should attempt to educate the caller on our bias free policing policy and philosophy. He/she should also explain that we respond to behaviors/actions of individuals that appear suspicious, threatening, illegal, etc. and not to situations based solely on a person's characteristics/attributes as defined above. The shift supervisor will document this interaction via an RMS report. In the case of a call for service that is based solely on a caller's suspicion that an individual present in Vermont is an undocumented foreign national, the supervisor shall inform the caller that federal authorities are primarily responsible for enforcing federal immigration law.

#### 4.4 Matters Relating to Immigration and Citizenship Status

##### (1) General Policies:

(A) Detecting or apprehending individuals whose only violation of law is that they are foreign citizens present in the United States without authorization and proper documentation is not a law enforcement priority for the Vermont State Police. Accordingly, except as noted below, members should not use agency resources, equipment or personnel for the purpose of detecting or apprehending individuals whose only violation of law is that they are present in the United States without authorization and proper documentation.

(B) Members shall not stop, investigate, detain or question an individual solely for the purpose of determining whether the individual is in the United States without authorization and proper documentation.

(C) An individual's presence in the United States without proper documentation or authority, standing alone, when that individual has not been previously removed, is not a criminal violation. Therefore, members may not initiate an investigation based solely on information or suspicion that an individual is in the United States without authorization and proper documentation.

##### (2) Inquiries Concerning Citizenship Status

(A) Members should not ask an individual about his or her immigration status when investigating a civil violation. If a member needs to identify an individual and that individual does not have identification, the member may use whatever tools, including federal databases, are reasonably necessary to identify the individual under the circumstances. Identification methods may include a foreign passport, consular identification, or other government-issued documents that are reasonably reliable, subject to the same reasonable scrutiny and follow-up for authentication as any other forms of identification.

(B) With regard to investigations involving criminal offenses or suspicious activity, a member may ask an individual about his or her immigration status under the following circumstances:

i) If the member is conducting a criminal investigation or an investigation of suspicious activity based on reasonable suspicion AND the immigration status of the suspect is relevant to the investigation, provided that the investigation is initiated for a reason or reasons independent of information or suspicion that an individual is (or individuals are) in the United States without proper authorization in violation of the civil provisions of federal immigration law; or

ii) After a suspect has been arrested for a criminal violation.

"Suspicious activity" is defined as "Observed behavior reasonably indicative of pre-operational planning related to terrorism or other criminal activity." As with investigations of civil violations, if a member needs to identify an individual and that individual does not have identification, the member may use whatever tools, including federal databases, are reasonably necessary to identify the individual under the circumstances.

(3) Notwithstanding the provisions in sections 1 and 2, above,

(A) members operating near the Canadian border who have reason to believe that an illegal border crossing has immediately occurred may ask a suspect about his or her immigration status;

(B) members operating near the Canadian border may solicit the support of federal law enforcement in connection with state law matters if reasonably necessary to protect officer and/or public safety; and

(C) members operating near the Canadian border may make inquiries consistent with sections (1) and (2) above.

(4) This policy is not intended to impair relationships with federal authorities, compromise officer safety, or hinder local, state or federal law enforcement priorities. It is not intended to change the Vermont State Police cooperation and coordination with federal authorities to enhance border security.

#### 4.5 Compliance

(1) The Vermont State Police are committed to providing periodic cultural training for its members. It is the goal of this Department to ensure that all employees are sensitive to, and aware of, cultural diversity issues and what constitutes biased policing.

(2) The Vermont State Police is committed to the vigorous investigation of complaints of this nature and violations of this policy shall result in disciplinary action.

(3) Additionally, the Vermont State Police has in place committees to review all video tapes on reported use of force, pursuit, and vehicle searches. The opinions and recommendations of each respective committee are forwarded to the Vermont State Police Office of Professional Development for review.

#### 4.6 Supervision and Accountability

(1) Supervisors shall ensure that all members in their command are familiar with the content of this policy and are operating in compliance with it. Supervisors should randomly review records such as reports or video/audio recordings, or otherwise monitor the conduct of the members in their command for the purpose of ensuring compliance with this policy and to identify training issues.

(2) Upon the request from a member of the public, members will explain how a person should make a complaint regarding an officer's conduct.

(3) All members are required to report allegations, complaints, or knowledge of a suspected violation of this policy in accordance with VSP-GEN-205, of the Department's Rules and Regulations.

(4) The Department shall investigate alleged violations of this policy in accordance with the provisions of VSP-GEN-205, of the Department's Rules and Regulations.

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The Vermont State Police Manual is not intended to apply in any criminal or civil proceeding outside of internal Department proceedings. No policy included in this publication should be construed as creating a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

