

# **Filing a Complaint with the Bailey County Sheriff's Office**

\*The following information has been disseminated to the public as part of an educational campaign aimed at informing community members of the complaint process relevant to violations of the Texas Racial Profiling Law.

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## **UNDERSTANDING THE PROCESS**

Once an individual has filed a complaint regarding racial profiling, he/she should expect the following process to commence:

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## **THE INTERVIEW**

The Sheriff, or sheriff's designee, will interview the individual filing the complaint. The Sheriff or sheriff's designee will ask the alleged victim questions about what happened. It is possible that the Sheriff, or sheriff's designee may be able to explain the officer(s)' actions to your satisfaction.

- Usually, the alleged victim will be interviewed at the Sheriff's Office Main Building. It is possible that he/she may be videotaped during the interview.
  - The individual filing the complaint may bring a lawyer, family member or friend to the interview.
  - The sheriff, or sheriff's designee will ask the individual filing a complaint for the names of witnesses and other deputies or law enforcement officers that may know facts about the complaint.
  - The sheriff, or sheriff's designee may take pictures of any injuries that the alleged victim think are related to the complaint.
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## **THE INVESTIGATION**

After the interview, the Bailey County Sheriff's Office will investigate the alleged misconduct. Investigators will talk to witnesses and visit the site of the incident.

- The investigators will consist of the sheriff, or sheriff's designee assigned to the Professional Standards Section.
- The sheriff, or sheriff designees will be interviewed and witnesses whom the alleged victim has named will be contacted and interviewed, if they agree.

- The alleged victim will receive a letter regarding the progress of the investigation. Although it is impossible to estimate how long the investigation will take, the alleged victim will receive periodic reports on its status.
  - A report will then be prepared.
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## **THE REVIEW PROCESS**

The Sheriff reviews every complaint after the investigation is completed and a report is written.

- If the complaint includes excessive force or charges the sheriff, or sheriff's designee with a crime, it will also be reviewed by a Civilian Review Board (CRB). The Board includes three citizens who are not members of the Bailey County Sheriff's Office.
  - The CRB will review your complaint, statements from all witnesses and reports from the investigation. The CRB may ask for additional information before making its recommendations to the Sheriff.
  - The results of investigations that suggest there are no charges that the sheriff or sheriff's designee used excessive force or committed a crime are also reviewed by the Sheriff.
  - The Sheriff reviews investigations and makes the final decision on all complaints.
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## **THE FINDINGS**

The results of your complaint are called "findings". There are four possible findings:

- **Sustained** - The complaint has been supported: The sheriff, or sheriff's designees involved acted improperly and may be disciplined.
- **Unfounded** - The investigation found no basis to the complaint filed.
- **Exonerated** - The sheriff or sheriff's designees involved acted properly and will not be disciplined; or
- **Not provable** - There was not enough evidence to prove the complaint true or false so no further action will be taken.

The Sheriff will decide on a finding after the complaint has been reviewed. Further, he/she will inform the alleged victim through an official letter of the final decision.

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- **Not provable** - There was not enough evidence to prove the complaint true or false so no further action will be taken.

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### **(III) A COMMITMENT TO RESPOND TO THE NEEDS OF THE COMMUNITY**

The Bailey County Sheriff's Office has made a commitment to its citizens regarding the following:

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 sheriff. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the sheriff.
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.

# **Bailey County Sheriff's Office General Orders**

The following section establishes the mission, vision, values, goals, objectives, oath, ethics, and employment practices of the Bailey County Sheriff's Office. Each of these components is reviewed on an annual basis in order to ensure it adequately addresses the emerging needs of the department, the city, and the residents of the Bailey County community.

## **Mission**

The Bailey County Sheriff's Office will always strive to provide the highest quality service, preserving human rights, lives, and property, while attempting to achieve the mission goals of the department, the city, and the community. In the Bailey County Sheriff's Office, we are committed to the highest professional standards, working in partnership with our citizens to problem solve and meet the challenges of reducing crime, creating a safer environment, and improving the community members' quality of life.

## **Vision**

We, the men and women of the Bailey County Sheriff's Office, are committed to excellence in leadership, providing progressive and proactive services, developing community partnerships, and building for a better future.

