

UNLAWFUL OR IMPROPER BIAS

PREAMBLE:

Unlawful or Improper Bias in law enforcement is a practice that presents a great danger to the fundamental principles of a democratic society. Discriminatory policing is abhorrent and cannot be tolerated. An individual who has been detained or whose vehicle has been stopped by the police for no reason other than the color of their skin, or their apparent nationality or ethnicity, is the victim of a discriminatory practice per Nebraska Revised Statute §[20-501](#). In addition, Mayoral Executive Order [S-21-13](#) states discrimination due to race, creed, color, religion, political affiliation, gender, sexual orientation, gender identity, national origin, age, marital status, or disability will not be tolerated.

POLICY:

It is the policy of the Omaha Police Department (OPD) to prohibit Unlawful or Improper Bias in all enforcement actions and activities, to provide mandatory employee training regarding issues related to Unlawful or Improper Bias, and to take appropriate corrective actions following any proven incident of Unlawful or Improper Bias by an employee.

DEFINITIONS:

Discrimination: Any act or failure to act, whether by itself or as a part of a practice, the effect of which is to differentiate between or among individuals or groups of individuals by reason of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age, or disability (Omaha Municipal Code §[13-82\(f\)](#)).

Disparate Treatment: Differential treatment of persons on the basis of race, color, or national origin (NRS §[20-503\(1\)](#)).

Gender: The state of being male or female in relation to the social and cultural roles that are considered appropriate for men and women (CALEA Standards Manual, [Appendix A](#)).

Gender Expression: External appearance of one's gender identity, usually expressed through behavior, clothing, body characteristics or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine. Others perceive a person's gender through these attributes (CALEA Standards Manual, [Appendix A](#)).

Gender Identity: A person's innermost concept of self as male, female, a blend of both, or neither – how individuals perceive themselves and what they call themselves. A person's gender identity can be the same or different from their sex assigned at birth (CALEA Standards Manual, [Appendix A](#)).

Motor Vehicle Stop: Any stop of a motor vehicle (NRS §[20-503\(2\)](#)).

Racial Profiling: Detaining an individual or conducting a motor vehicle stop based upon disparate treatment of an individual (NRS §[20-503\(3\)](#)).

Sexual Orientation: Actual or perceived heterosexuality, homosexuality, or bisexuality (Omaha Municipal Code §[13-82\(q\)](#)).

Unlawful or Improper Bias: The application of police authority based solely on a common trait of a group, without actionable intelligence to support consideration of that trait. This includes but is not limited to race, ethnicity, national origin, religion, age, gender, gender identity or expression, sexual orientation, immigration status, disability, economic status, housing status, occupation, or language fluency (CALEA Standard [1.2.9](#)). (**NOTE:** Officers may consider the attributes of a specific suspect or suspects based on trustworthy, locally-relevant information that links a person or persons with the specific attribute(s) to a particular unlawful incident.)

PROCEDURE:

I. Prohibition of Unlawful or Improper Bias and Discriminatory Practices

- A. OPD employees shall NOT engage in Unlawful or Improper Bias or discriminatory practices.
- B. Detention of any individual that is not based on factors related to violation of, or investigation of violation of, federal law, Nebraska Statutes, Omaha's Municipal Code, or any combination thereof is prohibited. However, officers may continue to stop in a public place any person whom the officer reasonably suspects of committing, who has committed, or who is about to commit a crime pursuant to NRS [§29-829](#).

II. Training Requirements

- A. Initial Training.
 - 1. During the OPD Training Academy, each recruit officer shall receive Unlawful or Improper Bias training. This training shall include the legal aspects of Unlawful or Improper Bias.
 - 2. During the OPD non-sworn employee orientation process, each new non-sworn employee shall conduct a documented review of this policy, which includes legal aspects. The policy review shall be completed within 30-days of employment.
- B. In-Service Refresher Training.
 - 1. All OPD employees shall receive in-service refresher training each year about the harms of Unlawful or Improper Bias and discriminatory practices.
 - a. As mandated in NRS [§81-1414.07](#), all OPD sworn employees shall receive at least two hours of anti-bias and implicit bias training annually. This training is designed to minimize apparent or actual Unlawful or Improper Bias to include racial profiling.
 - b. At least annually, all OPD employees shall review this policy which includes legal aspects of Unlawful or Improper Bias and discriminatory practices.
- C. Remedial Training.
 - 1. OPD employees who are found to have violated this policy may be subject to remedial training, to include the legal aspects and the harms of Unlawful or Improper Bias, in addition to other disciplinary action(s), in accordance with collective bargaining agreements and City of Omaha or OPD policy.
 - a. Remedial training will be documented per the OPD "[Training Operations](#)" policy.

