



PORTAGE DEPARTMENT OF PUBLIC SAFETY POLICY AND PROCEDURE		ORDER NO. 200-48
SUBJECT: Bias-based/Bias-influenced Policing		
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I. PURPOSE

The purpose of this policy and procedural order is to emphasize the agency’s commitment to fair and impartial treatment of all persons when providing service and to state unequivocally that law enforcement activities that are bias-based are prohibited, are unacceptable, and are not be tolerated by the Portage Department of Public Safety. Biased policing is unethical and illegal and serves to foster distrust of law enforcement by the community. This order will serve as a guideline for Portage personnel to prevent such occurrences and to protect our personnel when they act within the provisions of the law and this order from unwarranted accusations.

II. POLICY

It is the policy of the Police Division to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe that they have committed, are committing, or are about to commit a violation of the law. It is the policy of the department to protect the fundamental rights of all citizens to equal protection under the law and to be free from unreasonable searches and seizures, as provided in the U. S. Constitution.

Personnel shall treat all people in a fair and impartial manner and in accordance with the law, Title VII of the Civil Rights Act of 1964, and the Michigan Elliott-Larson

Civil Rights Act when providing services or taking enforcement action, such as public contacts, traffic stops, field interviews or investigations, asset forfeitures, or the detention of a person. Examples of traits or lifestyles that may cause a biased reaction include:

- Race
- Color
- National origin
- Ethnic background
- Gender
- Gender identity
- Sexual orientation
- Religion
- Marital status
- Familial status
- Economic status
- Individuals with disability
- Age
- Cultural group

III. DEFINITIONS

- A. **Bias-based Policing:** Discrimination in the performance of law enforcement duties or delivery of police services based on personal or societal biases or stereotypes, personal prejudices or individual demographics, rather than relying on facts and observed behaviors which would lead a person to believe that an individual has been, is currently, or is about to be involved in criminal activity. For purposes of this definition, bias-based policing and bias-influenced policing are synonymous.
- B. **Enforcement Activities:** Activities, both on and off duty, undertaken by police personnel that arise from their authority related to employment, oath of office, state statute, federal law or city ordinance. Activities such as traffic contacts, field contacts, arrest, investigations, asset seizure and forfeiture, and general law enforcement contact with citizens.
- C. **Fair and Impartial Treatment:** The belief that persons, irrespective of race or other distinctions, shall be treated in the same basic manner under the same or similar circumstances. This does not mean that all persons in the same or similar circumstances can or must be treated identically. Reasonable concessions and accommodations may be, and sometimes should be, made when dealing with individuals with physical or mental disabilities, injury, illness, or similar conditions, or when information about them necessitates different treatment.

- D. **Individual Demographics:** For the purposes of this policy, personal characteristics, to include, but not limited to, race, color, ethnic background, national origin, sex, gender, gender identity, sexual orientation, genetic information, religion, marital status, socioeconomic status, familial status, height, weight, age, disability, cultural group, or political status.
- E. **Reasonable Suspicion:** Suspicion that is more than a mere hunch, but is based on a set of articulate facts and circumstances that would warrant a person of reasonable caution in believing that a violation 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 information can be based on observations, training and experience, and/or reliable information received from credible outside sources.

IV. PROCEDURES

A. General

1. Officers will not consider individual demographics when performing law enforcement duties or delivering police services, except when such characteristics are part of a specific subject description.
2. Personnel must articulate specific facts and inferences drawn from those facts that establish reasonable suspicion or probable cause to justify a stop or enforcement action.
3. When practical, and absent exigent circumstances, personnel should accommodate a subject who, through observation or articulation of particular facts, has:
 - a. Physical or mental disabilities
 - b. Injury
 - c. Illness
 - d. Infirmary
4. Personnel should accommodate a person lacking English proficiency or is deaf or deaf/blind and cannot communicate without an interpreter or other assistance.

B. Traffic and Field Contacts

1. Traffic and field contacts between Portage Police officers and citizens will be in accordance with Policy and Procedural Order No. 400-11 (Traffic Enforcement-General), which serves as the basic protocol used when officers are involved with a citizen traffic stop, field contact or encounter. A basic interpersonal communication protocol is as follows:

- a. Greet the person contacted in a respectful manner and identify yourself.
 - b. State the reason for the traffic stop or temporary detention, focusing on the actions of the vehicle or circumstances rather than personalizing the violation.
 - c. Politely ask for identification and other required documents.
 - d. Ask the person if there was a reason for the violation, giving them the opportunity to establish a dialogue.
 - e. Inform the driver or pedestrian as to what action is being taken and what actions, if any, the person must do as a result of the enforcement action.
 - f. Give a professional closing statement to end the contact; refrain from using trite or colloquial expressions.
2. Appropriate enforcement action should always be completed and documented, generally in the form of a citation, field interrogation card, or an arrest.
 3. When enforcement action is taken, the appropriate agency documentation will be completed as required by the specific type of enforcement action and the guiding written directives pertaining to such enforcement action.
 4. No motorist, once cited or warned, will be detained beyond the point where there exists no reasonable suspicion of further criminal activity.
 5. No person or vehicle will be searched in the absence of a search warrant, or a legally recognized exception to the search warrant requirement, or the person's voluntary consent.
 6. Video recording equipment and sound will be activated prior to the traffic stop or citizen encounter to record the behavior of the vehicle or the person. The recorder will remain activated until the person and/or vehicle is released.
 7. In the absence of a specific, credible report containing a physical or vehicle description, a person's race, ethnicity, gender or sexual orientation or combination of these will not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.

