

CLEVELAND COMMUNITY POLICE COMMISSION

BIAS-FREE. TRANSFORMATIVE. COMMUNITY POLICING.

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Lt. Paul Baeppler

Date: Friday, October 13, 2017

Mr. Anthony Body

To: Chief Calvin Williams, Cleveland Division of Police

Cc: Mr. Greg White, U.S. DOJ Representatives, and The Cleveland Police Monitoring Team

Dr. Kathleen A. Clegg

From: Jason Goodrick, Executive Director, Cleveland Community Police Commission

Subject: Bias Free Policing General Police Order

Mr. Mario Clopton-Zymler

Dear Chief Williams,

Rev. Dr. V. Yvonne Conner (Co-Chair)

On behalf of the CPC and Dean Lee Fisher, chair of the Bias-Free Work Group, attached you will find the Bias Free Policing GPO dated 8-21-17 edited with recommendations.

Mr. Lee Fisher

As you are aware, since 2015, the CPC's Bias Free Work Group (BFWG) has done extensive work gathering feedback from the community, academia, community organizations as well as examining bias free policing policy best practices from around the country. The BFWG and CPC were particularly interested in gaining an understanding of the views of people in Cleveland who have traditionally not had a voice and who may have substantial concerns with police practices, including but not limited to; Communities of Color, people who are homeless and housing insecure, and members of the LGBTQ and Muslim communities. The CPC filed its initial report in Spring of 2016. Our most current recommendations build on the previous work.

Mr. Gordon Friedman

Det. Lynn Hampton

Ms. Amanda King

Additional sources used for these recommendations were direct community feedback received on the draft GPO from town halls and online, letters from partner organizations and scholarly research by students at the Cleveland Marshall College of Law.

Ms. LaToya Logan

(Co-Chair)

It is the CPC's hope that the Cleveland Division of Police will incorporate the recommendations offered by the community, stakeholders and the CPC into its final policy.

Det. Steve Loomis

ATT: 8.21.17 Bias Free Policing GPO .docx with changes in red

Mr. Dylan Sellers



GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE

ORIGINAL EFFECTIVE DATE :	REVISED DATE: Draft 10-9-2017	NO. PAGES: 1 OF 6	NUMBER:
SUBJECT: BIAS-FREE POLICING			
ASSOCIATED MANUAL:		RELATED ORDERS:	
CHIEF OF POLICE:			

PURPOSE: To provide guidance to ensure that police services are delivered equitably, respectfully, and free of bias in a manner that promotes broad community engagement, trust, and confidence in the Cleveland Division of Police.

POLICY: The Cleveland Division of Police is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair and equitable manner based on mutual trust and respect with Cleveland’s diverse groups and communities. Bias-based policing is strictly prohibited. Bias-based policing degrades the public’s confidence in the Division and is detrimental to effective law enforcement because it fosters distrust in the community and undermines the Division’s ability to enforce the law. **This policy applies to all members of the CDP, ~~both sworn and non-sworn officers.~~**

DEFINITIONS:

Bias-Based Policing: When a CDP member takes a law enforcement action or makes a decision to provide or not provide police services, and that action or decision is motivated by discrimination on the basis of an individual’s demographic category.

Bias-Free Policing: Policing that is accomplished without the selective enforcement or non-enforcement of the law, including the selection or rejection of particular policing tactics or strategies, based on the subject’s membership in a demographic category. Bias-free policing is policing that is free of discriminatory effect as well as discriminatory intent.

Demographic Category- Race, ethnicity, national origin, age, gender, gender expression or identity, sexual orientation, disability, religion or limited English proficiency, economic status, mental illness, disability, homelessness or housing status, political ideology; citizenship, immigrant, or refugee status; marital or family status; color; veteran status, ~~age (includes any age category, not just elderly),~~ or prior criminal history.

Implicit Bias: The unconscious mental attitudes and stereotypes toward or against a particular person or group based on characteristics such as race, ethnicity, age (including youth), and appearance. Implicit biases

are automatic, involuntary, and pervasive and thus are powerful determinants of behavior. Social psychologists have shown that “implicit” or “unconscious” bias can impact what people perceive and do, even in people who consciously hold non-prejudiced attitudes. ~~Attitudes that affect understanding, actions, and decisions in an unconscious and unintentional manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual’s awareness or intentional control.~~

Investigatory Stop or Investigatory Detention: A temporary restraint, based upon reasonable suspicion, where the subject of the stop or detention reasonably believes that he or she is not free to leave within the meaning of *Terry v. Ohio*. An investigatory stop or detention may be a pedestrian, vehicle or bicycle stop.

Office of Professional Standards (OPS): The city agency responsible for the intake and investigation of civilian complaints of officer misconduct.

