



LEBANON POLICE DEPARTMENT
36 Poverty Lane, Lebanon, NH 03766

Effective Date January 1, 2021

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.
5. Per the City of Lebanon Ordinance 2020-19 (Welcoming Ordinance) (*See Attachment A*), no agent or agency of the City of Lebanon shall:
 - a. accept requests by Federal immigration authorities to support or assist in operations that are for civil immigration enforcement;
 - b. permit Federal immigration authority access to a person being detained by, or in the custody of, the Agent or Agency;
 - c. permit Federal immigration authorities use of agency facilities for investigative interviews or other investigative purpose;
 - d. respond to Federal immigration authorities' inquiries or share information about an individual with Federal immigration authorities. Such information includes but is not limited to the individual's custody status, release date/time, court dates, whereabouts, residence, employment, identification numbers, appearance, telephone number, and familial relations. For the purpose of aiding an individual who may qualify for a U, S, or T Visa, information may be shared if such disclosure has been authorized in writing by the individual to whom such information pertains. Nothing in this Section shall be construed as prohibiting participation in an inter-agency data bases such as the National Crime Information Center, so long as its utilization by City agents is not biased or discriminatory and does not violate the following prohibitions:
 - 1.) No agent or agency of the City of Lebanon shall request, collect, or retain information about, or otherwise investigate or assist in the investigation of the United States citizenship or immigration status of any person in the City of Lebanon.
 - 2.) No agent or agency of the City shall disclose information regarding the U.S. citizenship or immigration status of any person, unless such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by the individual's parent or guardian.

6. Notwithstanding Provisions in section 5 above, agents of the Police Department may question about, collect, retain, utilize, and disclose information as long as it is done on an impartial basis and in a non-discriminatory manner and as long as no agent provides or requests any of this information from federal immigration authorities.
 - a. Where collection, retention, utilization, or disclosure of the specific information is required by statute or court order, or where the specific information constitutes an essential evidentiary element in an ongoing investigation or prosecution of a violation of law unrelated to civil immigration law or citizenship status;
 - b. Where information is being collected or retained solely for the purposes of evaluating and improving the performance of the Police Department with respect to its impartiality and non-discrimination requirements.

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, that 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. Where presentation of a New Hampshire driver's license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a New Hampshire driver's license or identification card, except that this subsection shall not apply to the completion of the federally mandated I-9 forms.
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. Lebanon Police Department employees shall not acknowledge or act upon ICE detainers pursuant to City ordinance.

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.
4. Failure by agents of the City to comply with the Welcoming Lebanon Ordinance shall be addressed under the terms of the City’s policies:
 - a. Any person who believes that they have been subjected to a violation of Ordinance 2020-19 by a City employee, or who otherwise has personal knowledge of such a violation, may submit a complaint in whatever form or manner the complainant chooses, to the employee or department involved, or to the City Manager, and may submit such a complaint anonymously. Reasonable efforts shall be made to accommodate any language or access barriers. Such complaints shall be handled in accord with the applicable City complaints and investigations policies; provided, however, that at the discretion of the Manager, the complaint may be referred to the appropriate law enforcement agency having jurisdiction, and any internal investigation may be delayed pending the outcome of the law enforcement agency’s involvement.
 - b. Complaints alleging violations of Ordinance 2020-19 by non-employee agents of the City, including appointed or elected officials, shall be filed with or forwarded to the City Manager, who may take such action as is appropriate in light of the nature of the complaint, including referral to the law enforcement agency having jurisdiction, and/or referral to the Council for such action as it deems justified.

I. Disciplinary Procedures

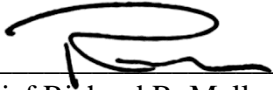
1. Progressive discipline consistent with established disciplinary procedures will be implemented for non-compliance with this policy up to and including dismissal.
2. Failure to report any observed or known violations of this order by any officer of the Department will result in disciplinary action.

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