



Policy and Procedure

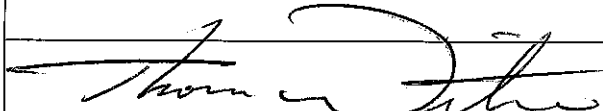
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Racial Profiling

P & P Number
100.06

Effective Date:
7-28-2016

Review Date:
July, 2018


Approved by: Thomas Wibert, Chief of Police

100.06.01 PURPOSE

The purpose of this policy is to reaffirm the City of New Braunfels Police Department's commitment to unbiased policing in all its encounters with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

100.06.02 POLICY

It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. Racial profiling is an unacceptable police tactic and will not be condoned.

This Policy is adopted in compliance with the requirements of Articles 2.131 through 2.138, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

100.06.03 DEFINITIONS

Racial Profiling: A law enforcement-initiated action based on an individual's race, ethnicity, or national origin, rather than on behavior or information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.

Race or Ethnicity: Persons of a particular descent, including Caucasian, African, Hispanic, Asian, Middle Eastern or Native American descent.



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Acts Constituting Racial Profiling: Acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.

Motor Vehicle Contact: Means an occasion in which a peace officer stops a motor vehicle for an alleged violation of law or ordinance.

100.06.04

PROCEDURES

A. Prohibitions

1. Officers of the New Braunfels Police Department are strictly prohibited from engaging in racial profiling. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description of a suspect or witness for whom an officer is searching.
2. Officers of the New Braunfels Police Department shall not engage in profiling based solely on gender, sexual orientation, religion, economic status, age, culture, or any other identifiable group.

B. Complaint Process

1. No person shall be discouraged, intimidated or coerced from filing a complaint, or be discriminated against because they have filed a complaint.
2. Any person who believes that a peace officer employed by the New Braunfels Police Department has engaged in racial profiling with respect to that person, may file a complaint in accordance with the provisions of the New Braunfels Police Departments complaint process through the Professional Standards Unit.
3. An employee who is contacted regarding a complaint against an officer shall contact the on-duty supervisor, who shall meet with the complainant or otherwise gather the appropriate information regarding the alleged complaint in a thorough and timely manner,



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consistent with the complaint process.

4. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, "Racial Profiling Complaint Process" and a New Braunfels Police Department Personnel Complaint Form. Brochures are maintained in the New Braunfels Police Department lobby and in the lobby of the New Braunfels City Hall. Citizens may also be directed to the Departmental website to file a complaint.
5. Any supervisor who becomes aware of an alleged or suspected violation of this Policy shall report the alleged violation to the Professional Standards Unit.
6. The Professional Standards Unit shall investigate complaints of racial profiling, unless otherwise directed by the Chief of Police. The Professional Standards Unit will maintain a log of all Racial Profiling Complaints.

C. Disciplinary and Corrective Actions

1. Any officer of this Department who is found, after investigation, to have engaged in racial profiling in violation of this Policy may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

D. Public Education

1. This Department shall provide education to the public concerning the racial profiling complaint process. The primary method of public education shall be through a brochure, "Racial Profiling Complaint Procedures" which are maintained in the lobby of the New Braunfels Police Department and in the lobby of the New Braunfels City Hall. These brochures are available in both English and Spanish versions. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet, and/or public meetings.

E. Collection of Information and Annual Report When Citation Issued or Arrest Made



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1. For each motor vehicle contact in which a citation is issued and / or for each arrest resulting from a motor vehicle contact, an officer involved in the stop shall collect the following information:
 - a. The gender of the person being reported.
 - b. Information identifying the race or ethnicity of the person detained.
The following codes will be used to identify the individual's race:


A = Asian
B = Black
W = White/Caucasian
H = Hispanic
M=Middle Eastern
I=Native American/American Indian

Note: Officers may not ask the individual to identify their race. If the person does not state the person's race or ethnicity, the officer shall determine the person's race or ethnicity to the best of his or her ability.
 - c. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual.
 - d. What violation / charge was used to make first contact or was it related to a calls for service.
 - e. What action was taken (citation, or arrest).
 - f. What the contacted person was charged with.
 - g. Whether a search was conducted.
 - h. If a search was conducted, did the individual detained consent to the search.
 - i. Whether a search was conducted because probable cause existed.

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vehicle contacts shall be equipped with a mobile video camera system capable of recording video and audio.


2. Each motor vehicle contact made by an officer of this department capable of being recorded by video and audio shall be recorded.
3. Supervisors and Officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperable mobile video camera equipment shall not be utilized under normal circumstances.
4. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile video equipment when situations dictate. Officers assigned to such units shall collect and document the information listed below for each motor vehicle contact. All documentation must be submitted to the officer's supervisor prior to ending that tour of duty. Documentation shall include but is not limited to Field Interview Forms, Traffic Citations and Warning Tickets.
 - a. A physical description of any person operating the motor vehicle, who is detained as a result of the stop, including:
 - i. The person's gender; and
 - ii. The person's race or ethnicity, as stated by the person, or if the person does not state, the person's race or ethnicity, as determined by the officer to the best of his or her ability. Officers will not ask the individual to identify their race or ethnicity;
 - iii. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual;
 - iv. The initial reason for the stop;
 - v. Whether the officer conducted a search as a result of the stop, and, if so, whether or not the person detained consented to the search;
 - vi. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
 - vii. The reason for the search, including whether:

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- viii. Any contraband or other evidence was in plain view;
- ix. Any probable cause or reasonable suspicion existed to perform the search; or
- x. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle
- xi. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of Penal Code, a violation of traffic law or ordinance or an outstanding warrant and a statement of the offense charged.
- xii. The street address or approximate location of the stop; and
- xiii. Whether the officer issued a citation or a written warning as a result of the stop

G. Review of Video and Audio Documentation

1. Each audio and video recording shall be retained for a minimum period of ninety(90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a motor vehicle contact. The Patrol Division Lieutenants shall ensure that all audio and recordings are properly stored and retained in accordance with applicable laws and this Policy.
2. If a complaint is received alleging that an officer has engaged in racial profiling, the audio / video recording shall be forwarded to the Professional Standards Unit. The Professional Standards Unit shall retain the video until final disposition of the complaint has been made.
3. The Operations Captain shall review a randomly selected sampling of video and audio recordings, made recently by officers employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted weekly and documented.
 - a. Written documentation shall include:

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- i. The names of the officers whose contacts were reviewed;
 - ii. The date(s) of the videos reviewed;
 - iii. The date the actual review was conducted; and
 - iv. The name of the person conducting the review.
- b. The Operations Captain shall forward the required documentation to the Professional Standards Unit.
 - c. The Professional Standards Unit shall maintain a file of all video review documentation performed, in compliance with this Policy.
4. In reviewing audio and video recordings, the Operations Captain shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, which includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.

H. Training

1. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement (TCOLE) not later than the second anniversary of the date the officer was licensed, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.
2. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT), not later than September 1, 2003.