

MILL VALLEY POLICE DEPARTMENT

Ignacio R. Navarro
Chief of Police
www.cityofmillvalley.org



1 Hamilton Dr.
Mill Valley, CA 94941
(415) 389-4100
(415) 389-4148 (Fax)

Mill Valley Police Department Bias-Free Policing

PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Mill Valley Police Department's commitment to fair and objective policing. The intent of this policy is to increase the department's effectiveness as a law enforcement agency and to build mutual trust with the City and County's diverse individuals and communities.

In 2015, the Racial and Identity Profiling Act (Assembly Bill 953) became law, requiring California law enforcement agencies to collect specific data regarding detentions and searches. The Mill Valley Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural, or other differences of those we serve. Data to be collected includes: the perceived race or ethnicity of the person contacted, gender, approximate age, and other characteristics, as well as the reason for the contact and resulting post-contact outcomes. This law requires that the collected data be shared with the California Department of Justice (DOJ). AB 953 regulations require data collection for all contacts, which is defined as any detention by a peace officer of a person, or any peace officer interaction with a person in which the officer conducts a search. In other words, under AB 953, in addition to vehicle stops, officers will be required to collect data for pedestrian stops and other detentions that occur while responding to calls for service and performing other duties.

Any Mill Valley Police Department action that contains bias 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).

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

DEFINITIONS

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

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

“Assembly Bill 953 (2015), the Racial and Identity Profiling Act (RIPA)” (California Government Code section 12525.5) Effective January 1, 2022, the Mill Valley Police Department is required to start collecting enforcement Stop Data for all vehicle and pedestrian stops resulting in a detention, or any other contact, including a consensual encounter, resulting in a search. The data to be collected includes, among other things, the perceived race or ethnicity, gender, approximate age of the person stopped, as well as other data such as the reason for the stop, whether a search was conducted, and the result of any such search. AB 953 further requires the Mill Valley Police Department to report the collected Stop Data information to the California Department of Justice (DOJ) no later than April 1, 2023 and annually thereafter. Stop Data records submitted to DOJ pursuant to AB 953 will be stored in a statewide Stop Data Collection System (SDCS) repository.

“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.

“Bias by Proxy” When an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against (either implicit or explicit bias).

“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” has the same meaning as defined in California Penal Code section 13519.4, and 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, mannerisms, 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 significant 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 the achievement of a significant 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 the 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” in the context of AB 953 refers to an officer’s 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 non-consensual 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 officer’s 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 intrusions 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.

POLICY

The Mill Valley 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 United States Constitution is due process and equal protection under the law guaranteed by the Fourteenth Amendment. Along with this right to due process and equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents as guaranteed by the Fourth Amendment. It is the policy of the Mill Valley Police Department to protect these rights and provide law enforcement services and enforce the law equally, fairly, objectively, and without discrimination toward any individual or group.

Community members may file complaints for alleged bias-based or discriminatory policing at www.cityofmillvalley.org/police. The Department will investigate all complaints of bias-based or discriminatory policing pursuant to “Mill Valley Police Policy 1019 - Personnel Complaints.”

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.)

CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not:

1. Provide or disclose to federal government authorities personal information regarding the religious beliefs, practices, or affiliation of any individual for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity (Government Code § 8310.3(b)(1));

2. Use agency money, facilities, property, equipment, or personnel to assist in creation, implementation, or enforcement of any government program compiling a list, registry, or database of personal information about individuals based on religious belief, practice, or affiliation, or national origin or ethnicity, for law enforcement or immigration purposes (Government Code § 8310.3(b)(2));

3. Make personal information from agency databases available, including any databases maintained by private vendors contracting with the agency, to anyone or any entity for the purpose of investigation or enforcement under any government program compiling a list, registry, or database of individuals based on religious belief, practice, or affiliation, or national origin or ethnicity for law enforcement or immigration purposes (Government Code § 8310.3(b)(3));

4. Collect information on the religious belief, practice, or affiliation of any individual except (A) as part of a targeted investigation of an individual based on reasonable suspicion to believe that individual has engaged in, or been the victim of, criminal activity, and when there is

a clear nexus between the criminal activity and the specific information collected about religious belief, practice, or affiliation, or (B) where necessary to provide religious accommodations (Government Code § 8310.3(c)(1));

5. Use agency money, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any criminal, civil, or administrative violation, or warrant for a violation, of any requirement that individuals register with the federal government or any federal agency based on religious belief, practice, or affiliation, national origin, or ethnicity (Government Code § 8310.3(c)(2));

6. Nothing in this section prohibits any state or local agency from sending to, or receiving from, any local, state, or federal agency, information regarding an individual's citizenship or immigration status. "Information regarding an individual's citizenship or immigration status, lawful or unlawful" for purposes of this section, shall be interpreted consistent with Sections 1373 and 1644 of Title 8 of the United States Code (Government Code § 8310.3(e));

7. Nothing in this section is intended to prevent any state or local agency from compiling aggregate nonpersonal information about religious belief, practice, or affiliation, national origin, or ethnicity, or from exchanging it with other local, state, or federal agencies (Government Code § 8310.3(f));

8. Nothing in this section prevents the collection, retention, or disclosure of personal information or documents as required by Federal law, or to comply with a court order, or as necessary to comply with Federal programs of assistance (Government Code § 8310.3(g));

9. Nothing in this section shall prevent a state or local law enforcement agency from assisting, participating with, or requesting participation from, federal authorities, so long as the state or local agency acts in accordance with this section and any other applicable law (Government Code § 8310.3(i)).

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 (either implicit or explicit 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 a legitimate law enforcement purpose before taking action. Absent a legal duty to act, no member is obligated to take any discretionary action where bias-based motivation is behind a call for service.

