



THE CLEVELAND COMMUNITY POLICE COMMISSION

REVISED Bias-Free Policing Recommendations Report
May 3, 2016

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Introduction

The Cleveland Community Police Commission (“CPC”) is pleased to present this Bias-Free Policing Report, (“Report”) which details recommendations to the Chief of Police, the Cleveland Police Department (“CPD”) and the City, including the Mayor and City Council, on bias-free policing policies, procedures, and training. The CPC thanks the Bias-Free Policing Work Group (“BFWG”), the many community leaders and activists who participated in our meetings, and the subject matter experts listed below who submitted written recommendations and input, for their excellent work. This Report is made pursuant to the below provisions of the Federal Settlement Agreement. The Report was originally due on December 7, 2015 but the Federal Court granted a motion to amend the Settlement Agreement to extend the deadline to March 7, 2016, in order to provide additional time for the CPC to meet with diverse groups of community leaders and activists and to make these bias-free policing recommendations.

Although extensive work has been done by the BFWG, this report should be considered an initial report. We expect to modify and/or expand our recommendations during the course of 2016 as we continue to meet with the community, CPD, and other interested and concerned parties. It should also be noted that the CPC is required

to issue future separate reports on community and problem-oriented policing and police transparency, which is why our bias-free policing recommendations touch on both subjects but do not address them comprehensively.

The Bias-Free Policing Work Group

- **Lee Fisher, Chair**
- **Anthony Body**
- **Kathleen Clegg**
- **Mario Clopton**
- **Rev. Yvonne Conner**
- **Dr. Ronnie Dunn (community member)**
- **Lynn Hampton**
- **James Hardiman (community member)**
- **Amanda King**
- **Steve Loomis**
- **Dr. Rhonda Williams**
- **Dr. Zachery Williams (community member)**

How We Developed our Recommendations

The Bias-Free Policing Work Group (BFWG), chaired by Commission member Lee Fisher, and the CPC, co-chaired by Dean Craig Boise, Mario Clopton and Dr. Rhonda Williams, conducted extensive outreach to community members across the city in January and February 2016, in addition to community outreach by the CPC from September-

December 2015, to gain insight about community perceptions of and experience with Cleveland police, and to learn their views about bias-free policing.

The Bias-Free Policing Work Group met 10 times and the CPC discussed bias-free policing at our January 27 and February 10 Commission meetings, for a total of 12 meetings in which bias-free policing was extensively discussed.

Bias-Free Policing Work Group Meetings (12)

- **December 7, 2015**- Centers for Families and Children- 4500 Euclid Ave.
- **January 11, 2016**- Centers for Families and Children
- **January 25, 2016** - Centers for Families and Children- first meeting of community members; Avi Cover presentation
- **January 27, 2016**- (Full Commission Meeting)-Harvard Community Center 18240 Harvard Ave.
- **February 3, 2016**- LGBT Center, 6600 Detroit Ave- 6:30-8pm
- **February 8, 2016**- Norma Herr Women's Center, 2227 Payne Ave, 6-7:30pm; Lutheran Metropolitan Ministry Men's Shelter, 2100 Lakeside, 7-8:30pm
- **February 10 2016**- (Full Commission Meeting – breakout sessions) Estabrook Recreation Center 4125 Fulton Ave
- **February 18, 2016**- Word Church, Downtown Campus, 5900 Kinsman Rd., 5:30-7:30pm

- **February 25, 2016-** ACLU, 4506 Chester Avenue- 5:30-8pm (focus on Muslim community)
- **March 3, 2016** -Centers for Families and Children- 5:30-8pm
- **March 6, 2016-** Diversity Center of Northeast Ohio- 5pm-8:30pm
- **April 25, 2016** – Centers for Families and Children, 5-8pm (meeting to discuss revisions to March 7, 2016 Report.)

The BFWG and CPC were particularly interested in gaining an understanding of the views of people in Cleveland who have traditionally not had a voice and who may have substantial concerns with police practices, including but not limited to communities of color, people who are homeless, and members of the LGBTQ and Muslim communities. To build public confidence in the reform process, it is critical that the views of the community continue to be heard and considered. We deeply appreciate the involvement of many community members in the recent process and found their observations very helpful and often compelling.

The feedback from the community, some national experts, and independent research conducted by some BFWG members informed the recommendations in this report and will provide guidance to the Commission in its future work. Some recommendations are based in whole or in part on the recommendations of national experts listed

below, the Police Executive Research Forum, the Seattle Community Police Commission Policy Report, and policies and procedures of other city police departments. There is still much more to learn, and we expect to provide more recommendations in the future.

Acknowledgements

We want to thank the following individuals for their insightful written input, advice, and recommendations.

- **Gabriella Celeste**, Policy Director, Schubert Center for Child Studies
- **Avidan Cover**, Professor, Case Western Reserve University School of Law
- **Rico Dancy**, Cleveland community activist
- **Commander Brian Heffernan**, Cleveland Police Department
- **Nonny Onyekweli**, Policing Project, NYU Law School
- **Susan Porter**, Police Reform Consultant
- **Julia Shearson**, Executive Director, CAIR-Ohio, Cleveland Chapter, Council on American Islamic-Relations
- **Cheryl Staats**, Senior Researcher, Kirwan Institute for the Study of Race and

Ethnicity, The Ohio State University

- **Lisa Thureau**, Executive Director,
Strategies for Youth
- **Northeast Ohio chapter of Showing
Up For Racial Justice (SURJ)**

We thank the following organizations/ institutions
for hosting the BFWG meetings and the
January/February CPC meetings:

- **Centers for Families and Children**
- **Harvard Community Center**
- **LGBT Center**
- **Norma Herr Women's Center**
- **Lutheran Metropolitan Ministry Men's
Shelter**
- **Estabrook Recreation Center**
- **Word Church, Downtown Campus**
- **ACLU / CAIR-Ohio, Cleveland Chapter,
Council on American Islamic-Relations**
- **Diversity Center of Northeast Ohio**

Bias-Free Policing

Some people are disproportionately affected by law
enforcement. Issues of unequal treatment involving

stops, arrests and use of force are especially troubling. In some cases, this may be the result of *intentional* bias, but it also can be the result of *unintentional bias or implicit bias* in systems and institutions. All types of bias may cause police to treat people differently, which may be counterproductive and unfair. Bias-Free Policing is policing that is free of discriminatory effect as well as discriminatory intent. It will increase the CPD's effectiveness as a law enforcement agency and build mutual trust and respect with Cleveland's diverse groups and communities.

Types of Bias

- **Institutional-Intentional Bias** policies explicitly discriminate against a group or groups.
- **Institutional-Unintentional Bias** policies negatively impact one or more groups unintentionally.
- **Individual-Intentional Bias** is prejudice in action and/or discrimination
- **Individual-Unintentional Bias** is unconscious attitudes and beliefs.
- **Implicit Bias** is bias in judgment and/or behavior that results from subtle cognitive processes (e.g., implicit attitudes and implicit stereotypes) that operate at a level below conscious awareness and without intentional control.

Our Framework

Below is the framework we have used for our approach to developing our Bias Free Policing recommendations:

- 1. Encounters and Relations with the public**
- 2. Discrimination and/or Disparate Impact of Policies on Diverse Communities**
- 3. Management Practices, Organizational Culture, Recruitment, Advancement**
- 4. Training and Reporting**

Bias-Free Policing Recommendations

These recommendations seek to address the **five** below types of bias:

- **Institutional -Intentional Bias** policies explicitly discriminate against a group or groups.
- **Institutional-Unintentional Bias** policies negatively impact one or more groups unintentionally.
- **Individual -Intentional Bias** is prejudice in action and/or discrimination
- **Individual-Unintentional Bias** is unconscious attitudes and beliefs.
- **Implicit Bias** is bias in judgment and/or behavior

that results from subtle cognitive processes (e.g., implicit attitudes and implicit stereotypes) that operate at a level below conscious awareness and without intentional control.

This includes intentional and unintentional individual and institutional bias in the CPD (when officers are unfair in their treatment of a person *and* when CPD practices negatively impact a group or groups of people). The recommendations are intended to lessen the number of incidents involving all types of bias. These approaches will better ensure equity in police services, increase CPD effectiveness, and will help build mutual respect and trust between CPD and our diverse communities. Bias-based policing is the different treatment of any person by officers motivated, in whole or in part, by the subject's status as a member of a protected or marginalized class or other personal characteristics.

Implicit Bias

It is particularly important to understand the nature of implicit bias. Unlike explicit bias (which reflects the attitudes or beliefs that one endorses at a conscious level), implicit bias is the bias in judgment and/or behavior that results from subtle cognitive processes (e.g., implicit attitudes and implicit stereotypes) that often operate at a level below conscious awareness and without intentional control. The underlying implicit attitudes and stereotypes responsible for implicit bias

are those beliefs or simple associations that a person makes between an object and its evaluation that are automatically activated by the mere presence (actual or symbolic) of the attitude object.

Implicit bias research was developed from the study of attitudes. Scientists realized long ago that simply asking people to report their attitudes was a flawed approach; people may not wish or may not be able to accurately do so. This is because people are often unwilling to provide responses perceived as socially undesirable and therefore tend to report what they think their attitudes should be rather than what they know them to be. More complicated still, people may not even be consciously aware that they hold biased attitudes. Over the past few decades, scientists have developed new measures to identify these unconscious biases. Extensive social science research has documented the pervasive nature of implicit biases and their real-world effects in numerous realms, including criminal justice. This vast and growing body of research provides compelling evidence that implicit bias should be a consideration in any discussion of the operation of bias.

Recognizing that bias can operate both consciously and unconsciously, even the most well-intentioned officers may be influenced by the unconscious operation of implicit bias. As such, we strongly recommend that the language used to discuss biased-based policing include implicit bias.

General Recommendations

- These policies and procedures apply to the characteristics of all protected classes under state, federal, and local laws as well other discernible characteristics of an individual and marginalized classes. **See our recommended definition of protected and marginalized classes/classifications in the Definition section of this report.**
- All CPD police officers should treat all persons with courtesy, respect, professionalism, care, and dignity.
- The CPD must be committed to providing services and enforcing laws in a professional, nondiscriminatory, fair, and equitable manner.
- Eliminate the appearance, perception, and actual practice of bias-based profiling by the CPD and provide clear guidance so that such practices are not encouraged or condoned by the CPD or its members and so that CDP services are provided in an equitable and respectful way that promotes community engagement and confidence in the CDP. Bias-based profiling is an unacceptable practice in a free and democratic society, and has a corrosive effect on the relationships between the CPD and the communities that it serves.
- The CPD should be committed to protecting civil rights and maintaining the public's trust through the fair, ethical, and impartial enforcement of laws and employment of bias-free policing principles and

equal protection in its hiring; unit assignment, as applicable; promotion; and performance assessment processes.

- The goal of CPD's bias-free policing is to ensure equality and to promote equity in policing. The goal of the Department's policy is to ensure the best policing services and practices for all communities based on their particular public safety needs.
- Officers should not express—verbally, in writing, or by other gesture—any prejudice or derogatory comments concerning race, religion, national origin, gender, gender identity or expression, sexual orientation, or other personal characteristics or protected and marginalized classifications as listed in the Definition section of this report.
- Officers should not make decisions or take actions that are influenced in any way by bias, prejudice or discriminatory intent.
- Officers should not express bias in direct or less direct ways (action, verbally, gesture, writing)
- Officers and supervisors should be subject to discipline for engaging in, ignoring or condoning bias.
- Oversight mechanisms should be created to ensure consistent enforcement of disciplinary policy.
- Bias-Free policing practices should extend to all units of the CPD including the Region II Fusion

Center which is housed under the Homeland Special Operations Unit of the CPD.