Probable Cause: Facts and circumstances which would support a reasonable belief that a crime has been committed and that the person to be arrested committed the crime. Probable cause involves an examination of all the facts and circumstances known to the member at the time of an event.

Procedural Justice: Four central principles designed to build public confidence in the police by: 1) treating people with dignity and respect; 2) giving individuals a chance to be heard during encounters; 3) making decisions fairly and transparently, based on facts; 4) conveying goodwill and trustworthiness.

Reasonable Suspicion: The standard of proof necessary for a police officer to engage in a temporary investigatory detention of an individual. While reasonable suspicion is a lesser standard than probable cause, it must be supported by specific and articulable facts for suspecting a person of criminal conduct.

Trustworthy Suspect Specific Information Model:

- Law enforcement and investigative decisions must be based upon observable behavior or specific intelligence, which forms the basis for, among other things, determinations of reasonable suspicion and probable cause. Officers may take into account the race, ethnicity, age, gender or other personal characteristics of an individual in establishing reasonable suspicion or probable cause only when the characteristic is part of a specific suspect description based on trustworthy and relevant information that links a specific person to a particular unlawful incident.
- Officers must be prepared to articulate specific facts and circumstances that support their use of such characteristics in establishing reasonable suspicion or probable cause.

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~~Officers should not consider protected or marginalized classifications to establish reasonable suspicion or probable cause, except that officers may take into account the reported protected or marginalized characteristic is part of a classification of a potential specific suspect(s) description when based on trustworthy, locally relevant information that links a specific person or persons of a specific protected or marginalized classification to a particular unlawful incident(s).~~

PROCEDURES:

I. Guidelines for Bias Free Policing

1. Members shall:

1. Treat everyone with courtesy, professionalism, dignity, respect and equality.
 - a. In body searches, officers shall take into account the individual's gender identity and make a conscious effort, under the circumstances, to have such an invasive process conducted by someone of the same gender identity.
 - b. If the removal of a woman's headscarf, worn for religious or cultural purposes, is required, it shall be done respectfully and, if possible, by a female officer in a private place.
2. Make all decisions related to law enforcement activities based upon observed behavior, reasonable suspicion, and/or probable cause.
3. Ensure bias-free encounters by relying on information that is accurate, specific, and free from bias while developing reasonable suspicion and/or probable cause.
4. Conduct law enforcement activities, including any decision to engage in an investigatory stop or investigatory detention of a motorist or pedestrian, without discrimination on the basis of an individual's demographic category.
5. Interact with the public using the principles of procedural justice. Examples of this type of interaction include but are not limited to the following:
 - a. Introducing yourself and stating the reason for the interaction, as soon as practical, unless providing this information will compromise officer or public safety or impede an ongoing investigation.
 - b. ~~Ensuring that detentions are no longer than necessary.~~ Ensuring that individuals are released from detention as soon as the lawful purpose of the detention is fulfilled.
 - c. Wherever time and circumstances permit, explaining what the member is doing and why.
 - d. Wherever time and circumstances permit, listening to the individual and answering any reasonable questions that the individual has relating to the interaction.
 - e. Members shall always provide individuals with the member's name, rank, and badge number ~~when asked.~~ Provide business cards ~~with relevant contact information~~ with their name, rank, badge number, assigned police district, and their supervisor and/or commander's contact information, during stops or other community interactions.
 - f. Members shall follow the guidelines of the Trustworthy Suspect-Specific Information Model.
6. Provide OPS complaint forms to individuals upon request.

2. Members shall not:

1. Engage in, ignore or condone bias-based Policing.
2. Use harassing, intimidating or derogatory language verbally, in writing, or by gesture concerning any demographic category.

3. Determine reasonable suspicion or probable cause based upon a demographic category, except when the characteristic is part of an actual and credible description of a specific suspect in an investigation that includes other identifying factors.
4. Delay or deny police services based on an individual's demographic category.