4. For suspected bias-motivated calls, officers may use discretion informing the Dispatcher that a member will not respond to the call without a legitimate basis of there being potentially criminal conduct or when there is no legitimate law enforcement purpose for responding.
5. For suspected bias-motivated calls, when feasible, the officer should attempt to contact the reporting party to obtain further information as to the reason for requesting police assistance, response, or intervention prior to responding.

MEMBER RESPONSIBILITY

Every member of the Mill Valley Police 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 shall, when reasonable to do so, intervene to prevent any biased-based actions by another member.

Members shall 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.

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 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.

REASONS FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

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.

Except for required data-collection in ARS (automated reporting system) entries, nothing in this policy shall require any officer to document a voluntary contact or social contact that would not otherwise require reporting.

For Stops

To cultivate and foster transparency and trust with all communities, each Mill Valley Police Department member should do the following when conducting pedestrian or vehicle stops or otherwise interacting with members of the public, unless circumstances indicate it would be unsafe to do so:

- a. Be courteous, professional, and respectful.
- b. Introduce themselves to the community member, providing name, agency affiliation,

and badge number. Members should also provide this information in writing or offer their issued business cards containing this information.

- c. State the reason for the stop as soon as practicable unless providing this information will compromise officer or public safety or a criminal investigation. 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 person's questions regarding the stop, including an explanation of options for citation disposition if relevant.
- d. Answer questions that the individual may have about the stop.
- e. Ensure that a detention is no longer than necessary to take appropriate action for the known or suspected offense and convey the purpose of any reasonable delays.
- f. 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.
- g. Officers arresting a person shall be prepared to articulate sufficient reason for the arrest, independent of the protected characteristics of the individual.

DATA COLLECTION AND ANALYSIS

In accordance with the Racial and Identity Profiling Act of 2015, The Mill Valley Police Department shall collect data on civilian complaints and, 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 RIPALog. 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 RIPALog report (*11 CCR 999.227(a)(5)*).

If multiple agencies are involved in a stop, and the Mill Valley Police Department is the primary agency, the Mill Valley Police Department officer shall collect the data elements and prepare the stop data report in RIPALog (*11 CCR 999.227(a)(4)*).

The stop data report should be completed and submitted to the reporting officer's agency by the end of the officer's shift (*11 CCR 999.227(a)(9)*).

The Mill Valley Police Department shall regularly analyze the data to identify and address practices that may have a disparate impact on any group relative to the general population. RIPA data collected shall be posted on the Mill Valley Police Department website for community transparency.

ACCOUNTABILITY AND ADHERENCE TO POLICY

All Mill Valley Police Department personnel are responsible for understanding and complying with this policy. Any violation of this policy will subject the member to remedial training, discipline up to termination, depending upon the severity of the violation. Mill Valley Police Department personnel shall not retaliate against any person who complains of biased policing or expresses negative views about them or law enforcement in general.

All Mill Valley Police Department personnel share the responsibility of preventing bias-based policing. Personnel shall report any violations of this policy they observe or of which they have knowledge to a supervisor in accordance with the Personnel Complaints Policy.

SUPERVISOR RESPONSIBILITY

Supervisors shall 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. Supervisors shall:

1. Provide leadership, counseling, direction, and support to members as needed to ensure compliance with this policy and promptly address and correct any alleged or observed violation.
2. Lead efforts to engage diverse individuals and groups and ensure that members are working actively to engage the community and increase public trust to alleviate actual and perceived bias.
3. 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 (recordings and other documentation that captures an alleged or observed instance of bias-based policing shall be appropriately retained for administrative, investigative, or training purposes).
4. Establish and enforce the expectation that members will police in a manner that is consistent with this policy, the U.S. and California Constitutions, federal and state laws, and all other internal policies (See Policy 100, Law Enforcement Authority).
5. Discuss any issues concerning alleged or observed racial or identity profiling with the involved officer and their supervisor in a timely manner. When appropriate, supervisors shall document these discussions in the prescribed manner by identifying the nature of the alleged or observed incident and detailing the member's response.
6. Initiate timely investigations of any actual, observed, or alleged violations of this policy in accordance with Personnel Complaints Policy 1019 (See Policy 340, Standards of Conduct), and report on any such investigations and their outcomes to the Police Governance Group.
7. Ensure that no retaliatory action is taken against any community member or members of this Department who discloses information concerning profiling and/or bias-based policing.
8. Regularly identify and assess training and professional development needs related to this policy and identify and provide appropriate educational opportunities.

9. Highlight areas where members engage appropriately and effectively in accordance with this policy and its purposes and use those examples during briefing training and other training opportunities.

ADMINISTRATION

Each year, the Administrative Lieutenant shall review the efforts of the Department to prevent profiling/bias-based policing and submit an overview, including public concerns and complaints and analysis of stop data, to the Police Chief. All internal affairs investigations will be reported to the Police Governance Group, submitted in the 5-year complaint log, and posted on the Mill Valley Police Department website. It should be reviewed to identify any changes in training or operations that should be made to improve service. The Police Chief shall share this information with the Police Governance Group. Department supervisors shall review the annual report and discuss the results with those they are assigned to supervise.

TRAINING

Training on fair and objective policing and review of this policy shall be conducted as directed by Operations and Administrative Lieutenants includes a discussion of its bias-free policing policy with all sworn members and professional staff on an annual basis.

All sworn members 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).

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

REPORTING TO THE CALIFORNIA DEPARTMENT OF JUSTICE

1. The Chief of Police or his/her designee 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 Chief of Police or his/her designee shall ensure that all stop data required by the Department of Justice is reported annually.