- Bias-Free policing practices should extend to all units of the CPD including joint local, state and federal task forces to which members of CDP are assigned, as well as CPD officers working “under color of law” secondary employment.
- The existing CPD disciplinary matrix should be revised to include biased-based policing as one of the items for which an officer can be disciplined.
- CDP should prepare a Bias-Free Policing Handbook that should be standard issue such that all GPOS and policies related to bias-free policing are codified into a single source and are presented to all new recruits to help emphasize the seriousness of the commitment of CDP to bias-free policing.
- The Bias-Free Policing Handbook should be available to the general public. All police policies and procedures should be available in languages needed based on city demographics.

Encounters and Relations with the Public

General recommendations re Encounters, Relations

- Officers should be required to carry business cards with their name, rank, badge number, assigned Police District, and their supervisor and Commander’s contact

information. It should also have the contact information for the Office of Professional Standards in case a member of the public wishes to file a complaint or a commendation.

- All officers should have name tags and badges that are clearly visible at all times
- All employees of the CPD, including all law enforcement officers and dispatchers, should practice bias-free policing. They must know all CPD policies on bias free policing.
- To ensure bias-free encounters, CPD should utilize information that is accurate, specific, and free from stereotype and implicit bias.
- CPD should make intentional efforts to communicate efficiently, effectively, and consistently with the community regarding its commitment to bias free policing.

Stops and Detentions – The Trustworthy Suspect-Specific Information Model

- Officers should not consider protected or marginalized classifications to establish reasonable suspicion or probable cause except that officers may take into account the reported protected or marginalized classification of a potential suspect(s) when trustworthy, locally relevant information links a person or persons of a specific protected or marginalized classification to a particular unlawful incident(s).

Protected and marginalized classifications include the following:

- **Race or color,**
 - **National origin or ethnicity,**
 - **Citizenship, immigrant or refugee status,**
 - **Religion or other belief system,**
 - **Gender, gender identity, or gender expression,**
 - **Age,**
 - **Geographic location**
 - **Marital or familial status,**
 - **Sexual orientation,**
 - **Mental or physical disability,**
 - **Mental illness,**
 - **Economic status,**
 - **Political ideology or affiliation,**
 - **Veteran status,**
 - **Language or language proficiency,**
 - **Housing status** (having or not having fixed residence, public assistance, use of shelter, homelessness, houselessness).
-
- Law enforcement and investigative decisions must be based upon observable behavior or specific intelligence, which forms the basis for, among other things, determinations of reasonable suspicion and probable cause. Officers may take into account the race, ethnicity, age, gender or other personal characteristics of an individual in establishing reasonable suspicion or probable cause only when the characteristic is part of a specific suspect description based on trustworthy and relevant information that links a specific person to a

particular unlawful incident.

- Officers must be prepared to articulate specific facts and circumstances that support their use of such characteristics in establishing reasonable suspicion or probable cause.
- In an effort to prevent inappropriate perceptions of biased law enforcement, each police officer shall do the following when conducting pedestrian and vehicle stops:
 - be courteous and professional;
 - introduce themselves to the individual (providing name, badge number, and agency affiliation), and state the reason for the stop as soon as practical, unless providing this information will compromise Officer or public safety. In vehicle stops, the Officer shall provide this information before asking the driver for his/her license and registration;
 - ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the individual understands the purpose of reasonable delays;
 - answer any questions the individual may have, including explaining options for traffic citation processing, if relevant;
 - When requested, officers must provide the information in writing or on a business card.

- After an investigatory stop, if it is determined that the reasonable suspicion was unfounded, the Officer should explain the determination and apologize for any inconvenience.
- When officers stop, detain, question, and/or search a person they should **fully** explain the reason for these police actions. If it is determined that the person has not committed an offense or is not the suspect in a crime, the officer should offer the person an apology for the detainment and/or questioning, search etc. This small gesture can have a significant impact in alleviating many of the contentious feelings toward the police in the community.
- **Routine body searches should be conducted by an officer of the same gender, if one is present. Strip searches and searches which require touching of intimate areas must be performed by an officer of the same gender. Gender should be determined by the subject's stated gender identity rather than by the officer's perception of gender identity based on factors such as dress, grooming, or appearance.**
- Explain the different stops officers may make and how voluntary and non-voluntary stops differ.
- Describe what officers may and may not do during non-voluntary stops.
- Explain when an officer may frisk or pat-down a detained person for weapons.
- Require officers to report all non-voluntary stops for review and to detect patterns of discrimination.

Supervisors must respond to the scene of bias complaints when asked.

- Whenever a CDP Officer makes an investigatory stop or detention, they should record the following data on forms developed by the Chief for that purpose:
 - the name and badge number of the member of the police force making the stop;
 - the date and time of the stop;
 - the location of the stop;
 - the duration of the stop;
 - the actual or perceived race, ethnicity, approximate age and gender of the subject of the stop, so long as the information shall not be required to be provided by the subject of the stop;
 - ⊖ the mental health status of the person stopped **based on the officer's observation or information provided to the officer;**
 - ⊖ whether the person appeared under the influence of alcohol or drugs;
 - if a vehicle stops, the presence and number of any passengers;
 - if a vehicle stops, whether the driver or any passenger was required to exit the vehicle, and the reason for doing so;
 - the reason for the stop, including a brief description of the facts creating reasonable suspicion;
 - whether any individual was asked to consent to a search and whether such consent was given;
 - whether a pat-down, frisk, or other non-consensual search was performed on any individual or vehicle, including a brief description of the facts justifying the action;
 - a full description of any contraband or evidence seized from any individual or vehicle;

- the disposition of the investigatory stop, including whether a citation or summons was issued to, or an arrest made of any individual, including the charge(s).
- Law enforcement officers must collect data and maintain information from all motor vehicle **and pedestrian stops and delays** to determine whether bias-based policing factored into these actions."
- **NOTE:** *In view of the current draft language of Cleveland City Council Ordinance No. 750-15 defining "bias-based profiling," we believe that the following explanation is necessary in order to understand why we recommend the above "trustworthy suspect-specific model." The trustworthy suspect-specific model limits the instances in which race, color, and characteristics of other classes may be employed in police work. Under the trustworthy suspect-specific approach, police may rely on protected or marginalized class identifiers, but only in the limited circumstances in which these traits describe a specific person connected with a particular crime. Thus, police might stop a person based on a witness' description of a bank robbery suspect wearing a red sweatshirt, six feet tall, and brown complexion.*
- *Our above recommended more expansive definition of biased-based policing would better achieve the laudable goals of fair and impartial policing. "Biased-Based Profiling" should **not** be defined as police actions predicated "**solely**" on a person's race, color, or other protected classes. We recommend that policies and ordinances delineate the limited instances in which race, color, and other protected classes may be considered in*

supporting police actions. As Case Western Reserve School of Law Professor Avi Cover has noted, “the use of ‘solely’ renders the policies underinclusive—limiting the forms of unacceptable police behavior that the community would want prohibited.” For example, the use of the word “solely” would appear not to prohibit police action against a citizen that is based on two traits, rather than a “sole” trait (e.g., race and gender vs. “solely” race). As a result, under the policies it appears police could stop African American males not because they are African American alone, but because they are African American males.

Citizen Complaints

- Complaints about bias based policing should be taken on the phone or by letter. All data collected should include name, address, gender, race, age, and mental status of the person who is filing a complaint or on whose behalf a complaint is being submitted. If interviewed, a complainant should be permitted to state their case at a local precinct or at headquarters and afforded the following protections:
 - Present claims with an advocate including an interested party and/or attorney,
 - All children and youth shall be accompanied by a parent, interested party and/or advocate,
 - All conversations shall be recorded and complainants shall receive a copy of the recording prior to departure from the police department,
 - Complainants will be given a letter indicating the date, time and presence of all persons hearing the grounds for complaint.

- Permit parents/interested parties and advocates to end the interview when they deem it in the interest of the child or youth being interviewed
- Officers conducting interviews regarding complaints must:
 - Identify themselves and provide business cards to complainants,
 - Provide a written statement explaining the process of review for a complaint
 - **Provide a OPS/CPRB complaint form**
 - Refrain from threatening or retaliating against complainants including by arrest,
 - Refrain from invoking previous acts or prior records, or claiming such evidence exists to dissuade complainants from making a complaint,
- No employee should retaliate against any person who initiates or provides information or testimony related to an investigation, prosecution, OPS complaint, litigation or hearings related to the CPD or CPD employees, regardless of the context in which the complaint is made, or because of such person's participation in the complaint process as a victim, witness, investigator, decision-maker or reviewer.

Documentation /Role of the Supervisor

- If a person raises the issue of whether he or she is the subject of bias-based policing, the officer should call a supervisor to the scene to review the circumstances and determine an appropriate course

of action.

- If the person wishes to speak with a supervisor about his or her biased-policing concerns, the officer should immediately contact a supervisor who will respond to the scene and conduct an investigation.
- In every case where there has been an expressed or implied allegation of bias-based policing, the officer should document the circumstances of the allegation and all steps that were taken to resolve the allegation. This documentation must include the person's name, address, telephone or cell phone number, or email address if the person is willing to provide such information; and contact information for any civilian witnesses who observed the events, if they will provide it.
- All reports involving an allegation of bias-based policing should be reviewed and approved by a supervisor before the officer leaves at the end of the officer's shift.
- If the supervisor did not discuss the incident with the complainant at the scene, the supervisor shall contact the complainant at his or her earliest opportunity to determine whether further review and fact gathering is needed.
- Officers may detain an individual only as long as they have a lawful reason, and may not extend a detention solely to await the arrival of a supervisor.
- The supervisor should take the subject's statement in a separate location from the involved officer(s); Any video or audio recordings shall be uploaded before the end of the involved officers' shift and the absence

of any such in-car video shall be documented and explained.

- If the complainant has remained at the scene and is willing to speak with the supervisor, the reviewing supervisor should affirmatively ask the complainant if she or he believes there may have been misconduct or if they would like the matter to be referred to OPS for investigation. The supervisor should document the response and if the complainant asks that the matter be referred to OPS then the reviewing supervisor shall refer it.
- If any reviewing or approving supervisor determines that there may have been misconduct, that supervisor should refer the matter to OPS for further investigation.
- If the complainant did not remain at the scene or did not wish to speak to the supervisor about the immediate complaint or incident, the supervisor should make efforts to contact her or him by phone or letter and to interview her or him if the complainant is willing.
- Supervisors, commanders and civilian managers have an individual obligation to ensure the timely and complete review and documentation of all allegations of violation of this policy that are referred to them or of which they should reasonably be aware.
- Officers who have observed or are aware of other officers who have engaged in bias-based policing should specifically report such incidents to a supervisor, providing all information known to them, before the end of the shift during which they make the observation or

become aware of the incident.

- Officers or supervisors who engage in, ignore or condone bias-based policing as provided in this policy will be subject to discipline.
- Supervisors who fail to respond to, document and review allegations of bias-based policing will be subject to discipline.

Discrimination and/or Disparate Impact of Policies on Diverse Communities

- The CPD should commit to eliminating policies and practices that have an unwarranted disparate impact on certain protected and marginalized classes.
- The CPD should identify ways to protect public safety and public order without engaging in unwarranted or unnecessary disproportionate enforcement.
- The CPD should provide police services in the manner required by the U.S. and Ohio Constitution and state and local statutes and ordinances to avoid bias-based profiling and to increase procedural justice practices. To ensure that its rules, orders, training, job descriptions, recruitment, management, personnel evaluations, resource deployment, tactics, and accountability systems do not allow or encourage any form of bias-based profiling, the CPD should implement data recording and assessment protocols designed to determine whether disparities exist that cause a disproportionately adverse effect on a particular group or groups.

