

SECTION I RULES AND REGULATIONS

CHAPTER 3 WORK RULES

ARTICLE III Biased-Free Policing Policy



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1.0 PURPOSE

1.1 The intent of this policy is to reaffirm the Essex Police Department's 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 Essex Police Department 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

3.1 "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.

3.2 "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.

4.0 PROCEDURE

4.1 Fair and Impartial 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) Members must be able to articulate specific facts, circumstances, and conclusions which support the required standard for enforcement actions.

(B) Members 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) (B) above:

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

(B) Members 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.

(C) Members will not engage in biased based profiling tactics in traffic contacts, field contacts, asset seizure/forfeiture processes, or any other law enforcement function.

4.2 Preventing Perceptions of Biased Policing

In an effort to prevent any misperceptions 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 during the encounter. Members may also provide this information in writing or on a business card.

(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 relevant questions the individual may have,

(5) 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 a supervisor will make contact with him/her as soon as practical.

(2) The member will contact a shift supervisor as soon as practical and provide the circumstances of the call. The 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 supervisor should attempt to educate the caller on our fair and impartial 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 supervisor will document this interaction in writing and forward the documentation to the Chief of Police. 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 Essex Police Department. 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.

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

4.5 Compliance

(1) The Essex Police Department 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.

(2) This agency is committed to reviewing complaints of this nature in a reasonable manner.

(3) The Department will collect race data on all traffic stops and shall at least annually, review such data to detect any violations of this policy, patterns of conduct or potential training issues.

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.

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