

**From:** [H. Bernard Waugh, Jr.](#)  
**To:** [Karen Liothill Gmail \\*DNU\\*](#); [Mulholland, Shaun](#)  
**Cc:** ["droottrrm@aol.com"](#)  
**Subject:** Fair and Impartial Policing Task Force  
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<b>RELEASED TO THE PUBLIC</b>	
<b>Lebanon City Manager's Office</b>	
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Hi Shaun and Karen:

I have been working with Diane Root on a revision that reflects the discussion at the last meeting of the Task Force. Below is what we have come up with. This would replace existing Provisions 1-3, and as you can see we have made another division, so that there would be 5 provisions replacing those three. I think this is at least ready to distribute to the other members of the Task Force for discussion at the next public meeting.

Bernie Waugh

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**[Replace Provisions 1-3 of the ordinance with the following five Provisions:]**

**Provision 1.**

No law enforcement agent or other agent or agency of the City of Lebanon, or any volunteer assisting the efforts of such agent or agency, shall profile, target, detain, or otherwise discriminate against any person because of any of the following, whether actual or perceived: age, sex, gender identity, race, creed, color, marital status, familial status, physical or mental disability, national origin, sexual orientation, ethnicity or culture, language or religion, economic or housing status, or citizenship or immigration status.

**Provision 2.**

No person shall be questioned in a manner which is biased or discriminatory, as described in Provision 1, and no personal information may be collected, retained, utilized or disclosed in any discriminatory manner or to any discriminatory purpose or effect by any agent or agency of the City.

**Provision 3.**

No agent or agency of the City of Lebanon shall request, collect or retain information about, or otherwise investigate or assist in the investigation of the United States citizenship or immigration status of any person in the City of Lebanon.

**Provision 4.**

No agent or agency of the City shall disclose information regarding the U.S. citizenship or immigration status of any person, unless such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by the individual's parent or guardian.

**Provision 5.**

Notwithstanding Provisions 1-4 above, agents of the City may question about, collect, retain, utilize and disclose information concerning the criteria listed in Provisions 1-4 in the following circumstances, as long as that is done on an impartial basis and in a non-discriminatory manner:

A. Where collection, retention, utilization or disclosure of the specific information is mandated in order to implement a municipal program, process or function, unrelated to the enforcement of federal immigration law, which is performed by the City, but whose rules and parameters are imposed by state or federal law or authority, including but not limited to federal and state laws governing employment and elections.

B. Where collection, retention, utilization or disclosure of the specific information is required or procedurally necessary as part of an ongoing investigation of a violation of law including but not limited to a violation of this ordinance itself, or as part of litigation or a quasi-judicial administrative proceeding unrelated to the enforcement of federal immigration law, or by statute or court order.

C. Where the information is being collected or retained solely for purposes of evaluating and improving the performance of the Police Department or other City agency with respect to its compliance with the impartiality and non-discrimination requirements of Provision 1 above.

D. Where relevant economic information is being collected, retained or utilized in the course of administering a program of benefits based on financial need, including but not limited to general assistance under RSA Ch. 165.

**[Re-number remaining provisions of the Ordinance.]**

**COMMENTS FOR THE TASK FORCE CONCERNING THE ABOVE DRAFT:** The above draft is based on B.Waugh's draft of 7/29/20, but with the following changes:

- First and foremost – in accord with the Task Force discussion on 8/4/20, there is no longer a blanket prohibition on collection, retention or disclosure of information pertaining to the listed non-discrimination criteria. The only blanket prohibitions remaining are in what's now Provisions #3 and #4 pertaining to US Citizenship and immigration status (and even those are still subject to the list of exceptions which are now in Provision #5).
- With all the other non-discrimination criteria, the prohibition on collecting, retaining utilization and disclosure of information is only a prohibition on the misuse of that information “to any discriminatory purpose or effect.”
- To make clear the distinction between discrimination based on collecting and using information versus other types of discrimination, a brand new provision (#2 in this draft) has been added to address only the information-related discrimination, with no information-related elements remaining in Provision #1.
- Now that all information-related provisions have been removed from Provision #1, the term “citizenship” (rather than “United States citizenship”) has been re-added to Provision #1 as a non-discrimination category. Note, however that the **blanket** prohibition on collection, retention and disclosure in Provisions #3 and #4 retain the clarification that “US citizenship” is being referred to there.
- The exceptions now in proposed Provision #5 have thus become descriptions of types of information handling that are in essence **defined** as not violating the Ordinance.
- Another addition: In Provision #1 the phrase “actual or perceived” now applies to all the non-discrimination criteria (to make it clear, for example, that profiling someone because s/he **appears** to be of some particular nationality is still prohibited even if s/he turns out not to be).
- The prohibition on discrimination based on “economic or housing status” has been added back into Provision #1, but a new exception D has been added to Provision #5, allowing such economic issues to be addressed when determining someone's financial needs in the course of administering any program of benefits based on need.

H. Bernard Waugh, Jr.  
Attorney

603.448.2221 ext. 429  
[bwaugh@dwmlaw.com](mailto:bwaugh@dwmlaw.com)

78 Bank Street, Lebanon, NH 03766  
800.727.1941 | 603.448.5949 Fax | [dwmlaw.com](http://dwmlaw.com)



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