- Officers should be able to assess the characteristics of a person in a mental health crisis and respond appropriately.
- CPD should find alternatives to policies and practices that have an unnecessary negative or disparate impact on some groups of people.
- Intentional and ongoing outreach efforts should be established and maintained with communities most disaffected by discriminatory policies.
- CPD should ensure that information gathering and data storage on potential suspects be gathered in a uniform and valid method.
- CPD should require data collection on unequal impact in resource deployment and other practices and report semi-annually on any disparate impact.
- CPD should conduct regular audits of their internal records on the outcome of police actions, e.g. arrests, searches, stops (traffic, pedestrian, or cyclists), questioning, complaints etc., for evidence of any disparities relative to any particular social groups. Data should be analyzed for racial/ethnic, gender, sexual orientation, religious affiliation, disability, mental health, and homelessness status disparities.
- CPD should establish liaisons with certain communities, including but not limited to the LGBTQ, homeless, and Muslim communities.
- CPD should implement internal programs, procedures, and policies that take into account historic and disparate impact of racial profiling on diverse communities in which they serve, especially African American and other protected and marginalized classes.

- There should be an audit of the services involving youth to ascertain whether police are called to respond to agendas of residents that put them in a position of “profiling by proxy.” (Profiling by proxy occurs when an individual calls the police to make false or ill-informed claims of misconduct about persons they dislike or are biased against a group of persons, such as youth of color).
- CPD should require officers patrolling where the LGBTQ Center and the Men and Women’s Homeless Shelters are located to undergo special training to interact with these populations. In addition, there should be specific audits relative to police stops, questioning, and detainment of members of the Homeless community. There should also be regular audits of police response time to locations frequented by or associated with members of the LGBTQ community
- To effectively serve immigrant communities and to ensure trust and cooperation of all victims/witnesses, officers should not ask about, or investigate immigration status of crime victims/witnesses. Officers will ensure that individual immigrants and immigrant communities understand that full victim services are available to documented and undocumented victims/witnesses/suspects. (Note: Federal law does not require law enforcement officers to ask about the immigration status of crime victims/witnesses/suspects.)

- Officers should communicate that they are there to provide assistance and to ensure safety, and not to deport victims/witnesses/suspects, and that officers do not inquire about victims/witnesses/suspects' immigration status, nor will they report immigrants or the immigration status of victims/witnesses/suspects to Immigration and Customs Enforcement
- (Note: the following provision must be reviewed to determine whether it is consistent with federal law or practice.) With respect to contact with undocumented foreign nationals, CPD will act and refer undocumented foreign nationals to the respective Federal agency only when:
 - the person is known to have committed a crime against the statutes or ordinances of the State of Ohio or is sought for prosecution by another jurisdiction;
 - the person is suspected of conduct or conspiracy that is criminal in nature [other than that person's own immigration status] or which undermines homeland security;
 - during incidental contact the Officer has probable cause to believe human trafficking or other federal criminal activity is afoot.
- Provide clear policies with respect to engagement with members of the Muslim community such that religious rights under the First Amendment are protected.

- When a search is necessary, including pat downs, such searches should be performed by an officer of the same gender as **the gender identified by** the subject, when feasible.
- Searches that involve the pat-down or removal of the headscarf of a Muslim woman should only be done in the presence of female officers, when feasible, and never in public view.
- Upon booking, female Muslim subjects should be permitted to wear their headscarf or they should be provided a jail issued headscarf that complies with religious requirements and the need for safety.

Management Practices, Organizational Culture, Recruitment, Advancement

- The expectation of bias- free, professional and respectful policing needs to be embedded in the culture of the CDP, at all levels of administration
- The CPD should strive to hire a workforce that reflects the highest professional standards and the racial and cultural demographics of the community they serve.
- The Chief of Police should assess the organizational culture—its strengths and vulnerabilities—identifying occupational stress factors for remedial action and reinforcing activities reflecting appreciation for good work, individual differences and respectful interaction among all employees.

- CPD should ensure that management practices institutionalize bias free policing tenets in all procedural aspects of administration, including development, implementation, and evaluation of policies.
- Organizational culture of CPD should reflect intentional awareness, empathy towards, and practice of bias- free policing.
- Recruitment and hiring efforts should emphasize importance of bias- free policing as a core principle.
- An outside expert in personnel recruitment should be consulted to help formulate an effective recruitment strategy that will bring about a comprehensive shift in the CDP in terms of diversity such that the force has more women, people of Color, as well as multi-lingual and multi-cultural officers.
- Implicit bias assessments should be incorporated into the psychological screening of officers during the initial recruitment assessments and thereafter, training in the academy. In that research shows that virtually all humans possess some type of implicit biases, this should not necessarily preclude candidates from becoming officers, but be used to bring these biases to the forefront so that training can be provided to help offset and minimize the impact they might have on officer's decision-making and actions.
- Intentional recruitment and hiring strategies, efforts, and programs should reflect commitment to locate qualified employees from communities of color, most impacted by bias based policing.
- Internal advancement procedures should incorporate specific bias free evaluation mechanisms for all employees. Promotion and advancement should highlight

and reward employees who demonstrate proficiency in achieving bias free policing standards and goals.

- The CPD should reinforce an integrated approach for encouraging police awareness and appreciation of racial/ethnic diversity and cultural differences."
- The CPD should periodically audit the personnel selection process to ensure that the hiring qualifications and standards are both valid and fair to applicants of all races and cultures and that neither the sequencing of the testing stages nor the length of the selection process is hindering minority hiring objectives.
- CPD personnel staff should carefully evaluate applicants character, reputation and documented history as they relate to racially and other biased attitudes and behavior.
- CPD personnel selection processes should be geared principally to select in qualified and desirable applicants rather than screen out unqualified applicants
- The CPD should ensure that special recruiting initiatives designed to attract minority applicants supplement the department's general recruitment program.
- The CPD should determine whether minority recruits are disproportionately dismissed during recruit training, field training and probationary employment periods, and if so, determine why and seek ways to reduce that disparate impact.
- Every employee is responsible for knowing and complying with this policy.
- If officers fail to adhere to standards of bias-free, professional and respectful policing, disciplinary actions

should be taken.

- The CPD should focus on quality assurance methods in all aspects of operation— directing, supporting and managing internal controls and employing state, local and national standards whenever possible.
- Managers and supervisors should clearly state to all police officers the expectations for following all bias-free policies and procedures.
- As a preliminary to focusing an action program on bias-free performance, the CPD should first clarify for middle managers and supervisors the agency expectations regarding their responsibilities.
- Top leadership must support and encourage middle managers and supervisors by visibly promoting and enforcing high professional standards.
- Middle managers and supervisors should ensure that all officers under their supervision are familiar with the spirit and intent of policy in dealing professionally, ethically and respectfully with the public, and that officers are complying with orders.
- Middle managers and first line supervisors should pay particular attention to the assignment of probationary officers or officers undergoing field training to ensure they are partnered with experienced officers known to operate within policy.
- Supervisors should monitor activity reports for evidence of improper practices and patterns. They should conduct spot-checks and regular sampling of in-car videotapes and cameras, radio transmissions, and in-car computer and central communications records to determine if both

formal and informal communications are professional and free from racial bias and other bias a disrespect.

- Employees who provide, file, or investigate information about bias incidents should be protected from retaliation.
- There needs to be language in the CDP policy that protects citizens who file reports with the Office of Professional Standards against backlash, scare tactics, threats.
- Below are the competencies necessary for the police and OPS investigators to effectively interact with minority groups. Some items apply to all department personnel (including administrative, records and communications staff); others, primarily to line staff and commanders:
 - the ability to communicate with residents in their primary language;
 - an understanding of cultural issues relating to policing and public safety;
 - a respectful approach to relationships with residents; the ability to be fair and provide equal treatment;
 - the willingness to examine assumptions about links between race/ethnicity and crime in the jurisdiction, in order to bring stereotypes to light;
 - interpersonal skills and a sincere interest in engaging with the community;
 - the willingness to focus community outreach activities on traditionally underserved populations; and
 - a departmental approach to human resources that conveys the same respect for diversity that the department is trying to convey to the community at large.

- CPD should revise its District selection and shift staffing policy that primarily gives seniority preference. By allowing the most senior and experienced officers to select their District assignments and shifts it will likely result in the least experienced officers working in the most troubled, crime-prone, Districts during the third and second shifts, when more crime is likely to occur. *(NOTE: Given the racial/ethnic imbalance of the CPD and that many of the eastside neighborhoods have the highest crime rates, officers not familiar with the culture in these communities may come to view these communities in a stigmatized manner, in that they will disproportionately be exposed to the criminal element in these communities. They will not necessarily see, meet, and encounter the law-abiding, hard-working residents that live in these communities. The more experienced and seasoned officers should work in our more troubled neighborhoods during those peak hours for crimes to be committed.)*
- There should be neighborhood sites available to file OPS reports, as going downtown may be difficult or intimidating for many citizens.
- CPD officers working in secondary jobs should be held to the same standards of professional behavior as when they are working their primary job with the CDP. Officer behavior that does not meet these standards should result in clear and consistent disciplinary actions.
- The role of officers working in secondary employment with regard to emergencies that occur in the vicinity of the secondary employment should be spelled out in a police policy

Training and Reporting

Training is critical for changing the way we think about biased policing in this country and preventing its occurrence. While training cannot easily undo the implicit associations that took a lifetime to develop, social psychologists have shown that, with information and motivation, people can implement controlled (unbiased) behavioral responses that override automatic (biased) associations. The implication is that law enforcement departments need to provide training that makes personnel aware of their unconscious biases so that they are able and motivated to activate controlled responses to counteract them.

Evidence-based policing is not just about implementing better informed and tested crime control approaches, but also about how to effectively achieve fair and impartial policing.

Developing and implementing training to control implicit bias that is based in rigorous science, not conjecture or personal beliefs, is especially important to this long-standing aspiration of enforcement and community stakeholders

- The Chief should reinforce that bias-based policing is unacceptable through specific yearly training, regular updates, and such other means as may be appropriate.
- All police personnel should receive academy and supplemental recruit training that conveys the message that the protection of human and civil rights is a central part of the police mission, not an obstacle to it.
- All CDP officers should receive training on implicit or unconscious bias. This training should begin with new

recruit classes and extend upwards through all levels of the Division.

- Key components of this training should include the following elements:
 - Education on the conscious and unconscious aspects of human cognition
 - An introduction to the Implicit Association Test (IAT) as a free and accessible way for individuals to uncover their implicit biases as they relate different aspects of identity (e.g., race, age, gender, etc.)
 - Examples from the scholarly research literature that highlight the real-world implications of implicit bias on police work as it pertains to both situations encountered in the field as well as in intra-Divisional employment dynamics such as hiring and other personnel-related factors.
 - Research-based suggestions for guarding against the influence of implicit bias both within individuals and institutions.
- The concepts covered in this training should be consistently reiterated in all subsequent professional development activities, as with many other trainings, sessions of this nature are not of the "one-and-done" variety but instead require meaningful reinforcement to become a part of one's professional demeanor.

