I. POLICY

The Davis Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served.

Police action that is biased is unlawful and alienates the public, fosters distrust of police, and undermines legitimate law enforcement efforts. Race, ethnicity or nationality, religion, sex, sexual orientation, gender, gender identity or expression, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or enforcement of the law (i.e., discriminatory or bias-based policing).

Furthermore, a fundamental right guaranteed by the Constitution of the United States is equal protection under the law guaranteed by the Fourteenth Amendment. Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents as guaranteed by the Fourth Amendment. Therefore, it is the policy of this Department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group. Members are charged with protecting these rights.

Community members may file complaints for alleged bias-based or discriminatory policing at https://cityofdavis.org/city-hall/police-department/-/how-are-we-doing/complaint-inquiry-submission/-fsiteid-1. The Department will investigate all complaints of bias-based or discriminatory policing pursuant to Policy & Procedure 1.07-A, Civilian Complaints.

II. PURPOSE

The purpose of this policy is to increase the Department’s effectiveness as a law enforcement agency and help build mutual trust and respect with diverse groups and communities. This policy provides guidance to Department members that affirms the Davis Police Department’s commitment to providing services and enforcing laws in a professional, nondiscriminatory, fair, and equitable manner that keeps both the community and officers safe and protected. The Department recognizes that explicit and implicit bias can occur at both an individual and an institutional level and is committed to addressing and eradicating inappropriate use of biases.
III. PROCEDURE

A. Definitions

“Age” refers to the chronological age of any individual.

“Ancestry” refers to a person’s family or ethnic descent.

“Behavioral Health Disabilities” refers to disabilities associated with substance-related disorders, addictive disorders, and mental disorders.

“Bias-Based Policing” is conduct motivated, implicitly or explicitly, by the member’s beliefs about someone based on the person’s actual or perceived personal characteristics, i.e., race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability. For purposes of this policy, bias-based policing also includes, but is not limited to, an inappropriate reliance on actual or perceived characteristics of a person such as; language ability, skin color, genetic information, marital status, behavioral health disability, where they are located, mode of transportation, manner of dress, housing status, ancestry, medical condition, citizenship, immigration status, and other such distinguishing characteristics.

“Detention or Investigatory Stop” is a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing that he or she is not free to leave or otherwise disregard the officer. Absent physical restraint, before a detention exists in the law, it is necessary that the person actually submits to the assertion of authority.

“Disability” includes mental disability and physical disability.

“Discriminatory Policing” refers to differential enforcement or non-enforcement of the law, including the selection or rejection of particular policing tactics or strategies, which has a disparate impact on individuals of a particular demographic category.

“Explicit Bias or Conscious Bias” is the traditional conceptualization of bias. With explicit bias, individuals are aware of their prejudices and attitudes toward certain groups. Positive or negative preferences for a particular group are conscious. Overt racism and racist comments are examples of explicit biases.

“Field interview or FI” refers to voluntary contacts during which an officer may ask questions or try to gain information about possible criminal activity, without indicating or implying that a person is not free to leave or is obligated to answer the officer’s questions.

“Gender Identity” means a person’s internal, deeply-felt sense of being male, female, or something other or in-between, regardless of the sex they were assigned at birth.

“Gender Expression” means an individual’s characteristics and behaviors (such as appearance, dress, manners, speech patterns, and social interactions) that may be perceived as masculine or feminine.

“Genetic information” means, with respect to any individual, information about any of the following:

- The individual’s genetic tests.
- The genetic tests of family members of the individual.
- The manifestation of a disease or disorder in family members of the individual.

“Genetic information” does not include information about the sex or age of any individual.
“Implicit Bias or Unconscious Bias” refers to the attitudes or stereotypes that affect a person’s understanding, actions, and decisions in an unconscious manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual’s awareness or intentional control. Implicit biases are different from known biases that individuals may choose to conceal.

“LGBT” is a common abbreviation that refers to the lesbian, gay, bisexual, and transgender community.

“Mental Disability” includes, but is not limited to, all of the following:
- Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity.
- Any other mental or psychological disorder or condition not described above that requires special education or related services.
- Having a record or history of a mental or psychological disorder or condition.
- Being regarded or treated as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- Being regarded or treated as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability.

“Mental disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

“Physical Disability” includes, but is not limited to, all of the following:
- Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
  - Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
  - Limits a major life activity
- Any other health impairment not described above that requires special education or related services.
- Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment, which is known.
- Being regarded or treated as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- Being regarded or treated as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability.

