



**BURLINGTON POLICE DEPARTMENT  
DEPARTMENT DIRECTIVE  
DD 03 Fair and Impartial Policing Policy**

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**I. PURPOSE**

The purpose of this policy is to reaffirm the Burlington Police Department's commitment to conduct policing in a fair and impartial manner, to clarify the circumstances in which officers can consider personal characteristics when making law enforcement decisions, and to reinforce processes and procedures that enable us to provide services and enforce laws in an equitable and impartial way. Officers will act first and foremost in the best interests of our community and our mission when dealing with undocumented foreign nationals who come to the Department for help or to make reports, giving full priority to public safety and justice concerns.

**II. POLICY**

- A. Employees are prohibited from engaging in biased policing. This means no member of the Burlington Police Department shall take actions based on any person's personal characteristics, except as described below, in the services our employees provide to the community in connection with our law enforcement activities. To achieve this objective the Department will implement a combination of best practices including but not limited to: hiring, in-service training, policy development, supervision, reporting and investigative processes, appropriate discipline, and community outreach/partnerships.
- B. It is essential to the mission of the Department that victims report crimes and fully cooperate in investigations, that witnesses come forward and provide testimonial evidence, that persons report suspicious activity and other information to reduce crime and disorder, and that help is summoned when needed. These activities must be undertaken without hesitation and without fear that the victim, witness, or reporting person will be subject to prosecution or deportation for no reason other than immigration status. Because of this and because federal law does not require law enforcement agencies to ask about the immigration status of crime victims/witnesses, it is the policy of the Burlington Police Department that Burlington officers will not routinely ask any person about their immigration status.
- C. Citizenship, immigration status, national origin, race, and ethnicity should have no bearing on an individual's treatment in the Department's custody or interactions with the public. Immigration status or perceived immigration status, including the existence of an immigration detainer, shall not affect the

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detainee's ability to participate in pre-charge or police-initiated pre-court processes. Furthermore, immigration status or perceived immigration status shall not be used as a criteria for citation, arrest, or continued custody to determine an individual's ties to a community pursuant to Rule 3 of the Vermont Rules of Criminal Procedure.

- D. Local law enforcement are not required to enforce federal civil immigration laws. Therefore, it is the policy of the Burlington Police Department that its police officers shall not enforce civil immigration laws.

**III. DEFINITIONS**

- A. "Biased policing" is conduct by law enforcement officers motivated by an individual's actual or perceived or self-identified personal characteristics.
- B. "Personal characteristics" include actual or perceived race, ethnicity, national origin, color, gender, sexual orientation, gender identity, marital status, mental or physical disability, age, religion and socio-economic status.
- C. "Immigration status" refers to an individual's lawful or unlawful presence in this country.
- D. "Reasonable suspicion" means suspicion for which an officer can articulate factual reasons, but that does not need to rise to the level of probable cause.
- E. "Probable cause" means facts or circumstances that would lead a reasonable person to believe that a crime has been committed, is being committed, or is about to occur.
- F. "Member" or "employee" means any employee of the Burlington Police Department, regardless of their assigned tasks or duties.
- G. "Potential bias incident" means any interaction or situation that may involve personal characteristics being used as the reason for a person's action.

**IV. POLICING IMPARTIALLY**

- A. As required by law, all enforcement actions by Burlington police officers, such as investigation, detentions, traffic stops, arrests, searches and seizures, must be based on reasonable suspicion, probable cause or other required legal standards.
- B. Officers are expected to be able to articulate specific facts, circumstances, and conclusions which support the required standard for a given enforcement action. Except as provided below, officers shall not consider the personal characteristics of a person in establishing reasonable suspicion or probable cause, initiating encounters that are not legal detentions, requesting consent to search, or deciding to exercise an official action.
- C. Officers may take into account reported race, ethnicity or other personal characteristics of persons as part of determining a person's identity if the officer receives information the officer considers credible, reliable, and locally relevant that links a person of specific description to the matter requiring police response.
- D. As required to comply with Title VI of the 1964 Civil Rights Act, officers are expected to utilize professional interpreter services either in person or telephonically when necessary to speak with a person with limited English proficiency.