- CPD should use the Fair and Impartial Policing Training Program as a possible model for this implicit bias education. With support from the Office of Community Oriented Policing Services (COPS Office) of the U.S. Department of Justice. (**NOTE:** *as of June 2015, the five curricula used in the Fair and Impartial Policing Training Program has been implemented with representatives from over 650 agencies and reached more than 2,000 individuals. See www.fairimpartialpolicing.com for more information on this program, its science-based approach to this education, and the five curricular offerings.*)
- The field training reporting system should have categories for: evaluating skills in communicating; manner of dealing with the public; and knowledge relating to protection of constitutional and human rights.
- Senior officers with years of experience should receive in- service training to the same extent as younger officers with less experience, as sometimes behaviors are more ingrained in more senior officers.
- CPD should actively partner with social, civic, non-profit, and academic institutions to develop and conduct training programs reflective of commitment to bias free policing.
- All employees should participate in yearly bias free training and evaluation conducted in cooperation with community representation and input.
- Training mechanisms should include professional development seminars, courses, public lectures, etc. focused on bias free and non-discriminatory material.

- Supervisors should engage deployment strategies that deter bias based policing practices and shall monitor the enforcement activities of those under their command to ensure bias based profiling is not occurring.
- Trainers who train on issues related to culture, history or issues in diverse communities should be appropriately credentialed, and any cultural training should be properly vetted. For example, cultural training on Islam and Muslims should be vetted by independent academic experts with appropriate credentials (**NOTE:** *for example, to avoid issues that were encountered by the FBI recently whereby they had to do a complete scrub of their cultural training materials on Islam and Muslims after they were be found to be replete with bias, stereotypes and inaccuracies*).
- **Training in bias-free policing should include:**
 - conveying the impact the problem has on individual citizens, police and the community as a whole.
 - exploring the historical reasons bias exists, especially at the institutional, organizational and social levels.
 - identifying the key decision points at which racial bias can take effect during police/citizen encounters.
 - educating police on ways to reduce misunderstanding, conflict and complaints based on perceived racial and other bias.
 - presenting alternative operational strategies, in particular, community and problem-oriented policing strategies.

- presenting the available data about bias in policing and throughout the criminal justice system.
- focusing on engaging the community and developing positive relationships with diverse community groups.
- cultural competency training regarding the histories and cultures of local immigrant and ethnic communities.
- what constitutes discriminatory policing under state, federal, and constitutional law.
- how to identify discriminatory practices when reviewing investigatory stop data, arrest data, and use of force.
- how to evaluate complaints of improper pedestrian stops for potential discriminatory police practices.
- the protection of human life and civil, constitutional, and human rights as a central part of the police mission and as essential to effective policing.
- the impact of trauma on women survivors of abuse including domestic violence. A female officer should be sent on calls that involve male domestic violence.
- de-escalation techniques prior to reaching for any weapons. The de-escalation training should reflect the best, state-of-the-art training that reduces the need for deadly force and maintains officer safety.
- continuous, effective cultural competency training. The content of the cultural competency training needs to be thoroughly examined for images and language that entail and perpetuate implicit biases.
- CIT training in how to behave with and respond appropriately to a mentally ill person, even when the caller did not identify a mental health concern

- teaching that the preservation of all human life should be the highest priority and the use of deadly force should be the absolute last option and resort.
- annual training and on-going professional development on all types of bias and how it affects their decision-making in the course of law enforcement interventions.
- constitutional and other legal requirements related to equal protection, due process of law, and unlawful discrimination,
 - strategies, such as problem-oriented policing, principles of procedural justice, and recognizing implicit bias, to avoid conduct that may lead to biased policing or the perception of biased policing;
 - historical and cultural systems that perpetuate racial and ethnic profiling;
 - identification of racial or ethnic profiling practices, and police practices that have a disparate impact on persons in certain demographic categories;
 - self-evaluation strategies to identify racial or ethnic profiling
 - district-level cultural competency training regarding the histories and culture of local immigrant and ethnic communities;
 - police and community perspectives related to bias-free policing;
 - the protection of civil, constitutional, and human rights as a central part of the police mission and as essential to effective policing;
 - instruction in the data collection requirements;
 - methods, strategies, and techniques to reduce misunderstandings, conflicts, and complaints due to perceived bias or discrimination.

- consistent public and mental health training for all employees, so as to assist in the understanding and de-escalation of encounters with communities most disadvantaged historically by biased based policing.
 - the diverse cultures in the City of Cleveland, including training on “Law Enforcement Engagement with Muslim Communities”; Such training should include training on Hate Crimes and anti-Muslim stereotyping, Islamophobia, etc.
 - the different aspects of race, religion, LGBTQ diversity in our city, state, nation, and world.
 - the proper employment of investigative detentions, stops, arrests, searches and property seizures under the Fourth Amendment of the US Constitution
 - the necessity of officers to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative stops, detentions, traffic stops, arrests, nonconsensual searches and property seizures.
- **Supervisor training should include the appropriate methods for:**
 - identifying biased police practices when reviewing investigatory stops and detentions, arrest, and use of force data
 - responding to a complaint of biased police practices, including conducting a preliminary investigation of the complaint in order to preserve key evidence and potential witnesses
 - evaluating complaints of improper pedestrian stops for potential biased police practices;

- engaging the community and developing positive relationships with diverse community groups; and,
 - assessing performance to ensure consideration of a member's record of bias-based violations as well as ability to effectively practice bias-free policing.
- CDP should conduct an assessment and issue a report of all activities, including use of force, arrests, motor vehicle and investigatory stops, calls for service by reason for call and source of calls, as well as misconduct complaints alleging discrimination, to determine whether CDP's activities are applied or administered in a way that discriminates against individuals on the basis of being a member of a protected or marginalized class. This report will be based on the data collected and will identify which practices are most effective and efficient in increasing public safety and community confidence in CPD, and identify steps taken to correct problems and build on successes. CPD will make this report publicly available.
- An Annual Report should describe and analyze the year's bias-based policing complaints and the status of the Department's effort to prevent bias-based policing, including both intentional bias, and unwarranted disparate impact.
- After review by the CPD command staff, and after names of individual officers have been removed, this report should be made available to the community.

Conclusion

As noted above, although extensive work has been done by the BFWG, this report should be considered an initial report. We expect to modify and/or expand our recommendations during the course of 2016 as we continue to meet with the community, CPD, and other interested parties. It should also be noted that the CPC is required to issue future separate reports on community and problem-oriented policing and police transparency, which is why our bias-free policing recommendations touch on both subjects but do not address them comprehensively. There is still much more to learn, and we expect to provide more recommendations in the future.

APPENDIX

Bias- Free Policing - Settlement Agreement Provisions

15. Community Police Commission

The Commission will have the following mandate:

- a. to make recommendations to the Chief of Police and the City, including the Mayor and City Council, on policies and practices related to community and problem-oriented policing, bias-free policing, and police transparency;**
- b. to work with the many communities that make up Cleveland for the purpose of developing recommendations for police practices that reflect an understanding of the values and priorities of Cleveland residents;**
- c. to report to the City and community as a whole and to provide transparency on police department reforms.**

17. The Commission will:

- a. within 90 days of appointment (*September 8, 2015*), hold public meetings across the City, complete an assessment of CDP's bias-free policing policies, practices, and training, and make recommendations;**
- b. on an ongoing basis, including through membership on the Training Review Committee, assist as appropriate in CDP's development of training related to bias-free policing and cultural competency;**

Bias-Free Policing

35. CDP will deliver police services with the goal of ensuring that they are equitable, respectful, and free of unlawful bias, in a manner that promotes broad

community engagement and confidence in CDP. CDP expects all officers to treat all members of the Cleveland community with courtesy, professionalism, and respect, and not to use harassing, intimidating, or derogatory language.

36. CDP will integrate bias-free policing principles into its management, policies and procedures, job descriptions, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems.

37. CDP will administer all activities without discrimination on the basis of race, ethnicity, national origin, religion, gender, disability, age, sexual orientation, or gender identity.

38. Within 18 months of the Effective Date (June 12, 2015) CDP will develop a bias-free policing policy that incorporates, as appropriate, the recommendations developed by the Commission pursuant to paragraph 17, and that provides clear guidance to officers that biased policing, including deciding to detain a motorist or pedestrian based solely on racial stereotypes, is prohibited.

39. Within 18 months of the Effective date (June 12, 2015) with input from the Commission, CDP will develop training that incorporates the principles of procedural justice and that is designed to ensure that police services are delivered free from bias. The Monitor will review the training to assess whether it is adequate in quality, quantity, scope, and type.

40. The training will be provided to all officers and will include:

a. constitutional and other legal requirements related to equal protection and unlawful discrimination, including the requirements of this Agreement.

Definitions:

Bias is a form of prejudice in favor of or against a particular person or group, typically in an unfair manner. Bias can be explicit or implicit. Overtly racial or discriminatory language, behavior and decisions are examples of explicit bias.

Implicit bias refers to the unconscious mental attitudes and stereotypes toward or against a particular person or group based on characteristics such as race, ethnicity, age, and appearance. Implicit biases are automatic, involuntary, and pervasive and thus are powerful determinants of behavior.

Social psychologists have shown that “implicit” or “unconscious” bias can impact what people perceive and do, even in people who consciously hold non-prejudiced attitudes. Implicit bias might lead the line officer to automatically perceive crime in the making when she observes two young Hispanic males driving in an all-Caucasian neighborhood or lead an officer to be “under-vigilant” with a female subject because he associates crime and violence with males. It may manifest among agency command staff who decide (without crime-relevant evidence) that the forthcoming gathering of African-American college

students bodes trouble, whereas the forthcoming gathering of white undergraduates does not.

Bias Based Profiling is the stopping, detaining, investigating, searching, seizing, arresting or surveilling of a person based on the person's actual or perceived race, color, ethnicity, religion, sexual orientation, gender identity or gender expression, disability, age, national origin, citizenship status, language proficiency, or inclusion in a protected class. Bias based profiling lacks factual information, patterns of activity, and motives that would otherwise justify law enforcement intervention. Bias based policing is also known as racial profiling, biased policing, discriminatory policing and unconstitutional policing.

- **Equity:** The process of creating policies and procedures to promote the fair and unbiased treatment of all individuals and to remove differences in treatment of our members and community members based on protected classifications.
- **Protected and marginalized classes or classifications** include the following:
 - **Race or color**
 - **National origin or ethnicity**
 - **Citizenship, immigrant or refugee status**
 - **Religion or other belief system**
 - **Gender, gender identity, or gender expression**
 - **Age**
 - **Geographic location**
 - **Marital or familial status**
 - **Sexual orientation**
 - **Mental or physical disability**

- **Mental illness**
- **Economic status**
- **Political ideology or affiliation**
- **Veteran status**
- **Language or language proficiency**
- **Housing status (having or not having fixed residence, public assistance, use of shelter, homelessness, houselessness).**

Criminal Profiling is a legitimate law enforcement technique that uses a combination of knowledge, experience and training that can be clearly articulated in written reports and in testimony to create reasonable suspicion or probable cause to narrow a field of suspects during a criminal investigation. Factual information, patterns of activity, and motives are considered when using criminal profiling to identify a suspect. Criminal profiling using the person's actual or perceived race, color, ethnicity, religion, sexual orientation, gender identity or gender expression, national origin, citizenship status, language proficiency, or inclusion in a protected or marginalized class in combination with other identifying factors as a part of a specific individual description to initiate a law enforcement action.

Disproportionate Minority Contact refers to the disproportionate number of minority youth who come into contact with the juvenile justice system.

Investigatory Stop/Detention means a temporary restraint where the subject of the stop or detention reasonably believes that he or she is not free to leave. A juvenile's age is a consideration in determining whether or not a juvenile would

feel free to leave. An investigatory stop/detention may be of a pedestrian, school student, motorist, or bicyclist.

