

CALLAHAN COUNTY SHERIFF'S OFFICE

RACIAL PROFILING POLICY

I. PURPOSE

The purpose of this policy is to reaffirm the Callahan County Sheriff's Office commitment to unbiased law enforcement in all its encounters between a deputy and 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 deputies from unwarranted accusations of misconduct when they act within the dictates of Sheriff's Office policy and the law.

II. POLICY

It is the policy of this Office to provide law enforcement services in a pro-active manner and, to aggressively investigate suspected violations of the law. Deputies shall actively enforce state and federal laws in a respectable and professional manner, without regard to race, ethnicity or national origin. Deputies are **strictly prohibited** from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians.

Deputies shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitution are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

The policy shall not preclude deputies from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

III. DEFINITIONS

Racial Profiling - A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on 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 or other citizen contacts.

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom a deputy is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

1. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.
2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
3. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

A Sheriff's Office can derive two principles from the adoption of this definition of racial profiling:

1. Deputies may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while deputies may use race in conjunction with other know factors of the suspect.
2. Deputies may not use racial or ethnic stereotypes as factor in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, complainants or other citizen contacts.

Race or Ethnicity - Of a particular descent, including Caucasian, African, Hispanic, Asian or Native American.

Pedestrian Stop - An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Traffic Stop - A peace officer stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

IV. TRAINING

Deputies are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training requirements as mandated by law.

All deputies shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the deputy is licensed under Chapter 1701 of the Texas Occupations Code or the date the deputy 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.

V. COMPLAINT INVESTIGATION

1. The Sheriff's Office will accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such complaint.

2. Any employee who receives an allegation of racial profiling, including the deputy who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint through the appropriate channel or direct the individual(s). Any employee contacted shall provide to that person a copy of a complaint form or the Sheriff's Office process for filing a complaint. All employees will report any allegation of racial profiling to their superior before the end of their shift.

3. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive a disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the Sheriff. When applicable, findings and/or suggestion for disciplinary action, retraining, or changes in policy shall be filed with the Sheriff.

4. If a racial profiling complaint is sustained against a deputy, it will result in appropriate corrective and/or disciplinary action, up to and including termination.

5. If there is a Sheriff's Office video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this Office into the complaint and by written request of the deputy involved, this Office shall promptly provide a copy of the recording to that deputy.

VI. PUBLIC EDUCATION

This Office will inform the public of its policy against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available as appropriate, in languages other than English.

VII. CITATION DATA COLLECTION & REPORTING

A deputy is required to collect information relating to traffic stops in which a citation is issued. On the citation deputies must include:

1. the violators race or ethnicity
2. whether a search was conducted
3. was the search consensual, and
4. arrest for this cited violation or any other violation.
5. _____ DEPUTY OBSERVED _____ WITNESS REPORTED (behavior)

By March of each year, the Sheriff's Office shall submit a report to the Callahan County Commissioner's Court that includes the information gathered from the citations. The report will include:

1. a breakdown of citation by race or ethnicity
2. number of citations that resulted in a search
3. number of searches that were consensual
4. number of citations that resulted in custodial arrest for this cited violation or any other violation.

Not later than March 1st of each year, the Sheriff's Office shall submit a report to the Callahan County Commissioner's Court containing this information from the preceding calendar year.

VIII. COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS (effective January 1, 2003)

A deputy who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:

1. A physical description of each person detained as a result of the stop, including
 - a) The person's gender
 - b) The person's race or ethnicity, as stated by the person or as determined by the deputy to the best of his/her ability.
2. The street address or approximate location of the stop. The suspected offense or traffic law or ordinance.
3. Whether the deputy conducted a search as a result of the stop and, if so, whether person detained consented to the search.
4. Whether probable cause to search existed and, is, the fact(s) supporting the existence of that probable cause.

5. Whether any contraband was discovered in the course of the search and, if so, the type of contraband discovered.
6. Whether the deputy made an arrest as a result of the stop and/or search, and, if so, statement of the offense charged.
7. Whether the deputy issued a warning or a citation as a result of the stop and, if so, statement of the offense charged.

This Office shall compile and analyze the information contained in these individual reports. Not later than March 1st of each year, the Office shall submit a report to Callahan County Commissioner's Court containing the information compiled from the preceding calendar year in a manner they approve. This report will include:

1. A comparative analysis of the information contained in the individual reports in order to:
 - a) Determine the prevalence of racial profiling by deputies in this Office, and
 - b) Examine the disposition of traffic and pedestrian stops made by this Office's deputies including searches resulting from stops.
2. Information relating to each complaint filed with this Office alleging racial profiling. This report will not include identifying information about a deputy who makes a stop or about an individual who is stopped or arrested by a deputy.

EXEMPTION TO SECTION VIII

If each law enforcement motor vehicle regularly used by a deputy employed by the Sheriff's Office to make traffic stops is equipped with video camera and transmitter activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter activated equipment, and each traffic and pedestrian stop made by a deputy employed by the Sheriff's Office that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment, then the Sheriff's Office is exempt from the compiling and reporting requirement detailed in Section VIII.

Also upon certification to the Texas Department of Public Safety, not later than the date specified by rule by the department, by the Callahan County Commissioner's Court in conjunction with this Sheriff's Office that this Office needs funds or video and audio equipment for the purpose of installing video and audio equipment in each vehicle as described above and this Office does not receive from the state funds or video or audio equipment sufficient, as determined by the department, for this Office to accomplish that purpose, the the Sheriff's Office is exempt from the reporting requirement detailed in Section VIII.

IX. USE OF VIDEO AND AUDIO EQUIPMENT

Each motor vehicle regularly used by this Office to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment, and each motorcycle regularly used by this Office to make traffic and pedestrian stops is equipped with transmitter-activated equipment, and each traffic and pedestrian stop made by a deputy of this Office that is capable of being recorded by video and audio, or audio, as appropriate, is recorded.

This Office shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this Office alleging that one of our deputies has engaged in racial profiling with respect to a traffic or pedestrian stop, this Office shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.

Supervisors will ensure deputies of this Office are recording their traffic and pedestrian stops. A recording of each deputy will be reviewed at least once every ninety (90) days.

If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the deputy making the stop must properly record and report the information as required in Section VIII.