III. Motor Vehicle Stops and Required Reports

- A. Officers shall utilize the OPD electronic reporting system to document Traffic Stop Analysis (TSA) information as mandated by Nebraska Revised Statute (NRS) [§20-504](#). The OPD shall retain the following data pursuant to NRS [§20-504](#):
 - 1. The number of motor vehicle stops.
 - 2. The characteristics of race or ethnicity of the person stopped.

- a. Officers shall NOT ask the driver their race or ethnicity. Officers will document their perception/observation of the race or ethnicity of the driver of the vehicle.
- 3. The nature of alleged law violation that resulted in the motor vehicle stop.
- 4. Whether a warning or citation was issued, an arrest was made, or a search was conducted.
- 5. Any additional information deemed appropriate.
 - a. This includes documenting whether or not officers deployed/unholstered their duty weapon (including their patrol rifle or shotgun) during the traffic stop).
- B. The TSA shall be used to record the above-listed information in compliance with NRS [§20-504-20-505](#).
 - 1. Officers initiating traffic stops shall complete the TSA.
 - a. The electronic reporting system shall automatically capture or prompt the officer to provide required reporting information when an electronic citation is issued.
 - b. If a citation is not issued, a Field Observation (FO) Card and TSA are required.
 - c. Officers who issue a paper citation or who do not complete an electronic citation for any reason shall still complete the TSA.

EXCEPTION: A vehicle stopped for motorist assist reasons does not require the TSA to be completed.

- 2. Only information relating to the DRIVER of the stopped vehicle shall be collected. Traffic stop data shall not be collected from passengers of the stopped vehicle. The driver of the stopped vehicle will not be required to provide any information regarding their race or ethnicity. Officers shall indicate the driver's race or ethnicity in the TSA based on the individual's driver's license or using their best judgment.
- 3. If a paper version of the TSA ([OPD Form 169](#)) is completed for any reason, officers shall enter the TSA information into the electronic reporting system before the end of their shift.

NOTE: It is the officer's responsibility to enter any paper TSA forms into the electronic reporting system. Forms SHALL NOT be sent to the Customer Services Unit for processing.

- a. Sergeants shall make certain that any officer under their command who submits paper copies of [OPD Form 169](#) enters the information into the electronic reporting system.
- b. Once the paper form has been entered into the electronic reporting system, the paper form shall be destroyed to prevent the likelihood of a double entry.
- c. Officers shall adhere to the following instructions when completing a paper TSA form ([OPD Form 169](#)) for any reason:
 - (1) Use a black ballpoint pen and completely shade in the appropriate information in response to each of the following items on [OPD Form 169](#):

- (a) The month, day, and year of the traffic stop.
- (b) The time the traffic stop was conducted.
- (c) The district in which the traffic stop occurred.
- (d) The shift the officer is working when the traffic stop occurred.

NOTE: Officers are also required to write in the numbers for the date, time, and district, as well as fill in the ovals.

- (e) The conditions (daylight/darkness) during which the vehicle was first observed.
- (f) The primary reason for initiating the traffic stop (mark only one (1) option).
- (g) The gender of the driver.
- (h) The officer's perception/observation of the race or ethnicity of the driver of the vehicle. The officer shall NOT ask the driver their race or ethnicity for the purposes of completing the form.
- (i) The type of enforcement taken as a result of the traffic stop (mark all that apply).
- (j) Whether a search of the vehicle was conducted. If the vehicle was searched, indicate the type of search, and identify any contraband seized during the vehicle search.
- (k) Any additional information deemed appropriate.
 - i. This includes documenting whether or not officers deployed/unholstered their duty weapon (including their patrol rifle or shotgun) during the traffic stop.