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- E. Officers generally should not ask federal authorities to provide interpretation services, unless a clear emergency requires it and licensed interpretation services are not available through any other means. Unless one of the exceptions included in Section VIII applies, an officer shall not ask about the immigration status of the person for whom interpretation is required.

**V. COMMUNITY RELATIONS**

To cultivate and foster transparency and trust, each officer shall do the following when conducting pedestrian and vehicle stops or otherwise interacting with the public:

- A. Be courteous and professional;
- B. Introduce themselves to the person (providing name and agency affiliation), and state the reason for the stop as soon as practical unless providing this information will compromise officer or public safety;
- C. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense and that the person understands the purpose of reasonable delays;
- D. Provide the officer's name and badge number verbally when requested. Officers may also provide the information in writing or on a business card;

In addition to the above, officers should answer relevant questions the person may have if doing so will not compromise safety and/or the investigation.

**VI. RESPONDING TO BIAS-BASED REPORTS OR REPORTS REGARDING BIAS FROM THE COMMUNITY**

- A. If any Department employee receives a call for service that appears to be based solely on an individual's perceived personal characteristics or immigration status, the employee will attempt to ascertain if there are other circumstances or facts that would constitute reasonable suspicion or probable cause. If the complainant can offer no further information, the complainant's contact information will be obtained, and the complainant will be advised that the Officer in Charge of the shift will be in contact.
- B. The employee will contact the OIC and explain the circumstances of the call. The OIC should attempt to familiarize the caller with the Department's Fair and Impartial Policing policy and explain that the Department responds to actions that appear to be crimes and not to situations that are based solely on someone's personal characteristics. If the caller is concerned about the person's perceived immigration status, the caller should be referred to federal authorities.
- C. At the conclusion of the call, the OIC will ensure that the contact is documented using the Department's incident report system.
- D. If an employee receives a report of a potential bias incident, the Department shall either dispatch an officer to evaluate the complaint or refer the caller to the officer in charge.

**VII. DUE PROCESS AND IMMIGRATION ENFORCEMENT**

- A. Building trust between police and all residents is vital to the public safety mission of the Department. Policing in a fair and impartial manner is essential to building such trust. Therefore, officers shall not use an individual's personal characteristics as a reason to ask about, or investigate, a person's immigration

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status. Officers may inquire about immigration status only when it is necessary to the ongoing investigation of a criminal offense.

- B. Burlington Police officers are not charged with enforcing and will not enforce civil immigration laws, where the only violation of law is presence in the United States without authorization or documentation. This includes not initiating or prolonging stops based on civil immigration matters, such as suspicion of undocumented status. Similarly, officers shall not knowingly facilitate the detention of undocumented individuals or individuals suspected of being undocumented by federal immigration authorities solely for suspected civil immigration violations.
- C. Because local police officers are not required to enforce “administrative warrants,” “immigration detainers,” and “requests for notification” issued by Immigration and Customs Enforcement (ICE), officers will not detain individuals based on any of these documents alone or comply with requests for notification, subject to subsection G below.

**VIII. TRAINING AND COMPLIANCE**

- A. The Department will ensure that, at a minimum, all members and employees are compliant with Council and legislative requirements regarding fair and impartial policing training.
- B. Additional trainings may include instruction on anti-bias, power and privilege, non-English speaking communities, undocumented communities, and victim/witness services.

**IX. ACCOUNTABILITY AND SUPERVISION**

- A. Accountability is a vital element of policing. Police agencies are better able to achieve the goals of protecting the public safety, enhancing the quality of neighborhood life, and serving community needs if the communities they serve trust them. The means for making a complaint about biased policing shall be readily available to the public.
- B. Where appropriate, employees are required to intervene at the time they become aware that a biased policing incident is occurring. Employees will be alert and respond to indications of potential biased policing.
- C. All members of this agency are required to promptly report allegations, complaints or knowledge of biased policing or suspected violations of this policy to their supervisor.
- D. Shift supervisors will accept any complaint from the public regarding any provision of this policy and shall follow the agency’s procedure for handling citizen’s complaints.
- E. The Department shall ensure that all employees are familiar and in compliance with the content of this policy.

