



LEBANON POLICE DEPARTMENT
36 Poverty Lane, Lebanon, NH 03766

Effective Date March 12, 2020

Number **PR-256**

Title **Fair and Impartial Policing**

I. PURPOSE: The purpose of this policy is to prevent biased policing and other discriminatory practices in any law enforcement-related activity involving an officer of the Lebanon Police Department. While this Policy is intended to ensure that Department officers scrupulously honor the human and constitutional rights of those with whom they come into contact, nothing in this directive shall be construed to prevent Department officers from engaging in lawful police activity, including ascertaining the identity of persons lawfully detained or arrested or to confirm or dispel reasonable suspicions concerning any violation of law unrelated to immigration status.

II. POLICY: It is the policy of the Lebanon Police Department to respect and protect the constitutional rights of all individuals during law enforcement contacts and/or enforcement actions. In addition to respect for those human rights prescribed by law, Department officers will treat all persons with the courtesy and dignity that is inherently due every person. Department officers will act, speak and conduct themselves in a professional manner, and, whenever possible, maintain a courteous, professional attitude in all contacts with the public. In the absence of any specific report or suspicious circumstances, the actual or perceived race, ethnic background, color, age, gender, sexual orientation, gender identity, religion, economic status, cultural group or any other identifiable group of any person will not be the basis for the detention, interdiction or other disparate treatment of any individual by any officer of the Department.

III. DEFINITIONS:

A. **BIAS BASED PROFILING:** The arrest, detention, interdiction, or other disparate treatment of an individual without reasonable suspicion or on the basis of the race, ethnic background, age, gender, sexual orientation, gender identity, religion, economic status, cultural group or other identifiable group of such individual, except when such status is used in combination with other identifying factors in seeking to apprehend a specific suspect whose racial or ethnic status is part of the description of the suspect.

B. **REASONABLE SUSPICION:** Also known as articulable suspicion. Suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observations of a police officer combined with his or her training and experience, and/or reliable information received from credible outside sources.

IV. PROCEDURE:

A. **Prohibition on Biased Policing**

1. Biased policing of individuals by officers of this Department is strictly prohibited.

2. Stops or detentions based solely on race, ethnic background, age, gender, or sexual orientation, gender identity, religion, economic status, cultural group, or any other prejudicial basis by any officer of this Department are prohibited.
3. The detention of any individual, which is not based on factors related to reasonable suspicion of a violation of federal criminal law, New Hampshire statutes or any combination thereof is prohibited.
4. Officers will not use actual or perceived race, ethnic background, age, gender, sexual orientation, gender identity, religion, economic status, cultural group or other identifiable group of such individual as the sole basis for developing reasonable suspicion or grounds for a traffic or street stop, or in deciding upon the scope and substance of post-stop action.
5. Officers must be able to clearly articulate the specific law enforcement or public safety purpose of any traffic stop or other contact.
6. When determining if reasonable suspicion exists for a stop, search or detention, or when developing probable cause for an arrest, officers may consider the factors above, when one or more of those factors are part of the description of a known or suspected offender wanted in connection with a specific criminal or suspicious incident based on a credible report.
7. Asset seizure and forfeiture efforts will be based on violations of federal law, New Hampshire statutes or any combination thereof; and shall not be motivated by race, color, ethnicity, age, gender, sexual orientation, gender identity, religion, economic status or cultural group.

B. Matters Relating to Immigration and Citizenship Status

1. This Department presently lacks the legal authority to enforce non-criminal civil violations of federal immigration law.
2. An individual's presence in the United States without proper documentation or authority, standing alone, is not a criminal violation.
3. Officers 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.
4. Officers may not initiate an investigation, stop, or detention, or extend an existing stop or detention, based solely on information or suspicion that an individual is in the United States without authorization and proper documentation.

C. Inquiries Concerning Citizenship Status

1. When ID is Needed and Not Provided: If a Department officer needs to identify an individual who has been lawfully detained or arrested, and that individual does not have identification, then the Department officer may use whatever tools, including federal databases, are reasonably necessary to identify the individual under the circumstances.
2. When ID Provided: Valid identification 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.
3. Asking about Immigration Status: Department officers should not ask an individual about his or her immigration status when investigating a crime or civil violation, like a stop for traffic

violation or a violation of a municipal ordinance. An officer may ask an individual about his or her immigration status only if the Department officer is conducting a criminal investigation or an investigation of criminal 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.