Pretextual stop means a police stop or detention initiated for which the officer has neither reasonable suspicion nor probable cause.

Procedural Justice refers to a concept involving four central principles designed to build public confidence in the police: 1) treating people with dignity and respect; 2) giving individuals a chance to be heard during encounters; 3) making decisions fairly and transparently, based on facts; and 4) conveying goodwill and trustworthiness. For youth, two additional principles are key to ensuring procedural justice: 1) demonstrating concern for the youth's well-being and safety and 2) recognizing police officer's duty to affirmatively protect a juvenile's rights and unique legal status.

Profiling by Proxy occurs when officers initiate law enforcement action based upon an undue reliance on the perceptions of a potentially biased or ill-informed complainant rather than their own independent and objective assessment of the alleged misconduct.

"Youth/juvenile" refers to children under the age of 18 years; more specifically "child" refers to children under the age of 14 years.

Cleveland Police Commission Sources

Below is a list of some of the sources that were used to develop this Report.

Burlington, Vermont; Burlington Police Department Directive, Bias Free Policing (2010);

<http://vtmfsp.org/sites/default/files/BurlingtonBiasFreePolicy.pdf>

Columbus, Ohio; Senator Williams Introduces Bias-Free Policing Bill (2015); <http://ohiosenate.gov/williams/press/senator-williams-introduces-bias-free-policing-bill>

Columbus, Ohio; Senate Bill 256 (2015);

<https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA131-SB-256>

Ferguson, Missouri; Formal Consent Decree (2015);

<https://www.fergusoncity.com/documentcenter/view/1920>

Ferguson, Missouri; Ferguson tentatively agrees to top-to-bottom police department makeover (2016);

<http://mashable.com/2016/01/27/ferguson-justice-department-agreement/#>

New Orleans, Louisiana; New Orleans Police Department Policy Manual; <http://nola.gov/nopd/publications/documents/new-orleans-police-department-policy-manual-2014-1/>

Orlando, Florida; ORLANDO POLICE DEPARTMENT POLICY AND

PROCEDURE 1102.3, BIAS-FREE POLICING (2010);

<http://www.cityoforlando.net/police/wp-content/uploads/sites/3/2014/02/Biased-Free-Policing-Policy-1102.3.pdf>

Police Executive Research Forum (PERF); Implementing a Comprehensive Performance Management Approach in Community Policing Organizations: AN EXECUTIVE GUIDEBOOK (2015); <http://ric-zai-inc.com/Publications/cops-p331-pub.pdf>

Police Executive Research Forum (PERF); Racially Biased Policing: A Principled Response (2001); [http://www.policeforum.org/assets/docs/Free Online Documents/Racially-Biased Policing/racially%20biased%20policing%20-%20a%20principled%20response%202001.pdf](http://www.policeforum.org/assets/docs/Free%20Online%20Documents/Racially-Biased%20Policing/racially%20biased%20policing%20-%20a%20principled%20response%202001.pdf)

Portland, Oregon; Bias-Free Policing Work Group Proposed Recommendations for the DSUFCS's Consideration (Portland) (2015); <http://www.cocl-coab.org/sites/default/files/Bias-Free%20Recs%209.21.15.pdf>

Community Process, Feedback, Themes

The Community Engagement Process

During the course of our meetings with the community we asked many questions, including but not limited to the following:

1. Have you (or how many of you have) had encounters with a Cleveland police officer in which you felt the officer provided professional, courteous, or exceptional service? If so, please describe.
2. Have you (or how many of you have) had an encounter with a Cleveland Police officer in which you felt you were treated in a less than professional, respectful, or just manner? If so, please describe.
3. In relation to this encounter, do you believe your treatment was based on any of the following: your housing status, race, ethnicity, national origin, religion, age, gender identity/expression, sexual orientation, immigration status, disability, occupation, or language fluency?
4. Were you detained or arrested? If so, what was the charge?
5. Was any type of physical force or the threat of physical force used?
6. If you answered “yes” to question 2, 3, or 4, did you file a complaint with the Office of Professional Standards? If so, what was the outcome of your complaint?
7. What do you think could be done to improve these interactions with the police?

At the February 7 CPC meeting, in an effort to capture more of our mandate in the consent decree to complete an assessment of the bias-free policing policies, we split the Commissioners and community participants into four groups. Our goal was to

take the draft CDP Bias-Free Policing General Police Order given to us by CPD Commander Brian Heffernan on December 7, 2015, pending Cleveland City Council Ordinance No. 750-15 as introduced , current bias free policing policies and ordinances from other cities, and do an analysis in small groups, guided by a set of questions.

Community Feedback /Themes/ Recommendations

General Observations/ Recommendations by Community Members

It should be noted that a number of our recommendations reflect the specific concerns of the Cleveland residents from whom we heard.

- Some community members stated that officers are sometimes unfair or unresponsive in how they respond to certain crime victims.
- Should make clearer the difference between the currently written definitions of “bias-based profiling” and “criminal profiling,”
- CPD should recognize that bias can occur at both an individual and an institutional level and is committed to eradicating both.”
- Add: (1) “care” and (2) “dignity” to phrase, “Members shall treat all persons with courtesy, respect, professionalism.” Words like these express empathy and make people feel safe are also

important.

- Suggestions were made about offering incentives for officers who agree to work in areas that may be seen as more challenging to police.

Encounters and Relations with the Public

- Much of the feedback obtained at the Bias Free Work Group meetings around the City of Cleveland revolved around interactions with CPD officers. While there were many positive comments about police interactions, the negative comments primarily focused on individuals feeling they were not treated in a respectful manner.
- One of the most important freedoms guaranteed by the Constitution is the ability to move freely and to not be subject to unwarranted searches and seizures. In order to protect these rights, it is critical that officers do their work without bias and within the parameters of the U.S. Constitution.
- In order to ensure that there is strong support and confidence by the public in their police officers, CPD policies and training must clearly explain when an officer may legally stop, detain or search people short of arrest. The rules governing when police may stop and detain people are important since being able to move freely and not be subject to unwarranted searches and seizures is a critical constitutional right.
- The CPC should be particularly interested in making sure CPD policies on stops and detentions are

legitimate, and provide clarity to officers and to the public with respect to officer and-citizen obligations and rights.

- When an officer's bias converges with a caller's bias, officers' accusatory claims provoke outraged denials of wrongdoing by the accused, and escalate situations when officers appear to unquestioningly accept the animus of the caller regardless of whether circumstances warrant such accusations.
- The Commanders in each community need to build a relationship with the community, since they will be modeling what the officers will do.
- There is a need for community problem-oriented policing
- More police "park and walk and talk" is needed.
- Many community members have a strong desire for public education and tools so that individuals will understand and be able to assert their rights during a stop and/or detention—many indicated they do not know their rights when stopped by the police.
- Community members stated that they believe some police stop people on the street, car, or in public places without good reason.
- Community members noted that some officers will detain a person for a long period and then release that person with no apology or explanation.
- A number of community members stated that they believe that body cameras will make a difference in improving CPD performance
- Some community members believe some officers

move relevant interactions outside of the range of body cameras to avoid recording

- Some believe body camera footage is sometimes intentionally lost, tampered with or destroyed by the CPD in order to protect officers.
- Some believe some officers deliberately disregard body camera policies and procedures since there is little, if any, consequence to the officer when those policies and procedures aren't followed.
- Some believe that body cameras sometimes are used as surveillance tool by police.
- Officers sometimes have their badges covered and don't wear body cameras.

Discrimination and/or Disparate Impact of Policies on Diverse Communities

- Members of the African- American, Muslim, LGBTQ, homeless, and youth communities stated that they were often being discriminated against by members of the CPD.
- Some community members stated that they believe not all areas of Cleveland are served equally by Cleveland police.
- Many community members believe some officers stop some people unfairly due to racial profiling, prejudice, ignorance of cultural customs, or for no valid reason.
- Many community members believe some officers

stop, detain and search people without offering any explanation of the reason for the stop.

- Stops are particularly difficult for people with limited English proficiency or who are hearing-impaired since interpretation services are often unavailable
- Some women do not want to be alone with male officers for fear of sexual violence.
- Sex workers should be treated with respect and should have the same due process rights as anyone else accused of wrongdoing.

African-American Community and Communities of Color

- A number of community members believe some police engage in racial profiling and treat people differently because of their race.
- An officer cannot treat a person with courtesy, professionalism and respect if the officer and subject are speaking in “different dialects” and “bringing different experiences to the table” without being aware of this. This is especially true when officers engage with black and brown youth.
- An officer cannot not use bias when interacting with youth and should use cultural competency when reasonable. One positive example was used when there was a group of black teens hanging out on the street blocking the side walk. Before the officer questioned them about “loitering” the officer challenged them to a dance contest and afterwards the youth voluntarily left. The officer finished the job at hand and the youth left

feeling good. This was an example of a win-win because the officer was intelligent and brave enough to be innovative with the youth and establish a relationship before initiating any law enforcement action.

- African- American boys are seen as 4 yrs. older than Caucasian children by the general population and police only do slightly better with identification than the general population so it's likely that police are viewing African- American boys in a similar manner (...Tamir Rice). Whereas Caucasian children are presumed to be innocent which is (positive bias).
- Police officers should employ a developmentally informed approach and resist the tendency to arrest for disorderly conduct and similar discretionary offenses, particularly when the right-of-arrest is based solely on the youth's response to the stop instead of behavior justifying the initial detention. Where appropriate, police officers should employ tactics designed to de-escalate the encounter and reduce traumatic responses; for youth these include developmentally appropriate and trauma-informed strategies and tactics.

LGBTQ Community

- Many individuals in the LGBTQ community perceive a slower rate of response by police to locations associated with certain minority groups, such as the LGBT Center. Response rate should be monitored and compared to response rates to other calls of the same priority level, same police district, etc.
- Gender non- conforming and transgender people stated that they sometimes are unfairly targeted.

- Some members of the LGBTQ community expressed concerns about the use of homophobic and transphobic language in some quarters of the Division by officers while in uniform.

Homeless Community

- On February 8, 2016 some female CPC members met at the Women's Shelter and some male members met at the Lakeside Men's Shelter.
- Members of the homeless community stated that people who are homeless are often unfairly judged as drug/alcohol users or gang members based on status or how they look or dress.
- Behavior was defined as "the way they (officers) speak to them; their attitude." Some officers show favoritism and give money to some residents. Sometimes medication has been stolen on site.
- One resident felt unsafe when she sold purses in the 4th District; she suffers from bi-polar and was not sure whether or not officer knew that when he was trailing (following) her.
- A domestic violence survivor felt intimidated by any man with a gun; she felt tension in the presence of an officer due to an officer's body language.
- Sometimes residents have been accused of misbehaving when they are not guilty.
- Cameras are not installed in the area of the shelter; there are parking lot issues and cars have been broken into.

- A homeless shelter resident reported dealing with sexual harassment at Tower City by another citizen; law enforcement didn't seem to care when incident was reported.
- RTA Police are sometimes rude to homeless riders. An incident was shared about a rider being harassed by an officer even though he had a legitimate ticket. One resident shared feeling intimidated or made to feel worthless while seeking to file a complaint when the rapid doors closed on her; during her report filing, the officers seemed insensitive and used "winks and nods" and other nonverbal gesturing to belittle the "seriousness of her claim".
- Homeless clients often receive more derogatory treatment when their housing status is shared with an officer; your address dictates how you are treated.
- When an officer asks a homeless person where she lives it can be triggering and often times unnecessary. Furthermore, some women feel that giving their address, which is the shelter, makes them an easy target for biased policing.
- Officers are not frequently patrolling more vulnerable areas of the city like where the women's shelter is located, thus making the area a hotbed for criminal activity which causes them to feel unsafe.
- Officers need to understand the links between poverty, mental illness, drug abuse and homelessness when patrolling vulnerable neighborhoods and dealing with vulnerable populations. Police should treat them as they do

individuals in less vulnerable pockets of the community who have access to more resources and who have more “normative” interactions with the police.