**X. ADDITIONAL GUIDANCE REGARDING DUE PROCESS AND IMMIGRATION ENFORCEMENT****A. VICTIM AND WITNESS INTERACTION**

The following guidelines are based on best practices and offer guidance on how to best support crime victims/witnesses and to ensure procedural justice and enhance trust between the police and community.

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1. To effectively serve immigrant communities and to ensure trust and cooperation of all victims/witnesses, officers will not ask about, or investigate, immigration status of crime victims/witnesses unless the victim/witness is also a crime suspect and immigration status is necessary to the criminal investigation.
2. Officers will coordinate the availability of victim services to documented and undocumented victims/witnesses and victims of crimes. Officers should communicate that they are there to provide assistance and to ensure safety, and not to deport victims/witnesses and that officers do not ask victims/witnesses about their immigration status.

**B. IMMIGRATION STATUS**

1. An officer's suspicion about any person's civil immigration status shall not be used as a basis to initiate contact, detain, or arrest that person. The exception to this would be in those instances where the agency member is working with Federal partners in the Stone Garden program or similar Federal initiatives.
2. Officers may not inquire about a person's civil immigration status unless civil immigration status is necessary to the ongoing investigation of a criminal offense.
3. Officers shall not make warrantless arrests or detain individuals on suspicion of "unlawful entry," unless the suspect is apprehended in the process of entering the United States without inspection.

**C. ESTABLISHING IDENTITY**

1. Notwithstanding other provisions of this policy, officers may make attempts to identify any person they detain, arrest, or who come into the custody of the Department.
2. An individual should not be stopped or detained solely for the purpose of establishing his or her identity. Officers may utilize general federal databases in attempts to establish an individual's identity but should not involve federal immigration officials in such an inquiry unless necessary. If federal immigration officials are involved, communication should be limited to what is needed to establish the individual's identity or to communicate regarding citizenship or immigration status.
3. Acceptable forms of identification, which must include a photograph of the individual, may include, driver's licenses from a U.S. state or foreign country, government-issued IDs by a U.S. jurisdiction, foreign passports, and consular ID cards.

**D. CIVIL IMMIGRATION WARRANTS**

Officers shall not knowingly arrest any individual based on a civil immigration warrant, including DHS Forms I-200, I-203, I-205, and any administrative warrants listed in the National Crime Information Center Database (NCIC).

**E. COLLABORATION WITH FEDERAL IMMIGRATION OFFICERS**

1. Officers shall not contact CBP or ICE for assistance solely on the basis of a suspect's or arrestee's race, ethnicity, or national origin.
2. Officers shall not prolong any detention solely in order to investigate immigration status or to allow CBP or ICE to investigate immigration status.

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- 3. Sweeps intended solely to locate and detain undocumented immigrants shall not be conducted unless acting in partnership with a Federal agency as part of a formal partnership.

F. USE OF RESOURCES

Officers shall not hold for or transfer people to federal immigration agents unless the federal agents provide a judicial warrant for arrest. A civil immigration detainer (Form I-247, I-247D, I-247N, or I-247X) is not a warrant and is not reviewed by a judge and therefore is not a lawful basis to arrest or detain anyone. Valid criminal warrants of arrest, regardless of crime, shall not be confused with immigration detainers. This policy does not affect the proper handling of arrests and detentions associated with criminal arrest warrants.

G. SAVINGS CLAUSE

Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. § 1644, the City of Burlington may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, of any individual. Burlington also may not prohibit, or in any way restrict, the sending, requesting, receiving, maintaining, or exchanging of information regarding the immigration status of any individuals. Nothing in this policy is intended to violate 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

H. SINGLE POINT OF CONTACT

The Officer in Charge (OIC) of each shift shall be the single point of contact for requests for cooperation from federal immigration authorities. The OIC shall document and disclose to the Chief any communication with federal immigration authorities related to immigration violations, including information that individual officers may have disclosed to authorities of their own volition, based on knowledge that was obtained through means in compliance with this policy.

I. DEPARTMENTAL COMMUNICATIONS REVIEW

The Chief, or designee, shall review records of communications initiated by officers to federal immigration authorities regarding specific individuals. This review is intended to ensure that officers are not violating this policy in the process of acquiring and/or disclosing this information.



June 12, 2017

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Brandon del Pozo, Chief of Police

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Effective Date