

# Seattle Police Manual

## 5.140 – Bias-Free Policing

Effective Date: TBD

### **5.140-POL**

The Seattle Police Department is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair, and equitable manner.

Our objective is to provide equitable police services based upon the needs of the people we encounter.

The intent of this policy is to increase the Department's effectiveness as a law enforcement agency and to build mutual trust and respect with Seattle's diverse groups and communities.

Bias-based policing is the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual. Such "discernible personal characteristics" include, but are not limited to, the following:

- Age
- Disability status
- Economic status
- Familial status
- Gender
- Gender Identity
- Homelessness
- Mental illness
- National origin
- Political ideology
- Race, ethnicity, or color
- Religion

- Sexual orientation
- Use of a motorcycle or motorcycle-related paraphernalia – RCW 43.101.419
- Veteran status

## **1. Every Employee is Responsible for Knowing and Complying With This Policy**

The Chief of Police will reinforce that bias-based policing is unacceptable through specific yearly training, regular updates, and such other means as may be appropriate.

Supervisors are responsible for ensuring all personnel in their command are operating in compliance with this policy.

## **2. Officers Will Not Engage in Bias-Based Policing**

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.

Employees shall not express—verbally, in writing, or by other gesture—any prejudice or derogatory comments concerning discernible personal characteristics.

No employee shall retaliate against any person who initiates or provides information or testimony related to an investigation, prosecution, OPA complaint, litigation or hearings related to the

Department or Departmental 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.

Employees who engage in, ignore, or condone bias-based policing will be subject to discipline.

Supervisors and commanders who fail to respond to, document and review allegations of bias-based policing will be subject to discipline.

### **3. The Characteristics of an Individual May Be Appropriately Considered in Limited Circumstances**

Officers may take into account the discernible 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 articulate specific facts and circumstances that support their use of such characteristics in establishing reasonable suspicion or probable cause.

Officers are expected to consider relevant personal characteristics of an individual when determining whether to provide services designed for individuals with those characteristics (e.g., behavioral crisis, homelessness, addictions, etc.).

#### **4. All Employees Share Responsibility for Preventing Bias-Based Policing**

Employees who have observed or are aware of others who have engaged in bias-based policing shall 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.

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.

#### **5. Employees Will Call a Supervisor in Response to Complaints**

If a person complains of bias-based policing, the employee shall call a supervisor to the scene to review the circumstances and determine an appropriate course of action. For purposes of this policy, a complaint of bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any discernible personal characteristic listed above.

If the person declines to speak with a supervisor or wishes to leave before the supervisor arrives, the employee will attempt to offer the person the supervisor's contact information and information on how to file a complaint with the Office of Professional Accountability.

Officers may not extend a detention solely to await the arrival of a supervisor.

If officers have completed their business with the complainant, and the supervisor has not yet arrived, the officer will wait at the location for the supervisor to arrive.

## **6. Employees Will Document All Allegations of Bias-Based Policing**

Where there has been a complaint of bias-based policing, the employee will complete a GO report to document the circumstances of the complaint and steps that were taken to resolve it. This GO must include the following information, if the person is willing to provide it:

- The person's name,
- Address,
- Phone number, or email address, and
- Contact information for witnesses who observed the events.

All reports involving a complaint of bias-based policing must be reviewed and approved by a supervisor before the end of the employee's shift.

If the supervisor believes the matter has been resolved to the satisfaction of the complainant, and that no misconduct was involved, the supervisor will draft a supplemental to the employee's GO report to document their actions in the inquiry. The supervisor will then send a memo with the report attached, via the chain of command, to the bureau chief.

## **7. Supervisors Conduct Preliminary Inquiry into Bias**

If the person wishes to speak with the supervisor about the biased-policing concerns, the supervisor will discuss the incident with the complainant. If the complainant has left the scene the supervisor shall make efforts to contact the complainant by phone or letter.

The reviewing supervisor shall explain to the complainant the option to refer the complaint to OPA. If the complainant asks that the matter be referred to OPA then the reviewing supervisor shall refer it.

If the reviewing or approving supervisor determines that there may have been misconduct, that supervisor shall refer the matter to OPA for further investigation.

## **8. An Annual Report Will be Prepared for the Chief of Police and the Public**

This report shall describe and analyze the year's bias-based policing complaints and the status of the Department's effort to prevent bias-based policing.

After review by the SPD command staff, and after names of individual officers have been removed, this report will be made available to the community.

## **9. Disparate Impacts**

The Seattle Police Department is committed to eliminating policies and practices that have an unwarranted disparate impact on certain protected classes. It is possible that the long term impacts of historical inequality and institutional bias could result in disproportionate enforcement, even in the absence of intentional bias. The Department's policy is to identify ways to protect public safety and public order without engaging in unwarranted or unnecessary disproportionate enforcement.

This policy requires periodic analysis of data which will assist in identification of SPD practices – including stops, citations and arrests – that may have a disparate impact on particular protected classes relative to the general population.

When disparate impacts are identified, the Department will consult as appropriate with neighborhood, business and community groups, including the Community Police Commission, to explore equally effective alternative practices that would result in less disproportionate impact. Alternative enforcement practices may include addressing the targeted behavior in a different way, de-emphasizing the practice in question or other measures. Initially, disparate impact analysis will focus on race, color, and national origin. The Department will consult with the Community Police Commission about whether to examine disparity with respect to other classifications.

The Disparate Impacts section of the policy is not a basis to impose discipline upon any employee of the Department, nor is it intended to create a private right of action to enforce its terms.

**a. The Chief of Police or Designee Will Enforce Policy**

The Chief or designee will ensure that this policy is in effect and carried out.

**b. Officers Document Enforcement Activity**

See Seattle Police Manual Section 6.220 – Voluntary Contacts & Terry Stops.

**c. The Department Analyzes Officer-Initiated Activity**

The analysis focuses on enforcement practices (stops, citations, and arrests) that are not primarily driven by reports from crime victims. These include, but are not limited to:

- VUCSA
- Prostitution
- Obstructing
- Resisting arrest
- Driving crimes/infractions
- Pedestrian interference
- Illegal camping
- Pedestrian violations (e.g., “Jaywalking”)
- Drinking in public
- Public consumption of marijuana
- Public urination/defecation

**d. An Annual Report will be prepared for the Chief of Police and the Public**

This report shall describe the year’s data collection and analysis and efforts to address disparate impact of policing.

After review by the SPD command staff, and after names of individual officers have been removed, this report will be made available to the community.

## 5.140–PRO-1 Handling a Bias-Based Policing Allegation

### Employee

1. **Receives** a complaint of bias-based policing.
2. **Calls** a supervisor to the scene.
  - 2a. If the officer's sergeant is not available, the officer **notifies** a sergeant from the officer's precinct.
  - 2b. If no sergeant is available, the officer **notifies** a lieutenant who may assign a specific sergeant or who will personally respond to conduct the same review as would have been required of a sergeant had one been available.
3. **Documents** the complaint and action taken on a GO report.

### Next Level Supervisor

4. **Responds** to the scene.
5. **Gathers** all relevant information from the complainant and any witnesses, if they are willing to provide it.

Relevant information is defined as any information that may tend to explain, prove, or disprove the allegations being made.

6. **Provides** specific information to the person on how to file a complaint or if warranted, **refers** the matter to OPA for further investigation.

See SPM Section 5.002 – Public and Internal Complaint Process.

7. **Documents** the preliminary investigation in a supplement to the employee's GO

8. **Sends** the report and a cover memo to the bureau chief via the chain of command.