8. The Michigan Secretary of State allows for the wearing of religious head coverings; however, the person's face must be visible. Many individuals wear various head coverings to promote modesty, and others wear head coverings in the presence of persons to whom they are not related. When encountering individuals wearing head coverings, the following guidelines will be followed:
 - a. During stops and investigations, politely ask the person to remove the covering to confirm identity or to take a photo, then allow the individual to place the head covering back on afterwards and during transports.
 - b. If you do not need to see the person's face to confirm identity, allow the person to wear the head covering. There may not be a need to forcibly remove the head covering; however, officer safety is a priority.
 - c. When necessary, request assistance from an officer of the same gender to complete the stop and investigation.
 - d. Overall, accommodations should be made where reasonable.
9. The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender or sexual orientation of a person stopped for investigative or enforcement purposes is prohibited and is a cause for disciplinary action up to and including termination of employment.
10. Officers will, to the best of their ability, record the name, race, and sex of drivers they have stopped in addition to the type of enforcement action taken. This data will be compiled by records staff for review to ensure officers are not targeting a particular demographic in their traffic enforcement efforts.

C. Investigations

1. Profiling in itself can be a useful tool to assist law enforcement officers in carrying out their duties, to include the investigation of criminal activity and subsequent arrest as well as asset seizure and forfeiture efforts.
2. The department prohibits the use of bias-based policing in its enforcement programs, to include investigations, both incidental and ongoing, as well as subsequent arrest and asset seizure and forfeiture.

3. Personnel will focus on a person's conduct or other specific suspect information supported by articulated facts that indicate that the person is committing, or is about to commit, a crime, or is presenting a threat to the safety of themselves or others.
 4. All agency investigations will be carried out in accordance with established written directives.
- D. Protocols for Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Individuals and/or Identities
1. Personnel will treat the LGBTQ person appropriate to the person's gender presentation. This includes addressing persons by their adopted name and using the pronouns appropriate to the gender presentation in all written documents. All other names and identities will be considered as "also known as" (aka). If personnel are uncertain which pronouns are appropriate, then staff will respectfully ask for clarification.
 2. All searches will be conducted pursuant to Policy and Procedural Order No. 200-40. However, searches of transgender individuals/ identities will be done by two officers of the gender requested by the transgender subject. If the subject does not specify a preference, then the search will be done by officers of the same gender as the transgender subject's gender presentation. If gender presentation or identity is not clear, the subject will be searched by one female and one male officer.
 3. Because of the intimate nature of a strip search, special attention should be made to provide subjects with as much privacy as possible.
- E. Bias-based Policing Complaints
1. Any person may file a complaint with this agency if they feel that they have been stopped, detained, or searched based due to a bias-based profile.
 2. No person will be discouraged, intimidated, or coerced from filing such a complaint or discriminated against because they have filed such a complaint.
 3. Any personnel contacted by a person who wishes to file such a complaint will refer the complainant to the appropriate supervisor, in accordance with Policy and Procedural Order No. 300-4 (Internal Affairs).

4. Personnel are obligated, when they have the means and opportunity, to intervene if they observe other employees or those assisting the department or being assisted by the department engaging in illegal, unfair, partial, or excessive behavior.
5. Personnel shall report, as soon as practical, to a supervisor or command officer behavior that the employee believes is illegal, unfair, partial, excessive, inappropriate, or a violation of, or not within, the intent of department policy, rules, procedures or directives.
6. All complaints of bias-based policing, will be forwarded to the Public Safety Director.
7. Dependent on the findings of each complaint as well as the specific factors involved, corrective measures will be taken to remedy violations of this policy. Corrective measures may include, but are not limited to, training, counseling, policy review, and discipline up to and including termination of employment.
8. On an annual basis, the Public Safety Director, or designee, will compile a statistical summary of all bias-based complaints, which will include the findings as to whether each case was sustained, not sustained, or exonerated.
9. This documented statistical summary will be used in an annual administrative review of these complaints, which will take into account a review of agency policy and practices, including citizen concerns and any corrective measures taken.

F. Supervisor Responsibilities

1. Supervisors receiving a report of inappropriate behavior shall, as soon as it is practical, document the complaint and send it to the Public Safety Director, or designee. If necessary, supervisors are responsible to take immediate action to mitigate the incident.
2. Supervisors will be apprised of all biased-based complaints involving personnel under their command.
3. It is the responsibility of the supervisors to monitor the activities of their personnel and to identify potential bias-based activity.
4. Supervisors will be particularly alert to potential patterns and practices of their personnel that may indicate bias-based policing and treatment of individuals.

G. Annual Training

Annually, the department will conduct bias-based profiling related training that will include:

1. Legal aspects
2. Field contacts
3. Traffic stops
4. Search and seizure; asset seizure and forfeiture
5. Interview and interrogation techniques
6. Cultural diversity
7. Discrimination.
8. Community support