




WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This policy is for internal use only, and does not enlarge an employee’s civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

Number 1-4		Effective Date March 20, 2023	Review Date September 18, 2018	Reviewing Division Administration
Subject BIAS REDUCTION	<input type="checkbox"/> New Policy <input type="checkbox"/> Amends <input type="checkbox"/> Replaces <input checked="" type="checkbox"/> Revised:		This policy shall apply to personnel assigned to the following divisions: <input checked="" type="checkbox"/> All Personnel <input type="checkbox"/> Patrol Division <input type="checkbox"/> Administration Division <input type="checkbox"/> Investigation Division	
References VLEPSC: ADM.02.05 CALEA				
 _____ Chief of Police or Designee		_____ March 20, 2023 Date		

I. PURPOSE

The purpose of this policy is to provide general guidance on reducing the presence and the perception of bias in law enforcement actions, to identify key contexts in which bias may influence these actions, and emphasize the importance of the constitutional guidelines within which the Department operates.

II. POLICY

The Winchester Police Department is committed to the preservation of an individual’s constitutional rights in the performance of law enforcement duties. The Department’s reputation is based on the respect given to individuals, and the respect individuals observe toward law enforcement. To this end, Department personnel shall exercise their sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, sexual orientation, national origin, ethnicity, age, or religion. People can carry biases, however, in law enforcement, the failure to control biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of the Department. Most importantly, actions guided by bias destroy the trust and respect essential for the Department’s mission to succeed. We live and work in communities very diverse in population. Respect for diversity and equitable enforcement of the law are essential to the Department’s mission. All enforcement actions, particularly stops of individuals for traffic violators and other purposes, investigative detentions, arrests, and searches and seizures of persons or property, shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and statutory authority.

In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, sex, sexual orientation, gender, national origin, ethnicity, age, or religion. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense. All Department orders are informed and guided by this policy. Nothing in this policy limits non-enforcement contacts between officers and individuals.

III. DEFINITIONS

Most of the following terms appear in this policy. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other policies.

A. Bias

Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.

B. Biased Policing

Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, sex, sexual orientation, gender, national origin, ethnicity, age, or religion in violation of constitutional safeguards.

C. Ethnicity

A cluster of characteristics which may include race, but also cultural characteristics or traits which are shared by a group with a common experience or history.

D. Gender

A psychological classification based on cultural characteristics or traits.

E. Sex

A biological classification, male or female, based on physical and genetic characteristics.

F. Profile

A legitimate profile, sanctioned by the Department, is a very specific attribute, or cluster of attributes or characteristics, that form the basis for reasonable suspicion of criminality. A profile is only valid for a limited time and under limited circumstances, most often for drug trafficking. These attributes or characteristics are established in writing based on considerable training and experience. A legitimate profile will not be based solely on a person's race, sex, sexual orientation, gender, national origin, ethnicity, age, or religion.

G. Probable Cause

Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.

H. Pretext

An officer's reason for making a stop.

I. Race

A category of people based on common physical or genetic traits or characteristics. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.

J. Racial Profiling

The unlawful detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics. "Racial profiling" refers to policing practices prohibited by this Department.

K. Reasonable Suspicion

Articulate, objective facts which lead an officer to suspect that a person stopped has committed, is committing, or may be about to commit a crime. A well founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of an individual. Courts require that stops based on reasonable suspicion be "objectively reasonable."

L. Stop

The detention of a person for a brief period of time, based on reasonable suspicion. A stop is an investigative detention. Refer to GO 2-6, Field Interviews – Stop & Frisk for a description of the circumstances which may give rise to reasonable suspicion for a stop. An individual may not conclude a stop. The officer concludes a stop when his or her articulable concerns are satisfied.

M. Sexual Orientation

A person's sexual identity in relation to the gender to which they are attracted.

IV. PROCEDURES

A. General Responsibilities

1. Officers are prohibited from stopping, detaining, searching, or arresting anyone solely because of the person's race, sex, sexual orientation, gender,

national origin, ethnicity, age, or religion. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes.

2. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention based upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
3. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all individuals.
 - a. Officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to an individual's perception of fairness or discrimination.
 - b. Officers shall not use an individual's refusal or lack of cooperation to justify a search of the individual's person, property, residence, or vehicle, or a prolonged detention once reasonable suspicion has been dispelled.
4. All personnel shall give individuals the same courtesy and respect that they would provide to other Department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
 - a. Personnel shall facilitate individuals' access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
 - b. All personnel shall courteously accept, document, and forward to the on-duty supervisor any complaints made by individuals against the Department. Further, officers shall provide information on the complaint process and shall give copies of a complaint form to individuals when appropriate.
 - c. Information dissemination shall be accomplished per the requirements of GO 2-41, Responses to Information Requests.
5. When feasible, personnel shall offer explanations to individuals regarding the reasons for enforcement actions or other decisions, unless the explanation would undermine an investigation or jeopardize safety. When concluding an encounter with an individual, personnel should thank him or her for cooperating.
6. When feasible, all personnel shall identify themselves by rank and/or name. When an individual requests information, personnel shall give their

Departmental identification number, name of the immediate supervisor, or any other reasonable information.

7. Unless required by law, an individual's refusal to cooperate or provide information does not create justification for further enforcement action. Refusals to sign a summons or failure to obey a lawful order of an officer are examples of exceptions to voluntary cooperation.
8. All personnel are accountable for their actions and shall justify their actions when required. Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.

B. Supervisory Responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
2. Supervisors will use the disciplinary mechanisms of the Department to ensure compliance with this policy and the constitutional requirements of law enforcement.
3. Supervisors will be mindful that in accounting for the actions and performance of personnel, supervisors are the key to managing community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
4. Supervisors are reminded that biased enforcement of the law engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the Department to liability consequences. Supervisors shall hold each individual under their command accountable for repeated instances of biased enforcement.
5. Supervisors shall ensure that all enforcement actions are duly documented per Department policy. Supervisors will ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
6. Supervisors shall facilitate the filing of any individuals' complaints concerning law enforcement service.

D. Pretext Traffic Stops

1. Pretext traffic stops, or those in which the reason for the stop given to the individual may not reflect all of the officer's actual reasons, are legal and in some circumstances necessary.

2. The officer's subjective intent (pretext) is irrelevant when stopping a vehicle. The legitimacy of the stop will be gauged by its objective reasonableness. As long as an officer has at least one (1) legal reason for stopping a vehicle, such as a minor traffic violation, then it is irrelevant that the officer had some suspicion unrelated to the traffic stop.

E. Training

Officers shall receive ongoing training in interpersonal communications skills, cultural, racial, and ethnic diversity and courtesy.