

*Orono Police Department*

Standard Operating Procedures

**Hate /Bias Crimes and Bias-Based Policing**  
**Number: 1-9**

**ADOPTED: 08/26/10    AGENCY ROLE & AUTHORITY**

**SUBJECT: Hate/Bias Crimes and Bias-Based Profiling**

**EFFECTIVE DATE: 07/06/2020**

**REVIEW DATE: 07/01/2021**

**AMENDS/SUPERSEDES: 04/10/17**

**APPROVED:** \_\_\_\_\_  
**Joshua W. Ewing**  
**Chief of Police**

## I. Purpose

The purpose of this policy is to assist employees in identifying incidents motivated by bias; based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry, in reporting such incidents, and in defining appropriate steps for assisting victims, apprehending suspects, and to prohibit employees from bias-based profiling. **MLEAP 2.01**

## II. Policy

It is the policy of this law enforcement agency to safeguard the state and federal rights of all individuals without regard to race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry. Any bias-motivated acts including violence, threats of violence, property damage, or the threat of property damage, harassment, intimidation, or any other bias-motivated crime or act will be given the utmost priority. **BOT 6-1**

Bias-based profiling and/or any other discriminatory practice by members of this agency is strictly prohibited. This includes stops, detentions, or asset seizures and forfeitures efforts based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry. This agency also requires that individuals are only stopped or detained when legal authority exists to do so and that members of this agency base their enforcement actions solely on an individual's conduct and behavior or specific suspect information. **BOT 6-2**

It is the responsibility of each officer to be familiar with the Maine Civil Rights Act and applicable criminal standards. Given this is a statutorily mandated policy, officers must abide by this agency's policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees. **BOT 6-3**

## III. Definitions

Bias-Motivated Incident: Means any incident motivated in whole or in part by bias-motivated conduct. The bias motivation would include bias based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry. **BOT 6-4**

Hate/Bias Crime: Means any crime motivated in whole or in part by bias based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry. **BOT 6-4**

Bias-Based Profiling: Means targeting an individual based on a trait common to a group for enforcement action to include, but not limited to race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry. **BOT 6-5**

Enforcement Activities: Activities both on and off-duty, undertaken by department personnel that arise from their authority related to employment, oath of office, state statute, or federal law. Activities include traffic contacts, field

contacts, arrests, investigations, asset seizure and forfeiture, and general law enforcement contact with citizens.

Probable Cause: A set of facts or circumstances based on reliable information or personal knowledge or observation by an officer, which reasonably shows or would warrant an ordinary prudent reasonable officer in believing that a person has committed, is threatening, or is about to commit some criminal violation of the law.

Reasonable Suspicion: A suspicion based on facts or circumstances which of themselves do not give rise to the probable cause requisite to justify a lawful arrest, but which give rise to more than a bare suspicion; that is a suspicion that is reasonable as opposed to an imaginary or purely conjectural suspicion.

#### **IV. Procedures – Bias Investigations**

##### **A. Emergency Communication Specialist (ECS) *BOT 6-6***

Whenever an ECS receives a call for a bias-motivated incident or hate/bias crime, the ECS will advise the responding unit(s).

##### **B. Law Enforcement Officer (LEO) *BOT 6-7***

1. Respond to the scene of bias crime/incident, takes steps to ensure everyone's safety and keep the incident from escalating and secure and preserve the scene.
2. Thoroughly investigate the incident, documenting the facts, language, and physical evidence in an incident report.

##### **C. Supervisor *BOT 6-7***

1. The supervisor shall confer with the initial responding LEO, ensure that all necessary preliminary actions have been taken and inform the agency's Civil Rights Officer.

##### **D. Civil Rights Officer *BOT 6-7, 6-10, 6-11***

1. The Civil Rights Officer for this agency shall be assigned by the Police Chief and each LEO shall inform to any member of the public the name of that officer. The Civil Rights Officer may assume control of the investigation. This includes:
  - a. Assuring that the scene is properly protected, preserved, and processed. If evidence of an inflammatory nature cannot be physically removed (e.g., painted words or signs on a wall), the owner of the property shall be contacted to remove such material as soon as possible and the LEO shall follow-up to ensure that this is accomplished in a timely manner.
  - b. Conduct or cause to be conducted a comprehensive interview with all victims and witnesses at the scene, including a canvas of the neighborhood for additional sources of information.
  - c. Notify other appropriate personnel in the chain of command.

2. Investigate bias crime/incident to make a determination as to motive.
3. Notify the Office of the Attorney General by contacting the Investigation Division at 207-626-8520. **BOT 6-7, 6-8**
4. Work closely with the Office of the District Attorney to ensure that a legally adequate case is developed for prosecution. **BOT 6-9**
5. Assume lead role in providing on-going assistance to the crime victim to include:
  - a. Contacting the victim periodically to determine whether the victim is receiving adequate and appropriate assistance.
  - b. Providing information to the victim about the status of the criminal investigation.

## **V. Procedures – Bias Based Profiling**

### **A. Employee Responsibilities**

1. All department employees, whether sworn, civilian, or volunteer, shall treat every person with courtesy and respect when interacting with the public and will conduct all law enforcement duties in a professional manner.
2. All investigative detentions, traffic stops, arrests, searches, and seizures of property by department employees will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the United States Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances and conclusions which support probable cause or reasonable suspicion for an arrest, traffic stop, or investigative detention.
3. LEO's may consider the reported race, ethnicity, or national origin of a specific suspect or suspects based on credible, reliable, locally-relevant information that links a person of a specific race to a particular criminal incident or links a specific series of crimes in an area to a group of individuals of a particular ethnicity.
  - a. The criteria of locally relevant requires that the information linking race to crime be based on local conditions. That is, officers could not rely on widely held stereotypes or even the fact that in many areas of the country a certain race is linked to a certain crime. LEO's must have information that supports the link between race and specific criminal activity in their area.
4. Except as provided in section 3 above, LEO's shall not consider race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry in establishing either reasonable suspicion or probable cause.

