

## TIER 2-FULL RACIAL PROFILING REPORT

**Agency Name:** Webb County Constables Pct. 4

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**TCOLE Agency Number:** 479104

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### RACIAL PROFILING

The purpose of the policy is to reaffirm the Webb County Constables Office, Precinct 4's commitment to unbiased policing in all its encounters between 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 departmental policy and of the law.

#### A. POLICY

It is the policy of this Department to police in a proactive manner and, to aggressively investigate suspected violations of law. Deputies shall actively enforce state and federal laws in a responsible 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 interacting with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures. Racial profiling is an unacceptable patrol tactic and will not be condoned or tolerated. This policy shall 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 persons.

#### B. 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 are 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 law enforcement agency can derive at two principles from the adoption of this definition of racial profiling:

1. Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect.
2. Law enforcement officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.

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 who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

### **C. TRAINING**

Deputies are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law. All Deputies shall complete a TCOLE 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 of the Deputy applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCOLE intermediate proficiency certificate, or who had held a peace officer license issued by TCOLE for at least two years, shall complete a TCOLE training and education program on racial

profiling not later than September 1, 2003. The Constable, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

#### **D. COMPLAINT INVESTIGATION**

1. The department shall 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 a 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. All employees will report any allegations 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 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 Constable. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the Constable.
4. If a racial profiling complaint is substantial against a Deputy, it will result in appropriate corrective and/or disciplinary action, up to and including termination. If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the Deputy made the subject of the complaint, this department shall promptly provide a copy of the recording to that Deputy.

#### **E. PUBLIC EDUCATION**

This department 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.

#### **F. 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 violator's 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.

By March of each year, the department shall submit a report to TCOLE that includes the information gathered by the citations. The report will include:

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

#### **G. COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS.**

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 the traffic law or ordinance alleged to have been violated.
3. Whether the Deputy conducted a search as a result of the stop and, if so, whether the person detained consented to the search.
4. Whether probable cause to search existed and, if so, 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, a statement of the offense charged.
7. Whether the Deputy issued a warning or a citation as a result of the stop and, if so, a statement of the offense charged.

This department shall compile and analyze the information contained in these individual reports. Not later than March 1<sup>st</sup> of each year, this department shall submit a report to TCOLE 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:
2. Examine the disposition of traffic and pedestrian
3. Information relating to each complaint filed with this department alleging racial profiling.

This report will not include identifying information about a peace officer who makes a stop or about an individual who is stopped or arrested by a peace officer.

This model policy is intended as a guide. It should be reviewed by legal counsel prior to modification and implementation in any specific community.