“Physical disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

“Probable Cause to Arrest” is a set of specific facts that would lead a reasonable person to objectively believe and strongly suspect that a crime was committed by the person to be arrested.

“Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or military
“and veteran status” includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

“Racial or identity profiling” 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. (Penal Code § 13519.4).

“Reasonable Suspicion to Conduct a Pat-Search” is justified if officers have a factual basis to suspect that a person is carrying a weapon, dangerous instrument, or an object that can be used as a weapon, or if the person poses a danger to the safety of the officer or others. Officers must be able to articulate specific facts that support an objectively reasonable apprehension of danger under the circumstances and not base their decision to conduct a pat search on any perceived individual characteristics. Reasonable suspicion to conduct a pat search is different than reasonable suspicion to detain. The scope of the pat search is limited only to a cursory or pat down search of the outer clothing to locate possible weapons. Once an officer realizes an object is not a weapon, or an object that cannot be used as a weapon, the officer must move on.

“Reasonable Suspicion to Detain” is a set of specific facts that would lead a reasonable person with the officers same knowledge, training and experience to believe that a crime is occurring, had occurred in the past, or is about to occur. Reasonable suspicion to detain is also established whenever there is any violation of law. Reasonable suspicion cannot be based solely on a hunch or instinct.

“Religion” includes “religious creed,” “religious observance,” “religious belief,” and “creed” which are all aspects of religious belief, observance, and practice, including religious dress and grooming practices. “Religious dress practice” shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual observing a religious creed. “Religious grooming practice” shall be construed broadly to include all forms of head, facial, and body hair that are part of an individual observing a religious creed.

“Search” refers to an exploration or inspection of a person’s house, body, clothing, property or other intrusion on a privacy interest by a law enforcement officer for the purpose of discovering evidence of a crime or a person who is accused of a crime.

“Sex” includes, but is not limited to, a person’s gender. “Gender” means sex, and includes a person’s gender identity and gender expression.

“Sexual Orientation” means heterosexuality, homosexuality, and bisexuality.

“Stop” generally describes “Detentions,” “Investigatory Stops” and “Vehicle Stops.”

“Vehicle stop” refers to the involuntary detention of a vehicle and the person driving the vehicle or an occupant based on probable cause that the driver has committed a traffic violation, or reasonable suspicion based on specific and articulable facts that the vehicle or an occupant of the vehicle has been, is, or is about to be engaged in the commission of a crime.
“Voluntary or Consensual Contacts” refers to interactions between members and community members that do not involve coercion. During the course of a voluntary contact, a community member is free to leave at any time, and is under no obligation to respond to officers’ attempts at questioning or conversation.

“Voluntary Social Contacts” refers to voluntary contacts between Department members and community members that are intended to serve no specific investigative purpose. Voluntary social contacts do not include questioning about possible criminal activity, but may serve other law enforcement purposes, including building trust and developing rapport with community members.

B. Bias-Based Policing Prohibited

Bias-based policing is strictly prohibited. However, nothing in this policy is intended to prohibit members from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

Members may consider relevant personal characteristics of an individual when determining whether to identify services designed for individuals with those characteristics (e.g., physical disability, behavioral crisis, homelessness, drug use, etc.)

C. Bias-by-Proxy

Bias-by-proxy can be defined as when an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against based on explicit racial/identity profiling or implicit bias.

1. Members should be aware of the potential for biased-based motivations behind calls for service.

2. Members should always aim to build community trust through all actions they take, especially in response to bias-based reports.

3. Members should exhibit critical decision making, drawing on their training and awareness of implicit and explicit bias, to assess whether there is criminal conduct before taking police action. Absent a legal duty to act, no member is obligated to take any discretionary police action where bias-based motivation is behind a call for service.

4. When taking calls and dispatching, dispatchers should collect enough information necessary to verify criminal activity and relay information without including biased assumptions. For bias-motivated calls, dispatchers may use discretion to inform the caller that a member will not respond to call without legitimate basis of criminal conduct.

5. If dispatchers assign a member to a call, they should inform the responding member(s) of any concerns with the call for service.

D. Member Responsibility

1. Every member of this Department shall perform their duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

2. Members should treat all members of the public with courtesy, professionalism, and respect. Members will not use harassing, intimidating, derogatory, or prejudiced language, particularly when related to an individual’s actual or perceived protected characteristics.
3. Members will refer to all members of the public, including LGBT individuals, using the names, pronouns, and titles of respect appropriate to the individual’s gender identity as expressed or clarified by the individual. Proof of the person’s gender identity, such as an identification card, will not be required. Members should refer to attachment Policy & Procedure 2.42-AA, Definitions related to Sexual Orientation and Gender Diversity for further guidance.