II. Reporting Bias Based Policing

- A. Members who are **aware of, have observed, or have a reasonable suspicion of** bias-based policing shall report the incident, as soon as practicable but no later than the end of the member's tour of duty, to a supervisor **and** directly to the Internal Affairs Unit.
- B. No member shall retaliate against, discourage, intimidate, or coerce another member or individual, who provides, files, investigates or reviews information about incidents of biased policing. Members or individuals shall be protected from retaliatory conduct (See Retaliation GPO #?)
- C. If an individual indicates to a member that they would like to make a complaint about bias-based policing, the member shall immediately request their supervisor respond to the scene.
- D. Supervisors shall respond to the scene in which an individual expresses that they would like to make a complaint about bias based policing. ~~Upon arrival the supervisor shall:~~
 1. ~~The supervisor shall a~~Address the concern in accordance with the procedures for responding to misconduct complaints but at a minimum conduct a preliminary investigation of the complaint in order to preserve key evidence and potential witnesses (See Public Complaints of Police Misconduct GPO#?).
 2. ~~An individual shall~~**must not be detained solely for the purpose of waiting for a supervisor.**
 3. If the individual has left prior to the supervisor's arrival, make attempts to contact the individual by the end of their tour of duty.
 4. Provide the individual a copy of the completed OPS complaint form or a blank complaint form to be completed later.
 5. Refer the individual to OPS.
 6. ~~Follow-ups must~~**should occur in a timely manner.**
- E. If the supervisor believes that an internal complaint should be generated, report the information to the Internal Affairs Unit in accordance with Reporting Police Misconduct GPO #?
- F. Members shall not discourage any individual from filing a formal complaint.
- ~~G. There should be neighborhood sites available to file OPS reports, as going downtown may be difficult or intimidating for many citizens.~~

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III. Discipline

1. Members who engage in, ignore, or condone bias based policing shall be subject to discipline per the ~~CPD~~-CDP Disciplinary Matrix.
- B. Members who fail to report observed or alleged bias based policing shall be subject to discipline per the ~~CPD~~-CDP Disciplinary Matrix.
- C. Supervisors who fail to follow up on and investigate complaints of bias-based will be subject to discipline per the ~~CPD~~-CDP Disciplinary Matrix.
- D. No supervisors ~~or~~ and members shall retaliate against any person, including members, who initiates or provides information or testimony related to an investigation, prosecution, OPS complaint, litigation, or hearings related to ~~CPD~~CDP, regardless of context in which the complaint is made, or because of such person's participation in the complaint process as a victim, witness, investigator, decision-maker or reviewer. If a supervisor or member engages in such conduct, he or she shall be subject to discipline per the ~~CDP~~CPD Disciplinary Matrix.

IV. Training

1. ~~A.~~ Members shall receive annual in-service training on bias free policing that is adequate in quality, quantity, type and scope.
 - B. Substantive aspects of the bias training ~~shall~~ ~~should~~ include:
 - ~~The~~ Implicit Association Test (IAT),
 - education on the conscious and subconscious aspects of human cognition,
 - ~~scholarly~~ research on implicit bias and its role in bias based policing,
 - ~~as well as~~ research based suggestions for guarding against implicit bias in the ~~CDP~~CPD as an institution and by ~~within~~ individual officers and members of the force.
 2. ~~C.~~ Such training ~~shall~~ ~~could~~ be ongoing and reach members of the ~~CDP~~CPD at all levels.
 3. ~~D.~~ The Fair and Impartial Police Training Program should be used for new recruits as well as for additional trainings for existing members, ~~ideally~~ on an annual basis.
 - E. ~~CDP~~CPD shall receive training in working with ~~marginalized and vulnerable~~ communities most negatively affected by discriminatory policing practices. Examples of this type of training include but are not limited to:
 1. ~~Members~~ ~~shall~~ ~~could~~ be trained in identifying communities' specific needs
 - 2.1. ~~Members~~ ~~should~~ ~~work~~ with LGBTQ, homeless, Muslim, and other communities and become liaisons with those groups to further the community relationship goal
 - 3.2. ~~CDP~~CPD ~~shall~~ ~~could~~ actively partner with social, civic, non-profit, and academic institutions to develop and conduct training programs reflective of commitment to bias free policing.

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V. Management Practices

1. The expectation of bias-free, professional, and respectful policing shall be embedded in the culture of ~~CDP~~CPD, at all levels of the administration

2. The ~~CDPPD~~ shall strive to hire and maintain a workforce that reflects the highest professional standards and that ~~reflects~~ ~~ensures~~ the racial and cultural demographics of the community served. Examples of mechanisms that can be used to support this type of workforce include but are not limited to:
1. ~~Implicit bias assessments shall~~ ~~should~~ be incorporated into the psychological screening of officers during the initial recruitment assessment and, thereafter, training in the academy.
 - 1-2. ~~In that research shows that virtually all humans possess some type of implicit bias, this shall~~ ~~could~~ not preclude candidates from becoming officers, but ~~shall~~ be used to bring these biases to the forefront so that training can be provided to help offset and minimize the impact they might have on officers' decision-making and actions.
 - 2-3. ~~Internal advancement procedures should incorporate specific bias-free evaluation mechanisms for all employees. Promotion and advancement should highlight and reward employees who demonstrate proficiency in achieving bias-free policing standards and goals~~
 - 3-4. ~~CDPPD~~ shall periodically audit the personnel ~~selection~~ process to ensure that the hiring qualifications and standards are both valid and fair to applicants of all races and cultures and that neither the sequencing of the testing stages nor the length of the selection process is hindering minority hiring objectives