

Biased Based Policing	Related Policies: Stops, Search & Arrest; Motor Vehicle Contacts;
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Vermont Statutes:	
CALEA Standard: 1.2.9	
Date Implemented:	Review Date:

- I. **Purpose:** The purpose of this policy is to prohibit the use of race, ethnicity, gender, immigration status, color, sexual orientation, gender identity, marital status, mental or physical disability, religion, socio-economic level or national origin as a reason to restrict liberty, or exercise any other police power upon an individual, except in those cases where one of the classifications above is a descriptive factor concerning a suspect.
- II. **Policy:** The policy of this department is to respect the rights of all persons who officers come into contact with during any law enforcement operation. This Department shall not condone the use of any biased based policing in the service our employees provide to the community in connection with our law enforcement activities.
- III. **Definitions:**
 - A. 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.
 - B. Biased-Based Policing - using race, ethnicity, gender, immigration status, color, sexual orientation, gender identity, marital status, mental or physical disability, religion, socio-economic level or national origin as a reason to restrict a person's liberty where race, ethnicity, gender or national origin or other personal criteria is not a descriptive factor relating to a suspected criminal event.
 - C. Disparate Treatment – means differential treatment of persons on the basis of race, ethnicity, immigration status, color, sexual orientation, gender, gender identity, marital status, mental or physical disability, religion, socio-economic level or national origin;
 - D. Motor vehicle stop means any stop of a motor vehicle, except for a stop of a motor truck, truck-tractor, semi-trailer, or towed vehicle at a state weighing station; and
 - E. Racial profiling means detaining an individual or conducting a motor vehicle stop based upon disparate treatment of an individual.

IV. Procedure:

- A. As required by statutes, Chapter I, Article II of the Vermont Constitution and Amendment IV of the United States Constitution, all law 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.
- B. No officer will detain any person or stop any motor vehicle when such action is motivated by racial profiling and the action would constitute a violation of the civil rights of the person stopped. Law enforcement officers must be able to articulate specific facts, circumstances and conclusions which support the required standard for enforcement actions.
- C. 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.
- D. Except as provided in C. 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 officer may allow for special accommodations to be made for individuals with disabilities.
- E. **Preventing Perception of Bias: In an effort to prevent inappropriate perceptions of biased law enforcement, each member shall do the following when conducting pedestrian and vehicle stops.**
 - a. Officers should act with courtesy and professionalism on all stops and contacts.
 - b. At the outset of a contact, where feasible, officers should introduce themselves and inform the person of the reason for the stop. This introduction is not required where the introduction would compromise the safety of the officer or any other person.
 - c. Officers should continue the contact for only that time which is necessary to meet the objectives of that which justified the stop to begin with unless reasonable suspicion or probable cause develops during the initial stop i.e. if the stop is for a traffic violation, officers should not prolong the stop beyond the time it takes to write a citation. Where reasonable delays occur, the officer should keep the person informed of the reason for the delay.
 - d. Officers should answer questions posed by the persons stopped to the extent that is possible.
 - e. Provide his or her name and identification number when requested.
 - f. If the reasonable suspicion was unfounded the officer will explain to the person(s) stopped the reason for the stop, at the conclusion of the investigation.
- F. **Responding to Biased-Based Reports:**
 - a. 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, socio-economic level, immigration status, or other potentially improper personal criteria,

the employee will attempt to explore if there is 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.

- b. The member will contact the shift supervisor and provide the circumstances of the call. The shift supervisor will contact the caller and explain that the agency does not respond to calls for service that are based solely on an individual's "personal criteria".
- c. The shift supervisor should attempt to educate the caller on the agency's bias free policy and procedures. The supervisor should explain that the agency responds to behaviors and actions of individuals that appear suspicious, threatening, illegal, etc., and not to situations based solely on "personal criteria". The shift supervisor will document this interaction in the call record.
- d. In the case of a call for service that is based solely on a caller's suspicion that an individual present in the State of Vermont is an undocumented foreign national, the supervisor shall inform the caller that federal authorities are primarily responsible for enforcing immigration laws.

G. Matters Relating to Immigration and Citizenship Status: 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 this agency. 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 of this agency 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.

H. Inquiries Concerning Citizenship Status

- a. Members of this agency 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 that 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 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 that are reasonably necessary to identify the individual under the circumstances.

I. Notwithstanding the provisions in sections G. and H. above,

a. A member who has reason to believe that an illegal border crossing has immediately occurred may ask a suspect about his or her immigration status, and may solicit the support of federal law enforcement in connection with state law matters if reasonably necessary to protect the officer or public safety.

b. This policy is not intended to impair relationships with federal authorities, compromise officer safety, or hinder local, state or federal law enforcement priorities.

J. Compliance

a. This agency is committed to providing periodic cultural training for its members. It is the goal of this agency to ensure that all employees are sensitive to, and aware of, cultural diversity issues and what constitutes biased policing.

b. This agency is committed to vigorous investigations of complaints of this nature and violations of this policy shall result in disciplinary action.

K. Supervision and Accountability

a. Supervisors shall ensure that all members of this agency are familiar with the content of this policy and are operating in compliance with it. Supervisors should randomly review records such as reports and MVR (see MVR policy) and monitor the conduct of the members under their supervision for the purpose of ensuring compliance with this policy and to identify training issues.

b. Upon the request from a member of the public, members will explain how a person should make a complaint regarding an officer’s conduct in accordance with the Internal Affairs policy and procedures.

c. This agency will investigate alleged violations of this policy in accordance with established agency Internal Affairs / Citizen Complaint policy.

L. Asset Forfeiture: No member of this agency shall consider the race, ethnicity or other personal criteria of an individual in making determinations as to whether this agency shall seek to forfeit assets of the individual through the asset forfeiture process.

M. **Documentation-** The department shall record:

a. The number of traffic stops;

- b.** The characteristics of race or ethnicity of the person stopped. The identification of such characteristics shall be based on the observation and perception of the law enforcement officer responsible for reporting the motor vehicle stop and the information shall not be required to be provided by the person stopped.
- c.** If the stop is for a law violation, the nature of the alleged law violation that resulted in the motor vehicle stop;
- d.** Whether a warning or citation was issued, an arrest made, or a search conducted as a result of the motor vehicle stop. Search does not include a search incident to arrest or an inventory search; and
- e.** Any additional information that the State of Vermont or this agency deems appropriate.