- Some members of the homeless community spoke about the purported refusal of off-duty CPD officers working secondary employment at the shelter, while in CPD uniform, to assist them with issues, investigations, and the filing of reports. There was some suggestion that CPD officers were not as understanding of the unique needs and concerns of homeless individuals.

Women

- A number of women expressed concern about discrimination, sexual harassment, and violence by some male police officers.
- Gender bias, whether explicit or implicit, can severely undermine law enforcement’s ability to protect survivors of sexual and domestic violence and hold offenders accountable. Stereotyping of and bias against victims have been shown to discourage people impacted by sexual and domestic violence from reporting their experiences and seeking help. In a nationwide survey of more than 600 domestic violence survivors conducted in April, two-thirds of respondents told the National Domestic Violence Hotline that they were reluctant to contact police because they believed they would either not believe them or do nothing.

Muslim Community

- Members of the Muslim community stated that they believe officers lack understanding and tolerance of the Muslim community and other cultures and customs and may make unfair judgments.
- Police should not make all Muslim women take off their hijab, because many Muslim women who wear a hijab, always wear it.
- Police should know the traditions of faiths, like knowing that Muslim women can interact with others as long as there is a person of mature age present.
- A concern was raised that a number of Muslim and African- American police officers are not promoted through the ranks.
- Some people stated there is some evidence that the Cleveland Division of Police is engaging in questionable surveillance practices on the basis of demographics and on the basis of people's First Amendment protected activities without a nexus to any actual criminal conduct.
- One leader noted that the Fusion Center is connected to the CDP in a murky chain of authority with an unclear oversight apparatus. She stated that the Center operates in almost complete secrecy, such that members of the Cleveland City Council and CPPA President Steve Loomis at one time stated on camera to the media that they did not know it even existed.
- She noted that "Intelligence Fusion Centers" have emerged around the country such that there are now more than 70 of these centers in nearly every state. She

indicated that citizen oversight of these centers is virtually impossible since they are shrouded in secrecy, which is a recipe for potential abuse.

- She further noted that such abuses have emerged in many states. In 2012, a bi-partisan US Senate Intelligence Committee report (100+ pages) excoriated the Fusion Centers and expressed grave concerns about the way they were operating in terms of financial management, efficacy and adherence to mission and lack of protections for and violations of people's civil rights. The Senate report also expressed concerns that the Fusion Centers, which are supposed to merely collect and analyze existing intelligence and "all crimes, all hazards" threat info, were actually buying and using equipment for actual operational intelligence activities.
- She noted that there is also some evidence that Fusion Centers are engaging in very questionable practices regarding the monitoring of social media using various data-mining programs. The monitoring by Fusion Centers of social media use surrounding various activist events and social protest movements like Occupy is pretty well known, but there are other murkier tactics such as a practice of analyzing entire databases of electronic detritus.
- She noted that Fusion Centers are apparently buying and sifting through commercial databases that are solely designed to collect and store mass amounts of everything people delete during their social media activities.

Youth

- Bias-based profiling is particularly harmful to youth due to the unique role of the police in the juvenile justice system. Decisions made by police at the initial point of contact with youth have long-lasting, and oftentimes detrimental, impact on the lives of children. As the primary referral source for court matters, bias based profiling poses disparate impacts on and special harm to youth in minority and other traditionally underserved communities, who experience disproportionate arrest and detention rates.¹ Negative police-youth contacts motivated by overt or implicit racial animus also undermines positive legal socialization in adolescence and the community's confidence in and perception of the legitimacy of law enforcement and authority thereby increasing the likelihood that interactions will be adversarial and escalate. This dynamic harms public safety and needs to be avoided at all cost.
- Police officers should be aware of the behavioral responses many youth employ that can impact the tenor and evolution of an investigatory stop in unintended ways. These responses may reflect fear and traumatized responses to police. Behavioral responses may include:
 - physical resistance including fleeing;
 - verbal challenges;
 - outright disregard for police directives;
 - resignation to perceived mistreatment; and
 - fear-induced deference that leads youth to comply with unlawful police orders.

- Police officers should recognize that such responses are more prevalent in youth that have been socialized by parents, peers, and other community members to avoid contact and conflict with the police due to mistrust fueled by past experiences and ongoing structural inequities.

Management Practices, Organizational Culture, Recruitment, Advancement

- The Chief of Police should research any division of police across the country that has been recognized for changing the culture of its police and then hire an organizational consultant to work on making tangible changes to culture
- CDP should return to rotating shifts or find a hybrid system. There was a vacuum created when the shifts were rotated to a 90-day rotation. The 3rd shift officers are younger while day shifts are more veterans.
- Many citizens expressed the need to bring back mini-stations to the neighborhoods to build more community engagement and trust.
- However, there was also some concern expressed that too many mini-stations could create the potential for “police occupation and surveillance”
- Police should be required to do a service project with youth annually and before entering the force.
- Many community members believe police bias can be reduced by hiring more officers from diverse

backgrounds that reflect the demographic diversity of the community and by having police officers

engage more with the communities they serve.

- Community members also suggested that CPD exercise care in who they hire (not only ensuring more diversity, but that those hired have the appropriate personality and “moral compass” for the job) and provide adequate ongoing support of officers to ensure they receive counseling and have coping skills to deal with high stress jobs.
- Recruitment should be organized around hiring more women and people of color.
- There should be more vocational opportunities for students to learn about law enforcement and becoming police officers.
- Re-think not allowing bonus points for military service during application/hiring process.
- Work to reduce nepotism in police department.
- Police should have more mental, psychological evaluations.
- Police should have more opportunities to decrease stress in life, including financial support, physical training or therapy.
- Offer incentives to police officers for those who display efforts to end the culture of bias.
- Police should be given an incentive to live in the City they police.
- More linguistic support for non-English speakers during encounters with the police.

- A number of community members expressed support for heavier penalties for police officers violating the bias-free policing policies, including penalties with financial consequences
- The Bias-free policing GPO should reference the already existing discipline GPO and the disciplinary matrix.
- Revise the relevant discipline GPOs and disciplinary matrix to reflect the new bias-free policing GPO.
- The Collective Bargaining agreement made between the City and the police unions should allow for anonymous and third party complaints to avoid bias.
- Secondary job officers should use the same code of ethics and behavior as regular duty.
- Clarify the policy on the role of secondary job officers during emergency calls at a site or in the vicinity of the site of their second job.
- If police are acting under the color of law and they are off- duty, they should be held to the same standards and accountability as if they were on-duty

Training and Reporting

- Education and training intended to reduce racial bias in policing should address the nature of the problem. Police personnel need to understand that racial bias is neither a simple nor a one-dimensional issue. It is complex and takes many forms— some obvious, and others subtle.
- Training should be focused on both individual police officer behavior and systemic institutional behavior.

- Ideal behavior of an officer consists of: a positive attitude; a good listener; gives good directions; directs clients to suitable resources; maintains confidentiality between police officer and caller; receives sensitivity training; ensuring searches are done by same gender police officers regardless of whether a client's dress and gender identity seems in conflict.
- The Education and Training Division should ensure that all members in the Recruit Basic Training Program receive training on the Bias-Free Policing General Police Order and that all members receive appropriate training on this order as part of their annual in-service training.
- There was significant support for cultural competency and racial equity training of officers, and for considering involving the community in designing and possibly leading some of this training;
- Cultural competency training should include addressing bias including but not limited to gender identity, age, disability, poverty; and there was an interest in ensuring mandatory training of officers to deal with those in a mental health or other crisis.
- More focus on conflict resolution during crisis situations.
- Training should be more interactive, rather than lecture or paper/pencil. Partner with academia to create trainings.
- Training must be more disciplined; more class time during training focusing on community.
- There should be some sort of accountability measure for training, similar to OTES. (The Ohio Teachers Evaluation System)

- Some stated that there were instances where they believed that the contents of police reports were falsified.
- Some stated that “rogue cops” should be identified and “called out.”
- Training should include cultural sensitivity, including understanding how different cultures interact or greet each other
- Support was expressed for documenting and tracking stops in order to identify patterns of disproportionate treatment of groups.
- Data should be collected on officer patterns of practice.

TO: Lee Fisher
FROM: Policing Project at NYU Law
DATE: March 6, 2016
SUBJECT: Bias-free Policing Resources

You asked us to research how other jurisdictions define bias-free policing. We have pulled together a number of model policies that take a range of approaches, as well as guidelines/reports put together by some leading organizations working on these issues. We also briefly researched some issues relevant to other portions of the bias-free policing recommendations. They are included below.

Bias-Free Policing Definition:

In the draft Bias-Free Policing General Police Order, the policy

currently says: “**Bias Based Profiling** is the stopping, detaining, investigating, searching, seizing, or arresting of a person based solely on the person’s actual or perceived race, color, ethnicity, religion, sexual orientation, gender identity or gender expression, national origin, citizenship status, language proficiency, or inclusion in a protected class. Bias based profiling lacks factual information, patterns of activity, and motives. Bias based policing is also known as racial profiling, biased policing, discriminatory policing, and bias based policing.”

Here are some approaches that other departments have taken:

- **California** AB 953, in their definition of racial or identity profiling, prohibits “the consideration of, or reliance on, to any degree” instead of “based solely on.” See 13519.4(e) at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB953.
 - *Full quote:* “‘Racial or identity profiling,’ for purposes of this section, is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property,

seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.”

- **Seattle’s** policy prohibits the use of discernible personal characteristics in determining reasonable suspicion or probable cause, except as part of a suspect description. See 5.140(3)-(4): <http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>

- *Full quote:* “Employees shall not make decisions or take actions that are influenced by bias, prejudice, or discriminatory intent. Law enforcement and investigative decisions must be based upon observable behavior or specific intelligence. Officers may not use discernible personal characteristics in determining reasonable suspicion or probable cause, except as part of a suspect description.”

- **Winnipeg’s** policy states that a “Member may not unlawfully consider, to any degree, a characteristic of an individual, or a stereotype about offending or dangerousness, or a common trait associated with a group that shares a characteristic, in determining (i) to carry out a law enforcement action or a subject stop, or (ii) the manner in which a law enforcement action or a subject stop is carried out.”

- The policy allows officers to “consider a characteristic of an individual in determining to carry out a law enforcement action or a subject stop only when the Member is seeking to apprehend, detain, locate, or obtain information from a specific subject in connection with a specific crime who has been identified or described in part by the characteristic

and the individual matches the description of the specific subject.”