- C. The OPD shall provide a copy of each allegation of racial profiling received, as well as written notification of review and disposition of each allegation, to the Nebraska Commission on Law Enforcement and Criminal Justice ("the Commission").
- D. The Crime Analysis Manager is responsible for quarterly reporting that shall be provided to the Commission regarding summary data for all traffic stops.

IV. Officer and Supervisor Responsibilities

- A. Officers shall adhere to policies and procedures outlined in this policy, and shall follow procedures for civilian complaints as described in the OPD "[Professional Oversight - Internal Affairs Investigations](#)" policy.
- B. If an individual alleges Unlawful or Improper Bias and the allegation cannot be resolved at the scene, the officer's on-duty supervisor may be notified.
- C. If an individual alleges Unlawful or Improper Bias and the allegation is not resolved at the scene, the officer shall explain to the individual the procedure for making a Civilian's Inquiry/ Complaint Report ([OPD Form 80](#)), as outlined in the OPD "[Professional Oversight - Internal Affairs](#)"

[Investigations](#)” policy. Officers are encouraged to make available the pamphlet entitled “Guidelines for Commending Employees and Filing Civilian Complaints” ([OPD Form 50](#)).

- D. As mandated by NRS [§20-504](#), any sworn employee who becomes aware of incidents of racial profiling by a law enforcement agency shall report such incidents to the Nebraska Commission on Law Enforcement and Criminal Justice within thirty (30) days after becoming aware of such practice.

V. Internal Affairs Unit Responsibilities

- A. The Internal Affairs Unit shall investigate each formalized complaint of alleged Unlawful or Improper Bias or discriminatory practices.
 - 1. Formalized Civilian Complaints and informal Civilian Inquiries concerning Unlawful or Improper Bias shall be monitored via the Early Intervention Tracking System (EITS).
 - 2. The Chief of Police may direct an internal investigation for any allegations of Unlawful or Improper Bias.
- B. The Internal Affairs Unit shall maintain all complaints and dispositions of findings/conclusions of fact of any investigation.
- C. To maintain the Department’s compliance with NRS [§20-504](#), the Internal Affairs Lieutenant shall provide to the Commission a copy of each complaint of alleged racial profiling, and written notification of the review and disposition of each allegation. This shall be done according to the system developed by the Commission.

VI. Annual Administrative Review

- A. The Professional Oversight Bureau (POB) Deputy Chief or designee shall complete a documented annual administrative review of OPD’s Unlawful or Improper Bias policies and activities with potential for Unlawful or Improper Bias.
 - 1. The annual administrative review will indicate whether policy, training, equipment, or disciplinary issues should be addressed. The review shall include details about the following topics:
 - a. Traffic and field contacts.
 - b. Asset forfeiture efforts.
 - c. Complaints of Unlawful or Improper Bias, and any corrective measures taken.
 - 2. The POB Deputy Chief or designee shall provide the completed administrative review to the Chief of Police for review.

VII. Disciplinary Procedures

- A. Violations of this policy will result in discipline, in accordance with collective bargaining agreements and City of Omaha or OPD policy.
- B. Failure to report any observed or known violations of this directive by any OPD employee may result in disciplinary action.

REFERENCES:

I. Laws

- A. Nebraska Revised Statutes (NRS) §§[20-501](#), [20-502](#), [20-503](#), [20-504](#), [20-505](#), [20-506](#), [29-829](#) and [81-1414.07](#).
 - 1. Per NRS §[20-505](#), OPD shall send the Nebraska Crime Commission a copy of this policy whenever it is updated.
- B. City of Omaha Municipal Code: §§[13-81 through 13-86](#).
- C. Mayoral Executive Order: [S-21-13](#), "Statement of Zero Tolerance for Racism and Discrimination."

II. Previous OPD Orders

- A. Previous General Orders: #29-01, 29-01 Supplement #1, 31-02, 31-02 Supplement #1, 16-06, 16-06 Supplement #1, 18-08, 14-13, 14-13 Supplement #1, 6-14, 6-15, 19-17, 14-21, 23-22, 54-24, 35-25, and 36-26.

III. Accreditation Standards

- A. Relevant CALEA Accreditation Standards: 1.2.9 and 82.2.4, and CALEA Appendix A (Glossary).

IV. Other

- A. PPM Monthly Updates: #06-2017, 08-2017, 04-2018, 05-2019, and 08-2019.