D. ICE Detainers

1. The purpose of an ICE detainer is to notify the agency that ICE is interested in that person who is in that agency's custody, and to request that the agency hold that person after the person is otherwise entitled to be released from the criminal justice system, giving ICE extra time to decide whether or not they should take the person into federal custody for administrative proceedings in immigration court.
2. Immigration detainers are not arrest warrants. Unlike criminal warrants, which are supported by a judicial determination of probable cause, ICE detainers are issued by ICE enforcement agents themselves without any authorization by a judge. An ICE detainer is not an indication that probable cause exists that the individual in question has committed a crime. And ICE detainers are mere requests, not commands. Under federal law, local law enforcement agencies are not required to hold anyone based on an ICE detainer. Accordingly, many courts have ruled that that local law enforcement officials violate the Fourth Amendment when they temporarily detain individuals for immigration violations without probable cause based on ICE detainers.
3. Because an ICE detainer is not based upon probable cause that a crime has been committed, if an officer in the Department receives an ICE detainer for an individual who has been detained or arrested, the officer shall not prolong the individual's detention based on the ICE detainer.

E. Training

1. All sworn Department officers will receive, upon hiring, training regarding the harms of bias-based policing and discrimination, including legal aspects and a review of this policy. Annual in-service training will be provided for affected personnel in bias issues to include legal aspects.
2. Additional diversity and sensitivity training will be designated for officers with sustained bias complaints or other sustained discrimination complaints filed against them in addition to possible disciplinary action.

F. Duties of Department Officers

1. Any employee who believes there is, or is made aware of, any violation of this Order, shall immediately inform his/her immediate supervisor.

2. All complaints of bias policing or discriminatory practices will be investigated in accordance with established internal affairs procedures.
3. Each supervisor is responsible for continually monitoring and examining all officers under their direct supervision to ensure that officers' actions and activities adhere to this policy and to discover any indications of bias or discriminatory practices.
4. Traffic enforcement, detention, and search procedures will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness and lawfulness in conducting such activities.

G. Detention and Search

1. No motorist, once cited or warned, shall continue to be detained if there is no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of consent, a warrant, or a legally recognized exception to the warrant requirement.
2. It is strongly recommended that consent searches only be conducted with written consent, using the proper Department form. If the individual indicates that they will consent to a search but are refusing to sign the form, the officer shall nevertheless fill out the form and indicate "consented to search but refused to sign," inserting initials and the signature of any witness in the signature block.

H. Complaints of Bias and/or Discrimination

1. Any person may file a complaint with the Department if they feel they have been stopped or searched based on any alleged act of biased policing.
2. Any person who tells a Department officer that they wish to file such a complaint shall be provided with the name of the officer's immediate supervisor. Any officer who is accused on scene of discrimination, racial profiling, an illegal stop, frisk, and/or search by any person, shall report the incident to their immediate supervisor as soon as practicable at the conclusion of the contact. Such accusations can often be prevented or mitigated by explaining to the motorist the reason for the stop.
3. Supervisors who receive official complaints shall follow Department procedures as outlined in Lebanon Police Department Policy PR-214, Citizen Complaints and Internal Investigations. Supervisors shall review bias/profiling accusations and complaints, formal or informal.

I. Disciplinary Procedures

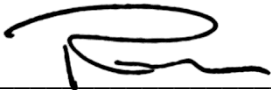
1. Progressive discipline consistent with established disciplinary procedures will be implemented for non-compliance with this policy up to and including dismissal.
2. Failure to report any observed or known violations of this order by any officer of the Department will result in disciplinary action.

J. Administrative Review

1. There will be a documented annual review of this order and Department practices conducted by the Professional Standards Bureau Captain. The review will include a review of concerns expressed by citizens and any corrective actions taken.

This Procedural Regulation is to be used in conjunction with all relevant existing Departmental Policies, Rules and Regulations.

Approved By:



Chief Richard R. Mello

This directive is for departmental use only and does not apply in any criminal or civil proceeding. Department policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting. See also RSA 516:36.