- Requires the officer “to articulate the specific facts, circumstances, and conclusions” supporting the enforcement action.
- See Section 5:
<http://winnipeg.ca/clerks/boards/WpgPoliceBoard/pdfs/boardpublications/BiasfreePolicing-Consultation.pdf>
- **Austin’s** policy defines bias-based profiling as “Any pattern or practice that includes, but is not limited to, stopping, detaining, frisking, or searching of subjects by police officers based on an individual's race, ethnicity, nationality, religion, gender, sexual orientation, economic status, age, cultural group, disability, or affiliation with any other similar identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.”
 - Says that “race or ethnicity may be legitimately considered by an officer in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., subject description is limited to a specific race or group).”
 - See 328.3:
<https://austintexas.gov/sites/default/files/files/Police/APD Policy 2013-2 Effective 6-1-2013.pdf>
- In its “**Policing Reform Recommendations**,” the **Orange County, NC** Bias Free Policing Coalition defines racial profiling as the “*illegitimate* use of race or ethnicity in deciding whether to . . . engage in an enforcement action.”
<http://ncids.com/pd-core/wp->

<content/uploads/2013/05/Policing-Reform-Recommendations.pdf>

- *Full quote:* The term “racial profiling” typically refers to law enforcement’s illegitimate use of race or ethnicity as a factor in deciding whether to stop, detain, question, or engage in an enforcement action against an individual. Racial profiling, in a broader sense, encompasses the routine use of broad generalizations about race as a factor, in combination with other factors, in causing an officer to react with suspicion where he or she otherwise would not.
- **Portland, OR** defines racial profiling as “inappropriate reliance” placed “on race as a factor” in decided to stop or search. Officers are “prohibited from taking or not taking any police-action motivated by bias or racial profiling.”
<https://www.portlandoregon.gov/police/article/528867>
- *Full quote:* "Racial Profiling: A form of bias-based policing, wherein inappropriate reliance is placed on race as a factor in deciding to stop and/or search an individual . . . Members are prohibited from taking or not taking any police-action motivated by bias or racial profiling. Members must be able to articulate specific facts, circumstances or conclusions that support reasonable suspicion or probable cause for any stop, search, or seizure."
- **New York City** defines racial or ethnic bias-based profiling as “an act of a member of the force of the police department or other law enforcement officer that relies on actual or perceived race, [ethnicity, religion or] national origin, color, creed, age, alienage or citizenship status, gender, sexual orientation, disability, or housing status as

the determinative factor in initiating law enforcement action against an individual, rather than an individual's behavior or other information or circumstances that links a person or persons [of a particular race, ethnicity, religion national origin] to suspected unlawful activity.” See § 2: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1444267&GUID=BCB20F20-50EF-4E9B-8919-C51E15182DBF>.

- **Vermont** and uses “motivated solely by” and allows officers to take into account “reported race, ethnicity, gender or other potentially improper criteria of a specific suspect or suspects based on relevant information that links a person or persons of a specific race, ethnicity, gender or other potentially improper criteria to a particular unlawful incident(s).” See 3.1(6) <http://vtmfsp.org/sites/default/files/VTStatePoliceBiasFreeProcedures.pdf>
- **Doral, FL** defines “illegal profiling” as “a decision by an officer to stop, detain, interdict, or search an individual based on the race, color, ethnicity, background, general, national origin, sexual orientation, economic status, age, culture, physical handicap, religion or other belief system, or any physical or personal characteristic.” <https://www.cityofdoral.com/police/commitment-to-bias-free-policing.pdf>

Here are some recommendations on this issue from toolkits and model policies:

- **COPS** has some resources, broadly speaking, on biased-based policing. Many of these resources point to developing better tools to address biased-based policing, and data analysis, but it may be useful to look at

them as well for definitional purposes:
<http://www.cops.usdoj.gov/default.asp?Item=2274>

- **COPS' and PERF's *Racially Biased Policing: A Principled Response*** Report includes a discussion of the factors to consider when deciding whether to include the word “solely” in the definition of “racially based policing.” See page 16: <http://ric-zai-inc.com/Publications/cops-w0172-pub.pdf>
- **ACLU** recommends a policy that is similar to Seattle's policy:
<https://www.aclu.org/other/picking-pieces-recommendations#17>
(see Department Policies Section B)
- The **“First Circle” Model** defines biased policing as “the inappropriate consideration of specified characteristics in carrying out duties,” where specified characteristics include race, ethnicity, national origin, gender identity, sexual orientation, socio-economic status, religion, disability, and/or age when making law enforcement decisions.
 - “Agency personnel may not consider the specified characteristics in carrying out their duties, except when seeking one or more specific individuals who have been identified or described in part by any of those specified characteristics. In those circumstances, personnel may rely on these characteristics only in combination with other appropriate factors.”
 - See “First Circle” Model Policy, downloadable here:
<http://www.fairimpartialpolicing.com/resources-for-ceos/>

- **The Center for Popular Democracy** has a report that contains a section on bias based policing: <https://www.policylink.org/sites/default/files/JusticeInPolicing-9.pdf>. Suggested best practices include:
 - “Profiling bans should include a broad scope of protected categories including: immigration status, age, housing status, sexual orientation, gender, gender identity/gender expression, disability, and HIV status, in addition to race, religion and national origin.”
- The **IACP** defines biased policing as “Discrimination in the performance of law enforcement duties or delivery of police services, based on personal prejudices or partiality of officers toward classes of individuals or persons based on individual demographics.”
 - Individual demographics include race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, cultural group, or political status.
 - Police services are defined as actions and activities that may not directly include enforcement of the law but that contribute to the overall well-being and safety of the public.
 - Use of individual demographics when performing law enforcement duties is permitted “when such characteristics are part of a specific subject description.”
 - See Sections III and IV:
http://static1.squarespace.com/static/54722818e4b0b3ef26cdc085/t/56831b6bdc5cb44ad7817c8a/1451432811646/2015+IACP_UnbiasedPolicingPolicy.pdf .

Encounters and Relations with the Public:

In the framework for work group recommendations, “Encounters and Relations with the Public” was listed under general recommendations. Here are some approaches that other departments have taken to address this issue:

- **Vermont** outlines specific positive actions that officers can take to prevent “inappropriate perceptions of biased law enforcement.” See 3.2(1): <http://vtmfsp.org/sites/default/files/VTStatePoliceBiasFreeProcedures.pdf>
- **Winnipeg** outlines similar actions in Section 7: <http://winnipeg.ca/clerks/boards/WpgPoliceBoard/pdfs/boardpublications/BiasfreePolicing-Consultation.pdf>

Here are some recommendations on this issue from toolkits and model policies:

- **VERA** provides Tips for Avoiding Profiling by Proxy in a call for service. See page 41-42: <http://www.vera.org/sites/default/files/resources/downloads/police-perspectives-guide-series-building-trust-diverse-nation-diverse-communities-building-trust.pdf>

Management Practices, Organizational Culture, Recruitment, Advancement

In Lee Fisher’s framework for work group recommendations, “Management Practices, Organizational Culture, Recruitment, Advancement” was listed under general recommendations.

Here are some approaches that other departments have taken to address this issue:

- **Vermont**, specific language on supervision practices: “Supervisors should randomly review records such as reports or video/audio recordings, or otherwise monitor the conduct of the members in their command for the purpose of ensuring compliance with this policy and to identify training issues.” See 3.4(1): <http://vtmfsp.org/sites/default/files/VTStatePoliceBiasFreeProcedures.pdf>
- Discipline Practices
 - **Seattle** uses general misconduct policy for bias-based policing allegations.
 - See 5.140(5): <http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>
 - See general misconduct policy: <http://www.seattle.gov/police-manual/title-5--employee-conduct/5002---responsibilities-of-employees-concerning-complaints-of-possible-misconduct>
 - **Vermont** uses general misconduct policy. See 3.4(4): <http://vtmfsp.org/sites/default/files/VTStatePoliceBiasFreeProcedures.pdf>.

Here are some recommendations on this issue from model policies and toolkits:

- **VERA** suggests that, in order to “identify implicit bias in their subordinates, supervisors can observe them in the field or on video, listen to their radio transmissions, and

review external and internal complaints made against them.” See page 40:
<http://www.vera.org/sites/default/files/resources/downloads/police-perspectives-guide-series-building-trust-diverse-nation-diverse-communities-building-trust.pdf>

- Discipline Practices

- **VERA** on discipline: “If formal processes will not produce accountability (e.g., there is not sufficient evidence to sustain a complaint), the supervisor should still make it clear to this officer that biased speech and behavior is unacceptable and that continued noncompliance will result in appropriate disciplinary action. The supervisor should document all future, relevant observations to produce a record that could allow for more formal intervention.” See page 40:
<http://www.vera.org/sites/default/files/resources/downloads/police-perspectives-guide-series-building-trust-diverse-nation-diverse-communities-building-trust.pdf>
- The “**First Circle**” **Model** requires that violations of the biased policing policy “result in training, counseling, discipline or other remedial intervention as appropriate to the violation.” See “First Circle” Model Policy, downloadable here:
<http://www.fairimpartialpolicing.com/resources-for-ceos/>.
- **IACP** Model Policy:
 - “Depending on the nature and seriousness of the incident, supervisors may provide the involved officer(s) with informal, non-punitive intervention such as training and counseling.”

- “All external complaints and internal complaints that cannot be resolved effectively and appropriately by supervisory personnel—or that are determined to be potentially serious in nature—shall be forwarded to the agency’s internal affairs office or other designated authority for investigation.”
- See Section IVB:
[http://static1.squarespace.com/static/54722818e4b0b3ef26cdc085/t/56831b6bdc5cb44ad7817c8a/1451432811646/2015+IACP Unbiased PolicingPolicy.pdf](http://static1.squarespace.com/static/54722818e4b0b3ef26cdc085/t/56831b6bdc5cb44ad7817c8a/1451432811646/2015+IACP+Unbiased+PolicingPolicy.pdf).

Training

In Lee Fisher’s framework for work group recommendations, “Training” was listed under general recommendations. Here are some approaches that other departments have taken to address this issue:

- Subject Areas:
 - **California** specifies that training for bias-free policing should be evidence-based and include subject areas related to identifying, preventing, and understanding the impact of evidence-based policing. Specific subjects listed 13519.4(h):
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB953
 - **Winnipeg** indicates that training should:
 - “ensure police officers in the performance of their duties exercise discretion in a way that reflects the values of equality, individual dignity, respect, and fairness,

- improve public confidence in the Service's ability to provide bias-free policing, and
- assure the public that police services are being delivered in an equitable and non-discriminatory manner.”
- See Section 2:
<http://winnipeg.ca/clerks/boards/WpgPoliceBoard/pdfs/boardpublications/BiasfreePolicing-Consultation.pdf>
- **Winnipeg** also requires that training materials and programs “address bias-free policing and human rights issues, including science-based training in understanding and preventing implicit or unconscious bias in policing.” See Section 8:
<http://winnipeg.ca/clerks/boards/WpgPoliceBoard/pdfs/boardpublications/BiasfreePolicing-Consultation.pdf>
- **Orange County's Bias Free Policing Recommendations** request training that includes:
 - Relevant legal and ethical standards
 - Information on how stereotypes and implicit bias can infect police work
 - The importance of procedural justice and police legitimacy on community trust, police effectiveness, and officer safety; and
 - The negative impacts of profiling on public safety, town and county budgets, and crime prevention.
 - See page 9:
<http://ncids.com/pd-core/wp-content/uploads/2013/05/Policing-Reform-Recommendations.pdf>.

- **Orange County** suggests the inclusion of “community members from groups that have expressed high levels of distrust of police in officer training.” See page 9: <http://ncids.com/pd-core/wp-content/uploads/2013/05/Policing-Reform-Recommendations.pdf>.
- **Orange County** suggests that departments “provide training to supervisors and commanders on detecting and responding to biased profiling and other forms of discriminatory policing.” See page 9: <http://ncids.com/pd-core/wp-content/uploads/2013/05/Policing-Reform-Recommendations.pdf>.
- Frequency/Training Schedule:
 - **California** requires training every five years, or more frequently if deemed necessary, “in order to keep current with changing racial, identity, and cultural trends.” See 13519.4(i) at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB953.
 - **Seattle** requires “specific yearly training, regular updates, and such other means as may be appropriate.” See 5.140(1): <http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>.