Members will not inquire about intimate details of an individual’s sexual practices, anatomy, or gender-related medical history, except as necessary to serve valid, nondiscriminatory law enforcement objectives.

4. Reasons for Voluntary Contact
   a. Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.
   b. To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card, search), the involved officer should include those facts giving rise to the officer’s reasonable suspicion or probable cause for the detention, as applicable.
   c. Except for required data-collection RIMS entries, nothing in this policy shall require any officer to document a voluntary contact or social contact that would not otherwise require reporting.

5. For Stops/Arrests
   a. When conducting stops, officers should introduce themselves to the person being stopped and provide an explanation for the stop as soon as reasonable and practicable.
   b. When reasonable and feasible under attendant circumstances, officers should listen to the member of the public’s questions or concerns without interruption and directly address the questions the person may have regarding the stop, including an explanation of options for citation disposition if relevant.
   c. Officers will ensure that a stop is no longer than necessary to take appropriate action for the known or suspected offense(s) and should convey the purpose of any reasonable delays.
   d. Officers conducting a stop and/or pat-search shall be prepared to articulate sufficient reason for the stop and or search, independent of the protected characteristics of the individual.
   e. Officers arresting a person shall be prepared to articulate sufficient reason for the arrest, independent of the protected characteristics of the individual.

6. Reporting of Stops
   a. Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report in RIMS. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the RIMS report (11 CCR 999.227).
b. If multiple agencies are involved in a stop and the Davis Police Department is the primary agency, the Davis Police Department officer shall collect the data elements and prepare the stop data report in RIMS (11 CCR 999.227).

c. The stop data report should be completed by the end of the officer’s shift or as soon as practicable (11 CCR 999.227).

7. No Retaliation/Discipline

No member shall, in any manner, dissuade or impede any person or member from filing a complaint or reporting misconduct, nor shall any member retaliate, threaten, or harass any person or member who has alleged or reported misconduct. Any interference or allegation of retaliatory action by a member shall be immediately reported to the Deputy Chief. Interference and/or retaliation are grounds for discipline as are breaches of this policy.

E. Supervisor Responsibility

1. Provide leadership, counseling, direction, and support to members as needed.

2. Lead efforts to engage individuals and groups and ensure that members are working actively to engage the community and increase public trust.

3. Monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with department policy.

4. Review documentation, including video from body-worn cameras as appropriate, of investigatory stops, detentions, searches, and arrests for completeness, accuracy, and adherence to law and department policy.

5. Establish and enforce the expectation that members will police in a manner that is consistent with the U.S. and California Constitutions and federal and state laws, as well as internal policies (See Rule & Regulation 7.52).

6. Discuss any issues with the involved officer and their supervisor in a timely manner.

7. Initiate investigations of any actual or alleged violations of this policy (see Policy & Procedure 1.07-A).

8. Ensure that no retaliatory action is taken against any community member or member of this Department who discloses information concerning profiling and/or bias-based policing.

9. Identify training and professional development needs and opportunities.

10. Highlight areas where members are engaging appropriately and effectively and use those examples during roll call and other training opportunities.

F. Administration

Each year, Professional Standards shall review the efforts of the Department to prevent profiling/bias-based policing and submit an overview, including public concerns and complaints, to the Police Chief. It should be reviewed to identify any changes in training or operations that should be made to improve service. Supervisors shall review the annual report and discuss the results with those they are assigned to supervise.
G. Training

1. Training on fair and objective policing and review of this policy should be conducted as directed by Professional Standards at least annually.

2. All sworn members and public safety dispatchers of this Department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subjects of racial and identity profiling, bias-based policing, and procedural justice (i.e., principled policing).

Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community in performing their duties.

3. All members will be scheduled to attend initial implicit bias training and regularly scheduled updated training.

4. Each sworn member of this Department who received initial racial - or bias - based profiling training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

5. Dispatchers will receive periodic training in identifying biased calls and on operating procedures for how biased calls should be dispatched.

H. Reporting to California Department of Justice

1. Professional Standards shall ensure that all data required by the Department of Justice (DOJ) regarding citizen complaints of racial bias against officers is collected and reported annually to DOJ (Penal Code § 13012; Penal Code § 13020).

2. The Records & Communications Manager shall ensure that all stop data required by the Department of Justice is reported annually.

Darren Pytel
Police Chief
6/16

Revised: 7/17 changed profiling to policing
8/18 stop data required
01/19 changes and definitions
11/19
1/2020 updated

Reviewed 12/17, 05/19