5. ***To prevent inappropriate perceptions of biased law enforcement, LEO's shall utilize the following strategies when conducting pedestrian and vehicle stops:***
  - a. ***Introduce himself or herself, providing name and agency name, and explain to the citizen the reason for the stop as soon as practical, unless providing this information will compromise the safety of officers or other persons. However, due to the nature and purpose of the operations, undercover LEO's or LEO's acting as decoys are exempt from identifying themselves until the point that arrest, detention, or enforcement actions undertaken. In vehicle stops, provide this information before asking the driver for their license and registration.***
  - b. Ensure that the length of the detention is no longer than necessary to take appropriate action for the known or suspected offense.
  - c. Answer any questions the individual may have, including explaining options for the disposition of the traffic citation, if relevant.
  - d. Provide his or her name and badge number when requested to do so, in writing or on a business card.
  - e. LEO's shall provide an explanation if it is determined that the reasonable suspicions were unfounded. (e.g., after a BOLO stop).
  - f. The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry stopped for investigative or enforcement purposes is prohibited and is a cause for disciplinary action consistent with agency policy.

#### B. Supervisor Responsibilities

1. Supervisors shall ensure that LEO's follow the policies and procedures outlined in this policy. It is the responsibility of supervisors to monitor the activities of their personnel and to identify potential bias-based policing activity.
2. An on-duty supervisor shall be responsible for making contact, when possible, with any known complainant alleging bias-based law enforcement practices by any LEO under their command, either on the scene or by telephone and shall document the content of the complaint.
3. Upon receipt of a bias-based policing complaint, each supervisor shall address the matter in a timely manner in conjunction with SOP 4-10 Complaints Against Law Enforcement Officers.
4. Supervisors will be particularly alert to potential patterns and practices of their personnel that may indicate bias based profiling and treatment of individuals.

## **VI. Allegations of Bias Based Policing**

- A. Whenever a person complains that a LEO has engaged in practices prohibited by this policy, the LEO will immediately notify his or her supervisor for advisement of the situation.
  - 1. When practical to do so, the supervisor will report to the scene to mediate the situation.
  - 2. LEO's accused of bias-based activity shall provide the complainant(s) with the full name and agency telephone number of the LEO's immediate supervisor, and the contact name and agency telephone number of Administration.
  - 3. LEO's accused of bias-based activity shall complete a memorandum detailing the incident, the allegation made, the purpose for the pedestrian or motor vehicle stop, detention, investigative activity, or arrest. The Memorandum shall be directed to the Police Chief and submitted through the LEO's chain of command.
- B. Any person who believes he or she was stopped, detained, or searched based solely on a biased based profile may file a complaint with the agency. LEO's receiving such a complaint shall follow procedures outlined by SOP 4-10 Complaints Against Law Enforcement Officers.
- C. Investigations of allegations of bias-based policing shall be conducted in a like and consistent manner in conjunction with SOP 4-Complaints Against Law Enforcement Officers.

## **VII. Review and Reporting Requirements**

- A. 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. In addition, members may face civil and criminal liability in accordance with Title 42 U.S.C. 1983, Title 42 U.S.C. 14141 and Title 18 U.S.C. 242.
- B. Annually, the Police Chief or designee will conduct a documented administrative review of agency practices and citizen complaints/concerns received to ensure that illegal or biased based profiling is not occurring during operations of this agency. Additionally, any necessary training issues or policy changes will be addressed.
- C. If a pattern is identified, the Police Chief shall be responsible for ensuring that an investigation is conducted to determine whether LEO's of the department have violated the provisions of this policy and/or any other department policies and procedures.

**VIII. Retaliation**

- A. No person will be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because he or she filed such a complaint.
- B. No member of this agency, regardless of rank, shall retaliate against any fellow LEO, official, civilian, or volunteer for reporting incidents of bias-based policing or for participating in or cooperating with the investigation of those incidents.
- C. Actions or behaviors found to constitute retaliation shall be immediately addressed and may lead to disciplinary action up to and including termination.

**IX. Training *MLEAP 2.01***

- A. Members shall receive biennial training on bias-based policing.
- B. Training topics may include field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques, cultural diversity, discrimination, and community support.
- C. Training on bias-based policing shall be documented.

**\*\*\*ADVISORY\*\*\***

This Maine Chiefs of Police Association model policy is provided to assist your agency in the development of your own policies. All policies mandated by statute contained herein meet the standards as prescribed by the Board of Trustees of the Maine Criminal Justice Academy. Prior to implementation, it is recommended that this model policy be reviewed and that any changes necessary for your agency be incorporated. The watermark may be removed by going to page layout, click on watermark, and click on remove watermark.

**\*\*\* DISCLAIMER \*\*\***

This model policy does not create a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this policy will only form the basis for administrative sanctions by the individual law enforcement agency and/or the Board of Trustees of the Maine Criminal Justice Academy. This policy does not hold the Maine Chiefs of Police Association, its employees or its members liable for any third-party claims and is not intended for use in any civil actions.

Any questions regarding the policy may be directed to the MCOPA Policy Committee.

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***BOT 1-1 (a)(b)(c) MLEAP 6.01***