

CITY OF SOMERVILLE  
ORDINANCE NO. 2020-\_\_\_\_\_  
In City Council: - \_\_\_\_\_

AN ORDINANCE PROHIBITING BIASED BASED POLICING AND RACIAL PROFILING  
IN THE CITY OF SOMERVILLE

Be it ordained by the City Council of the City of Somerville, in session assembled, that the Code of Ordinances is hereby amended by adding a new Article \_\_\_\_\_ to Chapter \_\_\_\_\_ as follows:

**Prohibition on Biased Based Policing and Racial Profiling**

**Purpose.**

The City of Somerville and the Somerville Police Department are committed to the unbiased, equitable treatment of all. Racial and other types of profiling are illegal and ineffective methods of law enforcement. Allegations of biased based policing or discriminatory practices, real or perceived, undermine public safety and are detrimental to the relationship between the Department and the community because that relationship is based on public trust. The City of Somerville and the Somerville Police Department are committed to providing all people within this community fair and impartial police services consistent with constitutional and statutory mandates, respecting the diversity and cultural differences of all people, and taking positive steps to identify, prevent and eliminate any instances of biased based policing.

**Definitions.**

*Biased Based Policing.* The selection of an individual(s) for law enforcement action or differential treatment of an individual (s) in the performance of police services based on or influenced by a perceived trait common to a group. This includes, but is not limited to, race, ethnic background, skin color, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

*Fair and Impartial Treatment.* The treatment of persons irrespective of individual demographics, in the same basic manner under the same or similar circumstances. Reasonable concessions and accommodations may be made, when dealing with individuals with physical, developmental or mental disabilities, injury, illness, deafness, blindness, substance abuse disorders or similar conditions, individuals whose primary language, is a language other than English, individuals of various cultural backgrounds, and individuals of youthful age, or when information about a person legally necessitates different treatment.

*Individual Demographics.* Personal characteristics to include, but not limited to: race, creed, color, ethnicity, national origin, ancestry, religion, age, gender, sex, gender identity/ expression, sexual orientation, socioeconomic status, disability, immigration status, familial status, housing

status, occupation, language fluency, cultural group, political status, or source of income, or any other identifiable characteristics.

*Police Services.* Actions and activities the police engage in that bring them into contact with the public. These tasks include but are not limited to crime prevention and investigation, preventive patrol, traffic control, traffic accidents, medical emergencies and lifesaving services, assistance at fire scenes, public information and education.

*Racial Profiling:* A form of biased based policing involving the detaining or stopping of a person based on a broad set of criteria which cast suspicion on an entire class of people without any individualized suspicion of the particular person being stopped. One of the motivating factors of the action taken is based on the individual's race, color, ethnicity, or national origin rather than on the individual's behavior or on information of the type and kind customarily and reasonably relied upon in identifying an individual as having engaged in suspected illegal activity. Use of race, color, ethnicity, or national origin as part of a description provided during a Suspect Specific Incident does not constitute racial profiling.

*Suspect Specific Incident:* An incident in which a police department employee is lawfully attempting to detain, apprehend, or otherwise be on the lookout for one or more specific suspects who have been identified or described in part by race, color, ethnicity or national origin.

### **Prohibitions and Procedures.**

- A. Biased Based Policing is prohibited both in enforcement of the law and the delivery of police services by any Department employee.
- B. Racial Profiling is prohibited both in enforcement of the law and the delivery of police services by any employee. Discriminatory pretextual stops are prohibited under state and federal law, Somerville Police Department policy, and by this ordinance.
- C. Department employees shall accord fair and impartial treatment to all persons.
- D. Individual demographics shall not be used when performing law enforcement duties or delivering police services except when such characteristics are part of a suspect specific incident, or description of person in need of services.

### **Complaints and Compliance.**

- A. Any person claiming to be aggrieved or to have witnessed biased policing or racial profiling may file a complaint. No person shall be discouraged, intimidated, or coerced from filing such a complaint, nor shall any person be discriminated or retaliated against because he or she has filed a complaint of this nature.
- B. The Department shall use established citizen complaint procedures to document and investigate any allegations of profiling or other forms of biased based policing. Such

complaint procedures shall be made easily accessible to the public through publication on the Somerville Police Department website.

- C. All complaints of biased policing or racial profiling filed or presented to the City shall be directed to the Department's Office of Professional Standards (OPS).
- D. OPS will conduct a thorough investigation, consistent with the established citizen complaint process, for review by supervisory staff and the Chief of Police.
- E. If the complaint is substantiated, the Department will take appropriate measures commensurate to the severity of the substantiated complaint.
- F. The Department shall maintain data relating specifically to complaints of biased policing and racial profiling. Information shall be provided to the Chief of Police or designated authority on a quarterly basis, in a manner most suitable for administrative review, problem identification, and development of appropriate corrective actions to prevent biased policing and racial profiling.
- G. Any penalty for violation of this Ordinance related to any employee not acting in conformity therewith shall be limited to that provided for under state or federal law, which violation may include discipline up to and including termination from employment as consistent with federal and state law requirements.
- H. The declaration of prohibitions set forth above shall not create any new or separate legal rights or claims by or on behalf of any third party and shall not be construed as a waiver, modification, or alteration of any available defense or governmental immunity of the city under federal or state law.

### **Training.**

- A. All Department employees engaged in law enforcement activities shall receive annual training and guidance in biased based policing and prohibited racial profiling while conducting law enforcement activities and police services.
- B. Such training shall include but not be limited to the following:
  - a. Dissemination of this Ordinance and Department Policy relative to Biased Based Policing to all employees;
  - b. Instruction in legal aspects of biased based policing; and
  - c. Training of supervisory personnel to monitor police conduct to identify biased based policing and ensure standard of this policy are carried out by employees under their supervision.

### **Annual Review.**

- A. The Department shall conduct an annual review of employee law enforcement practices and report the findings to the Chief of Police. The data shall include but not be limited to an analysis of available demographic data related to the following:
  - a. Traffic contacts
  - b. Field Contacts
  - c. Asset Seizures
  - d. Asset Forfeitures
- B. This review shall include an annual administrative review of employee law enforcement practices and citizen concerns,
- C. The Department shall review and, where appropriate, revise all procedures that involve the stop, detention, apprehension, or search of individuals to ensure that these procedures are in compliance with provision of the law and this policy.
- D. The Department shall provide a copy of this report to City Council no less than annually and shall provide an updated report more frequently as circumstances might warrant.
- E. The Department shall produce an annual report that shall be made easily accessible to the public through publication on the Somerville Police Department website. The data underlying the report and analysis will also be subject to Massachusetts public records law subject to all relevant and appropriate exemptions.

**Effective Date.** This Ordinance shall take full force and effect after its passage and publication as provided by law.

APPROVED:

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President  
City Council