

Racial Profiling Policy for the City of Llano, TX

I. Policy and Purpose

This Racial Profiling Policy is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

II. Definitions

Racial Profiling: means 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, persons needing assistance, or other citizen contacts.

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

Acts Constituting Racial Profiling: are 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.

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

Traffic Stop: means the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulating traffic.

III. Prohibition

Peace officers of the City of Llano 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 a peace 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 a peace officer is searching.

IV. Complaint Process and Public Education

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 officer 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 department 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 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 chief. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.
4. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.
5. 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 officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

The police department of the City of Llano shall provide education to the public concerning the racial profiling complaint process. A summary of the public education efforts made during the preceding year shall be included with the annual report filed with the governing board of the City of Llano under Part VI below.

V. Corrective Action

Any peace officer who is found, after investigation, to have engaged in racial profiling in violation of this policy shall be subject to corrective action, which may include reprimand; diversity, sensitivity or other appropriate training or counseling; paid or unpaid suspension; termination of employment, or other appropriate action as determined by the Chief of Police.

VI. Collection of information and Annual Report When Citation Issued or Arrest Made

For each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, a peace officer involved in the stop shall collect information identifying the race or ethnicity of the person detained, stating whether a search was conducted, and if a search was conducted, whether the person detained consented to the search.

The information collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to the governing body of the City of Llano no later than March 1 of the following year. The annual report

shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

VII. Audio and Video Equipment

1. The Chief of Police of the City of Llano shall, immediately upon enactment of this policy, commence examination of the feasibility of installing video camera equipment and transmitter-activated equipment in each City motor vehicle regularly used to make traffic stops, and transmitter-activated equipment in each City motorcycle regularly used to make traffic stops, and shall report to the governing body of the City of Llano on the findings of such examination no later than six months following enactment of this policy. The report shall include funding options available to the City, including any funding available through the Department of Public Safety.

2. In the event that the findings of such examination support the installation of such equipment, the governing body shall consider and take action on installing the equipment, applying for funding to secure and install such equipment, or such other action as the governing body considers appropriate. In the event the examination does not support installing such equipment, the Chief of Police of the City of Llano shall periodically update the governing body on such feasibility.

3. In the event that the governing body determines that funds are needed in order to install the equipment, it shall pass a resolution certifying that fact to the Department of Public Safety. On receipt of either sufficient funds or video and audio equipment, the governing body shall install video and transmitter-activated equipment in each motor vehicle regularly used to make traffic stops, and shall install transmitter-activated equipment on each motorcycle regularly used to make traffic stops, and the governing body shall pass a resolution certifying to the Department of Public Safety that such equipment has been installed and is being used to record each traffic and pedestrian stop made by a peace officer employed by the City that is capable of being recorded by video and audio or audio equipment, as appropriate.

VIII. Review of Video and Audio Documentation-Standards

In the event that audio and video equipment is installed, each audio and video recording shall be retained for a minimum period of ninety (90) days unless a complaint is filed alleging that a peace officer of the City has engaged in racial profiling with respect to a traffic or pedestrian stop, in which case the recording of the traffic or pedestrian stop complained of shall be retained until final disposition of the complaint.

In conjunction with preparation of the annual report required under Part VI above, the Chief of Police shall periodically conduct reviews of a randomly-selected sampling of video and audio recordings made recently by peace officers employed by the City in order to determine if patterns of racial profiling exist.

In reviewing audio and video recordings, the Chief of Police shall seek to determine if the officer who is involved therein has engaged in a pattern of racial profiling that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures. A single act constituting racial profiling may not be considered a pattern of racial profiling, and shall not be grounds for corrective action.

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

IX. Collection, Compilation, Analysis, and Reporting Requirements in Absence of Either Audio and Video Equipment or Non-Funding Certification by the Governing Body

1. In addition to the annual report required when citations are issued and arrests made, and so long as the City of Llano has not equipped all motor vehicles and motorcycles regularly used to make traffic and pedestrian stops with audio and video equipment, as applicable, and so long as the City has not or is not able to certify to the Department of Public Safety that it needs funds for such audio and video equipment but has not received such funds, then each peace officer of the City shall make the following report for each traffic and pedestrian stop:

(a) a physical description of each person 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;

(b) the traffic law or ordinances alleged to have been violated or the suspected offense;

(c) whether the officer conducted a search as a result of the stop, and, if so, whether the person detained consented to the search;

(d) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(e) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(f) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(g) the street address or approximate location of the stop; and

(h) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

2. The information in each report shall be analyzed and compiled in a report that covers the period January 1 through December 31 of each year, and shall be submitted to the governing body of the City of Llano no later than March 1 of the following year. Each such report shall include:

(a) a comparative analysis of the information compiled by each officer under Part IX (a) (1)-(8) to:

(i) determine the prevalence of racial profiling by peace officers employed by the City; and

(ii) examine the disposition of traffic and pedestrian stops made by officers employed by the City, including searches resulting from such stops; and

(b) information relating to each complaint filed with the City alleging that a peace officer employed by the City had engaged in racial profiling.

3. The report required by this Part IX may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by an officer.

4. The compilation of information, analysis, and report required by this Part IX shall not be required for any calendar year during which (1) the City has equipped all motor vehicles and motorcycles regularly used to make traffic and pedestrian stops with audio and video equipment, and each traffic and pedestrian stop made by a peace officer employed by the City that is capable of being recorded by video and audio or audio equipment, as appropriate, has been so recorded; or (2) the City has certified to the Department of Public Safety that it needs funds for such audio and video equipment, as described in Part VII (c) above, but has not received such funds.

X. Peace Officer and Police Chief Training

1. Each peace officer employed by the City shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) 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 proficient 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.