Here are some recommendations on this issue from model policies and toolkits:

- The “**First Circle**” **Model** requires personnel to receive training in bias-free policing, including the legal and psychological aspects of it. See “First Circle” Model Policy,

downloadable

here:

<http://www.fairimpartialpolicing.com/resources-for-ceos/>

- The **IACP** Model Policy on training: “All employees will receive basic and periodic in-service training and, where deemed necessary, remedial training on subjects related to police ethics, cultural diversity, police-citizen interaction, standards of conduct, conducting motor vehicle stops, implicit bias, and related topics suitable for preventing incidents of biased policing.” See Section IVC: http://static1.squarespace.com/static/54722818e4b0b3ef26cdc085/t/56831b6bdc5cb44ad7817c8a/1451432811646/2015+IACP_UnbiasedPolicingPolicy.pdf.
- **VERA** recommends that departments “Expand upon existing trainings to encourage respectful policing that makes people feel they are treated fairly (including informing them of the reason for the stop), and emphasize strategies aimed at reducing the number of stops that escalate to the point where officers make threats and use physical force.” See page 21: <http://www.vera.org/sites/default/files/resources/downloads/stop-and-frisk-summary-report-v2.pdf>

Civilian Reporting

In the draft Bias-Free Policing General Police Order, the policy currently says: “VIII. How does a person file a complaint about bias based profiling? Who does follow-up?”

Here are some approaches that other departments have taken:

- **Seattle** handles the complaint through their standard procedure for complaints of possible misconduct: <http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>
- **Orange County Bias-Free Policing Coalition, Policing Reform Recommendations** suggests in Section 10: Adopt Measures to Increase Public Confidence in the Official Response to Allegations of Officer Misconduct, that complaints should be easily filed, documented, and accessible: <http://ncids.com/pd-core/wp-content/uploads/2013/05/Policing-Reform-Recommendations.pdf>:
- **Vermont Act 134 (2012)**, suggests an oversight board examine best how to handle civilian complaints and then issue a recommendation: <http://www.leg.state.vt.us/DOCS/2012/ACTS/ACT134.PDF> :
(e) The [law enforcement advisory] board shall examine how individuals make complaints to law enforcement and suggest, on or before December 15, 2012, to the senate and house committees on judiciary what procedures should exist to file a complaint.
- **Wake Forest University** has also formed a bias response team with the support of its senior leadership, the Division of Campus Life and the Office of Diversity & Inclusion. This program is intended to facilitate the development and implementation of a campus-wide bias incident response system. Students, faculty and staff are encouraged to use this system to report bias-related incidents they have

witnessed or experienced. They can submit these online easily: <http://reportbias.wfu.edu/>

**Seattle Community Police Commission Policy Recommendations
(November 13, 2013)**

Seattle, Washington; [Seattle Police Department Manual](http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing): 5.140 - BIAS-FREE POLICING; [HTTP://WWW.SEATTLE.GOV/POLICE-MANUAL/TITLE-5---EMPLOYEE-CONDUCT/5140---BIAS-FREE-POLICING](http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing)

National Center for State Courts: NCSC

<http://www.ncsc.org/~media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/Implicit%20Bias%20FAQs%20rev.ashx>



Northeast Ohio Chapter of Showing Up For Racial Justice (SURJ)

**To: Cleveland Police Commission, Bias-Free
Policing Working Group RE: Community
Recommendations for Non-Biased Policing
in Cleveland**

March 7, 2016

Dear Commissioners:

We are members of the Northeast Ohio chapter of Showing Up

For Racial Justice (SURJ). SURJ is a national network organizing white people for racial justice. We use community organizing, mobilizing, and education to move white people to act as part of a multiracial majority for justice. Members of SURJ represent a broad swath of this community: parents and workers, churchgoers and lawyers, students and retirees, activists and everyday citizens.

At a recent meeting, members discussed our experience with police. As white members of the Cleveland community, we receive the benefit of the doubt, we are usually treated with respect, and we never fear for our physical safety. We want every member of the community to experience this same regard. Routine traffic stops do not turn into searches of our vehicles.

Rarely are we asked to step out of our cars, much less are we frisked, and we are never arrested without cause. Minor traffic violations are treated as just that: minor. White youth are rarely subjected to police harassment like stop-and-frisk policies. In turn, we avoid initial involvement with the criminal justice system, and the entire school-to-prison pipeline.

We want all people to be able to expect what we expect from Cleveland police officers. As white people, we expect to be treated humanely, with a clear and legal objective for any interaction, no biased and undue suspicion, and professionalism throughout the encounter.

From what we have witnessed, our experiences with the police are markedly different than those reported by people of color in Cleveland. We as white people have been taught by experience that our rights will be respected by police. We have not dealt daily with the reality that inflicts mental terror on

people who know their rights may not be respected by police. Meanwhile, people of color in our same city, the same neighborhood even, are automatically treated as suspects. Simple traffic stops become opportunities to search entire cars and all passengers, often resulting in criminal charges (no matter that non-detained white drivers may be just as guilty). Every police incident carries for people of color the risk of arrest, jail, assault, and even death. The devastating impact of over-policing in Black and Brown communities is well-documented, and one which white communities are no longer willing to accept. Law enforcement must treat the entire population in a fair and equal manner. Racial disparities in treatment and outcomes are unacceptable.



Showing up for Racial Justice (SURJ) of North East Ohio heartily supports a general policing order and city ordinance toward non-biased policing. Our recommendations to the Cleveland Police Commission are as follows:

A. **Non-Biased Policing Recommendations**

- I. **Perceived Race:** The City of Cleveland Police Department should not exploit, harass, antagonize, or use racist connotations or denotations to any race. Police should not intimidate, use false statements against, use racial profiling, or arrest people of color disproportionately, or demonstrate power or superiority over them.
- II. **Religious Affiliations:** The City of Cleveland Division of Police (CDP) should not exploit, harass, or profile anyone with any religious affiliation (s). The CDP as a whole, should come up with a new strategy of de-escalation related to frisking, arresting or questioning people of an organized religion. New protocols and education are highly suggested when confronting populations of marginalized religions. Some recommendations include female police officers to frisk other females, correct understanding and knowledge of certain head-ware in religions and how to properly search the person(s) without demeaning them and demonizing their religion. Education and a new protocol are highly suggested in religious communities and with religious people.
- III. **LGBTQ Community:** Not only are new protocols and better education needed for the CDP regarding the LGBTQ community and persons, but so is a safer place to house persons in police custody, who are more susceptible to violence in jail. According to NCAVP, “The Anti-Violence

Project recently found that there has been a trend of increasing homicides against the LGBT community since 2007 (National Coalition of Anti-Violence Programs [NCAVP], 2012). Despite decreases in anti-LGBT violence generally, the NCAVP recorded 30 anti-LGBT murders in 2011, the highest homicide number ever reported.” (2012). In short, to be bias-free is to treat everyone with the same dignity and respect as another. How are we treating the LGBTQ community with humanity and justice if we are not protecting them in jail, on the streets, etc? Our recommendation is to protect the LGBT community in another way if in jail or when being arrested to protect their dignity while upholding humanity.

- IV. **Activists acting alone or in Groups:** Mistreatment of activists calls for the CDP to look and rewrite some of their protocols, standards, and expectations when interacting with activists, including those within their rights protesting CDP. The bottom line is, the CDP should not harass, make false statements against, intimidate, antagonize,



make threatening statements to, exploit, or target any activist. Officers should not tell activist groups to disperse when not required by law. All deliberate harassment should cease.

- v. **Cultural:** Based on cultural norms in and out of America, a person of another culture may speak loud, not make eye contact, or speak while looking down, etc. This can mistakenly be interpreted as a sign of disrespect due to a lack of knowledge. Our recommendation is for more education and training on these cultural norms. “Cultural awareness requires individuals to become sensitive to values, beliefs, practices, and lifeways of the client’s culture. This cognitive process involves examination of personal biases toward other cultures as well as analysis of one’s own values, beliefs, and practices. However, the act of incorporating the client’s culture into the plan of care requires cultural knowledge.” (Campinha-Bacote, 1994, 1995, 1996, 1998, 1999).
- vi. **Age:** We recommend that the protocol for approaching and arresting minors change. Youth often experience physical and mental abuse and intimidation at the hands of the police. What are we instilling in our children when they are afraid of those entrusted with the authority to protect them? How many children were put away due to testimony based only on fear? We recommend that a parent or responsible adult be there for all questioning, for an end to the abuse of minors and the prevalence of youth being held responsible for crimes they did not commit. For adults who are over 60 years old, we would recommend a hands off approach due to possible impacts such

as fractures, bleeding, and injury which are more likely with age. An awareness of what happens to the body as it ages is needed. Education and training are recommended for prevention of any un-needed injury.

VII. **Disabilities:** Including physical, mental, and emotional disabilities. CDP should review and update its protocol regarding the treatment of individuals with disabilities, including when prosthetics or wheelchairs are involved. We recommend that there be training on psychological disorders and all disabilities, with an emphasis on responding to mental health crises in an appropriate, safe, and respectful way. We also recommend that a new protocol be set for the removal of prosthetics and assistive devices without demeaning the disabled individual who uses them.

VIII. **Race:** Again we return to race, because any lack of competency in the above areas of disability, age, culture, activism, sexual orientation/gender identity, or religion seems to be exacerbated when police officers interact with Cleveland's non-white community. This results in harm to civilians' bodies and rights. If conducted on such a scale against white people, the same practices would result in a huge outcry. Racial bias need not be conscious bias to be unacceptable; implicit bias and acquired bias triggered by traumatic events are also unacceptable in police officers currently serving on the streets.

B. **Measurement:**

We ask that the Cleveland Division of Police be required to obtain, track, and regularly publish the following data:



- I. **Data:** Data regarding race and/or ethnicity of: individuals, whose cars are searched in a specified time period, crimes charged, traffic stops, and lists of all searches or seizures based on "reasonable suspicion" of minor crimes. The end goal must be an equal frequency of stops in the white population and in non-white groups.
- II. **Data & Deadly Force:** Data regarding the use of deadly force and non-deadly force in all encounters with police, linked to data on race/ethnicity. We want to see a decrease in deadly force, especially with respect to Black and Brown civilians, both youth and adults.
- III. **Assessment:** Initial and annual assessments of implicit bias of officers on the force. Trainings and follow-up assessments should be required for all indications of implicit bias, particularly with regards to bias based on perceived race, ethnicity, religion, gender identity, and sexuality.
- IV. **Collection:** Data collection, aggregation and analysis by external, neutral and expert third parties. Statistical analysis planned and conducted by an independent third party, using the rich local community of experts and resources.

We ask that all data collection and reports, be designed and done by a third party skilled in research, with a routinely-used computer program for absolute non-subjective data. The program should be easy for police to use in real-time, i.e. a phone app, rather than handwritten notes on cards to be tabulated yearly.

In addition, we ask the Cleveland Police Commission to



incorporate existing standards for community policing and non-biased policing, including those developed by the Department of Justice and as recommended in other consent decrees.

We are organizing white members of our community to hold leaders accountable for the implementation of the CPC's recommendations. We will not be satisfied by superficial measures or empty words. We expect a committed, carefully considered, and sustained response to this city's undeniably biased policing and the tragic outcomes it regularly produces for its citizens.

Sincerely,

Callie

Dendrin

Michelle Haas

Malcolm

Himschoot

On behalf of the NEO SURJ CLE-CPC Working Group

Cleveland Community Police Commission

Revised Bias-Free Policing Report

May 3, 2016

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