

EFFECTIVE JUNE 4TH 2014

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**Vermont Attorney General's
Proposed Policy:
Bias-Free Policing**

Introduction and Purpose

The purpose of this proposed policy is to provide guidance to law enforcement officers regarding the appropriate use of certain criteria, such as race, sex, or ethnicity in their decisionmaking. While such criteria are legally relevant in certain circumstances, their misuse may violate the law or substantially impair law enforcement's relationship with the community it serves. Far from hampering energetic and focused law enforcement, bias-free policing creates an environment in which community members work closely with agencies to solve problems together.

A. Bias-Free Policing: General Principles

- I. As required by statutes, Chapter I, Article 11 of the Vermont Constitution and Amendment IV of the United States Constitution, all enforcement actions by law enforcement officers, such as investigative detentions, traffic stops, arrests, searches and seizures, etc., must be based on reasonable suspicion, probable cause, or other required standards, such as those applicable to DUI checkpoints and the like.
 - a. Law enforcement officers must be able to articulate specific facts, circumstances, and conclusions which support the required standard for enforcement actions.
 - b. Law enforcement officers may take into account the reported race, ethnicity or other Personal

Criteria of suspects based on credible, reliable, locally-relevant information that links persons of specific description criteria to particular criminal incidents.

- II. Except as provided in I.b. above:
 - a. Law enforcement officers will not consider race, ethnicity, or other Personal Criteria in establishing either reasonable suspicion or probable cause.
 - b. Law enforcement officers will not single out or otherwise treat persons differently because of their race, ethnicity, or other Personal Criteria.
- III. "Personal Criteria" may include, but are not limited to, race, ethnicity, immigration status, national origin, color, gender, sexual orientation, gender identity, mental or physical disability, religion, and socio-economic level.

B. Disclosure of Confidential Information

- I. General Rule; Concerns About Victim And Witness
 - a. To further a criminal justice system that affords protection to all persons and fosters confidence and respect for our legal system, it is essential that victims report crimes and fully cooperate in investigations; that witnesses come forward and provide testimonial and other evidence; that persons report suspicious activity and other information to reduce crime and disorder; and that help is summoned when needed.
 - b. To that end, law enforcement officers should not disclose Confidential Information regarding members of the community where such disclosure may (a) jeopardize individuals' health, welfare, or safety, or (b) lead crime victims or witnesses not to cooperate with law enforcement efforts.
 - c. In this context, "Confidential Information" may include, but is not limited to, sexual orientation, gender identity, receipt of public assistance, immigration status, national origin, physical or mental condition, status as a victim of domestic violence or sexual assault, or status as a crime witness.

II. Exception; Investigations and Prosecution of Unlawful Activity

a. Law enforcement officers may disclose Confidential Information in cases where the information is material to the advancement of:

1. Investigations or prosecutions of violations of the law; or,
2. Homeland security and public safety.

C. **Immigration Status Inquiries: Concerns About Persons Not Suspected of Unlawful Activity**

I. To effectively serve all communities and to ensure trust and cooperation of all victims and witnesses, law enforcement officers, unless otherwise appropriate (*e.g.*, agencies' investigations of suspected human trafficking or investigations of hate-motivated crimes), should not ask about, or investigate the immigration status of crime victims or witnesses. Where such inquiries are appropriate, officers should explain the reasons for making them— unless doing so would compromise the investigation or officer safety.

II. Law enforcement officers should ensure that individual immigrants and immigrant communities understand that full victim services are available to victims and witnesses, whether documented or undocumented. Law enforcement officers should communicate that they are there to provide assistance and to ensure safety, and not to cause the removal / deportation of victims or witnesses.

III. Law enforcement officers will act first and foremost in the public safety interests of our communities and our essential mission to serve and protect when dealing with undocumented foreign nationals who require help from or who make reports to law enforcement officers, giving full priority to public safety and justice concerns.

