



October 20, 2017

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RE: Recommendations for Bias-Free Policing GPO

Dear Chief Williams and Mayor Jackson:

On October 13, 2017, the Cleveland Community Police Commission (“CPC”) sent you their recommendations for revisions to the October 9, 2017 draft of CDP’s Bias-Free Policing GPO. We write today to urge you to adopt these *and other* recommendations that are necessary to make this GPO conform to national best practices.¹

Particularly, the following of the CPC’s recommendations are crucial to improve the Bias-Free Policing policy:

- The expansion of the definition of “Demographic Category” to include economic status; mental illness; disability; homelessness or housing status; political ideology; citizenship, immigrant, or refugee status; marital or family status; color; veteran status; age; and prior criminal history;
- The explicit acknowledgment that the GPO applies to all members of CDP, whether sworn or non-sworn;
- The clarifications in Section III regarding discipline for CDP members and supervisors who engage in or allow bias-based policing; and,
- The stipulation that, in the event that an individual makes an allegation of bias-based policing, that individual must not be detained solely for the purpose of waiting for a supervisor.

However, missing from the CPC’s recommendations are several provisions that we had recommended in a September 29, 2017 letter to the CPC and Monitor (enclosed), that are essential to an adequate Bias-Free Policing policy.

¹ The CPC’s recommendations reference the Trustworthy Suspect-Specific Information Model and the Fair and Impartial Police Training Program. We are unfamiliar with these and thus do not take a position on them.

Firstly, the “Bias-Based Policing” definition, as the backbone of this policy, must be strengthened. The language must explicitly forbid police actions that are based “*to any degree*” on an individual’s demographic category. The same insertion is necessary in the “Bias-Free Policing” definition and Section I, parts (A)4, (B)3, and (B)4. To further strengthen the prohibition on bias-based policing, we recommend adding language that recognizes that bias is based on an officer’s perception of an individual – even if the traits that are perceived are different from the individual’s actual traits. This addition must also be made to the “Bias-Free Policing” definition and Section I, parts (A)4, (B)3, and (B)4.

Incorporating these and other recommendations, the new definition should read:

“Bias-Based Policing: When a CDP member takes a *routine or spontaneous* law enforcement action (*e.g., traffic stops, pedestrian stops, other stops or detentions, or decisions to request consent to conduct searches*)² or makes a decision to provide or not provide police services, and that action or decision *or manner in which it is conducted* is motivated *to any degree by the officer’s perception of* an individual’s demographic category, *rather than by the specific facts, behavior, or circumstances that link a person to suspected unlawful activity.*³”

Secondly, the draft GPO’s “Policy” section states that bias-based policing breeds distrust between officers and those they serve, and inhibits law enforcement’s efficacy. But this does not go far enough: bias-based policing is also illegal. It violates the U.S. Constitution’s Fourth and Fourteenth Amendment guarantees of due process and equal protection. These fundamental precepts are not mentioned once in the draft policy. Similarly, probable cause and reasonable suspicion constitute the cornerstone of all law enforcement action, yet these principles are mentioned only at a late point in the policy. To establish the importance of these concepts, they must be stated prominently in the “Purpose” and/or “Policy” sections of this GPO.⁴

Lastly, Section II, Part A of the policy requires members to report bias-based policing. To enable tracking of bias-based policing, we recommend that this reporting be memorialized in writing, so it is officially recorded.

This policy stands out as one of the most crucial to re-building community trust and implementing constitutional policing in our city. We urge you to adopt the CPC’s recommendations as well as those we outline above, as one step toward ensuring all residents receive bias-free policing, as is their right.

² Denver’s policy includes, “Furthermore, officers will not make routine or spontaneous law enforcement decisions (e.g., ordinary traffic stops, pedestrian stops, other stops or detentions, or decisions to request consent to conduct searches) based upon...” Albuquerque’s policy includes, “The interdiction, detention, arrest or other nonconsensual treatment of.” Austin’s policy includes, “includes, but is not limited to, stopping, detaining, frisking, or searching of subjects by police officers.” Burlington, Vermont’s policy includes, “conduct by law enforcement officers.” Honolulu’s policy includes, engaging in traffic contacts, field contacts, asset seizures, and forfeiture efforts or any other type of law enforcement contact with the public.”

³ New York City Administrative Code 14-151 (<http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>) includes: “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.”

⁴ See Denver Police Department Operations Manual, policy 118.02, “Biased Policing,” (p. 340); and PERF and COPS’ “Racially Biased Policing: A Principled Response,” p. 52.

If you have any questions or would like to discuss further, please don't hesitate to contact us via email or by phone at [REDACTED].

Sincerely,



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