## **Values**

We, the members of the Bailey County Sheriff's Office, value the following in our members and our organization:

- Honesty
- Professionalism
- Integrity
- Compassion
- Cultural Diversity

## Oath of Office

Each member and volunteer of the Bailey County Sheriff's Office shall subscribe to and abide by the Oath of Office:

*I \_\_\_\_\_ do solemnly swear or affirm that I will faithfully execute the duties of a Sheriff's Deputy of Bailey County, Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States, and of this State, and of this City; and I furthermore solemnly swear or affirm that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute, any money or valuable thing to receive my appointment.*

*So Help Me God.*

Upon swearing to the Oath of Office, a signed copy is placed in the employee's personnel file.

## Code of Ethics

Each member of the Bailey County Sheriff's Office shall subscribe to and abide by the Code of Ethics:

*As a Law Enforcement Officer, my fundamental duty is to serve humanity; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional Rights of all people to liberty, equality and justice.*

*I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.*

*I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or violence and never accepting gratuities.*

*I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to ethics of Law Enforcement. I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession . . . Law Enforcement.*

The newly sworn member shall be given one copy of the Code of Ethics.

## **Equal Opportunity/Affirmative Action**

The policy of the Bailey County Sheriff's Office is to be fair and impartial in all of its relations with its employees or applicants for employment while adhering to the concept of equal employment opportunity and affirmative action as a necessary element of basic merit system principles. In order to achieve this goal, the Bailey County Sheriff's Office hereby reaffirms its official policy that discrimination on the basis of race, sex, color, religion, national origin, age, mental or physical handicap, disabled or veteran status is prohibited by all employees of the Bailey County Sheriff's Office. This policy will apply and is not limited to recruitment, promotion, hiring, layoff, termination, demotion, transfer, training, rates of pay, fringe benefits, or other forms of compensation, use of facilities, and other terms, conditions and privileges of employment for all job classifications. The County of Bailey will take the necessary steps in its employment policies, practices and procedures and make reasonable accommodations in order to assure that appropriate equal employment opportunities are available to all persons.

## **History of the city of Bailey County-Muleshoe, Texas**

### **General:**

Seat of Bailey County, long a sparsely settled area of huge cattle ranches. Early in the 20th Century the immense ranches began to break up, and farming was introduced to this area of the High Plains. Town organized in 1926, named for muleshoe brand of famous early ranch. Today a center for marketing and shipping of High Plains agricultural products.

Muleshoe Heritage Center, off U.S. 84, is in restored Santa Fe depot; offers museum and meeting place. At the center is the "World's largest Muleshoe" at 22 feet high, and 17 feet wide at its widest point. Good photo opportunity.

### **Muleshoe National Wildlife Refuge:**

Founded in 1935, the oldest national wildlife refuge in Texas. Established principally for migratory waterfowl, also home of native wildlife. Three small rainwater lakes, unusual features on the plains, attract the birds. Hunting is prohibited, but photography permitted. Among species wintering here is nation's largest concentration of sandhill cranes. Greatest numbers of waterfowl may usually be seen between late August and March; a colony of prairie dogs is along the entrance road.

Open daylight hours, the Muleshoe Wildlife Refuge is about 19 miles south on Texas 214.

### **National Mule Memorial:**

What better place for a monument to mules than this uniquely named town? Mules pulled the covered wagons west, plowed the first sod for pioneers, hauled freight, and built the first railroads and highways. With the disappearance of mules from the American scene in recent decades, a group of Texas citizens determined to erect a memorial to those unsung beasts of burden. Donations for the monument were received from throughout the nation; in fact, a gift of 21 cents was sent by a mule driver from Samarkand, Uzbekistan, U.S.S.R. The memorial, unveiled on July 4, 1965, is near the intersection of U.S. 70 / 84 in downtown Muleshoe and is a popular picture taking site.

Today wagons and mule teams still can be seen on Muleshoe's main streets and Mule Day is celebrated Labor Day weekend, hosting mule rodeo, mule races, and other mule related activities.

**Commentary**

None

**Standard 6**

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

**Commentary**

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

**Standard 7**

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

**Commentary**

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- Whether a search of the vehicle was conducted and whether consent for the search was obtained.



The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

#### **Standard 4**

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

#### **Commentary**

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

#### **Standard 5**

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

## **Standard 2**

Each peace officer 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 reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- Whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

## **Commentary**

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

## **Standard 3**

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

## **Commentary**

Senate Bill 1074 from the 77<sup>th</sup> Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

## **Guidelines for Compiling and Reporting Data under Senate Bill 1074**

### **Background**

Senate Bill 1074 of the 77<sup>th</sup> Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

### **Standard 1**

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

### **Commentary**

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an "agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

The article further defines race or ethnicity as being of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American." The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

**Additional Comments:**

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