SENATE JUDICIARY
Exhibit No. 12
Date 3-30-07
Bill No. HB 636

Chapter III: GENERAL REGULATIONS
Section: GR-5
Subject: Biased-Based Policing
Approved By: [signature]
Effective: May 1, 2002

POLICY

A. PURPOSE

1. The Montana Highway Patrol will not tolerate racial profiling or biased-based policing. This type of conduct and actions, whether intentional or not, by Patrol Officers is unethical, unacceptable and will not be tolerated. This policy will provide guidelines to address and prevent racial profiling occurrences and assist officers in understanding proper procedures to these incidents.

2. This policy is part of the need to address the belief and perception that biased-based policing exists. But it is also part of the process of providing data and information to counter this widespread belief and provide qualified public information as well as officer protection with the goal of providing support and leveling the playing field for everyone.

B. DEFINITIONS

1. Racial Profiling and biased-based policing is the reliance on race, skin color and/or ethnicity as an indication of criminality, reasonable suspicion, or probable cause, except when applied as part of a description of a suspect provided in the course of business.

C. PROCEDURES

CONDUCT OF OFFICERS DURING STOPS

1. Policy GR-2 instructs the officer in conducting professional traffic stops and making public contacts. Included in this is the detention of vehicles and persons based on reasonable suspicion of criminal activity (i.e., Terry stops).

2. Traffic stops and all public contacts will be performed in an unbiased, courteous and professional manner. Officers will not stop an individual based on race, skin color and/or ethnicity.

C. **PROCEDURES** (Cont.)

CONDUCT OF OFFICERS DURING STOPS (Cont.)

3. Motorists and pedestrians will only be subject to stops or detentions based upon reasonable suspicion and/or probable cause that they have committed, are committing or are about to commit a violation of the law.

4. The Patrol recognizes that training, experience, monitoring activity, tracking information and continued diligence by everyone, especially supervisors, are key to promoting development of acceptable individualized approaches to motorists and public relative to racial profiling issues.

5. The recommended practices for approaching motorists and citizens and establishing rapport, thereby conducting professional public encounters (GR-2), may have variances and exceptions with situations involving investigations, confidentiality, and/or tactical or safety considerations.

6. All enforcement action and/or official contacts should be accompanied with appropriate written documentation established in compliance with directives and practices of the Patrol.

7. Be certain that the appropriate documentation and information is provided upon the citation, warning card or daily log to validate the reason for the initial contact and justify all actions.

D. **SUPERVISION AND EVALUATION**

1. Supervisors will be diligent and perseverant with attention to officer activity, actions, work quality and public contact so as to address any concerns relative to professional conduct, appropriate behavior as well as biased-based policing concerns.

2. Supervisors and all personnel will ensure that the working environment is free from any bias, racial or ethnic hostility. There will also be an assurance that there will not be any retaliation to any employee or citizen for reporting any such incidents, behaviors or activities.

D. **SUPERVISION AND EVALUATION** (Cont.)

3. The public and appropriate groups will be routinely contacted to determine any possible activities that may be viewed as race or ethnic based.

4. Supervisors will regularly meet with officers as well as periodically review video footage of traffic stops and document the review. If any concerns are observed, they will be completely investigated and appropriate action taken.

E. **COMMUNITY INVOLVEMENT**

1. Officers will make every attempt to develop and participate in local groups and programs that have an interest and concern with biased-based policing.

2. District and Detachment Commanders will also become involved in any other law enforcement agency groups or programs that address biased-based policing issues.

F. **COMPLAINT HANDLING AND INTERNAL AUDITS**

1. Current procedure for complaint handling (P-2) will be adhered to.

2. Should the complaint have a racial or bias concern, the receiving supervisor or officer will document that concern and the complaint will be forwarded through the chain of command to the Lt. Colonel.

3. If the Lt. Colonel determines that there may be racial or bias issues, the Lt. Colonel will contact the Chief and the investigating agency will be determined.

4. Within ten (10) days of receiving the complaint, the Chief or District Commander will respond to the complainant in writing, explaining that the concern is being investigated and that once the investigation is complete, they will be contacted in writing with the findings of that investigation.

F. **COMPLAINT HANDLING AND INTERNAL AUDITS** (Cont.)

5. The Attorney General's Office will be contacted concerning any complaint that appears to have racial or biased concerns. All steps of the investigation will be done with input from the Attorney General's Office.

6. Annually, a report will be forwarded to the Attorney General's office outlining any investigation or complaint that was conducted or received and the outcome. The report will include, but is not limited to: total number of racial or bias complaints, the specific type of complaints, the employee(s) name that the complaint involved, whether or not a pattern is identified, whether or not additional training or other progressive disciplinary action has taken place for specific employees, and identifying any need for more community involvement or agency-wide training.

G. **TRAINING**

1. Every employee of the agency will receive cultural diversity and racial profiling awareness training during the Academy and in-service.

2. Training will include detailed review of the policy and practice of the Patrol relative to cultural diversity and dealing with minorities.

3. This training will also involve of use-of-force applications and limitations, constitutional based discussions of the Fourth and Fourteenth Amendments (Unreasonable Search and Equal Protection).

4. Biased and racial actions and concerns will also be part of the employee's performance appraisal as well as the employee's involvement in community and local programs.

5. Legal aspects of racial profiling and bias-based policing will be incorporated in all recruit and in-service training.