

**The Marble Falls Police Department  
Annual Contact Report  
~2018~**



February 19, 2019

Marble Falls City Council  
Marble Falls, Texas 78654

Dear Distinguished Members of the City Council,

In 2001, the Texas Legislature passed the Texas Racial Profiling Law (S.B. 1074). Since becoming effective, the Marble Falls Police Department, in accordance with the law, has collected contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices by police officers. In 2009, the Texas Racial Profiling Law was modified and new requirements are now in place.

In this report, you will find documentation that supports the fact that the Marble Falls Police Department has complied with The Texas Racial Profiling Law. This report also contains statistical data relevant to motor vehicle contacts between January 1, 2018 and December 31, 2018. The data and supporting documentation presented in this report support the notion that the Marble Falls Police Department is committed to the identification and resolution (if necessary) of all issues relevant to racial profiling according to the state law.

Sincerely,

Mark N. Whitacre  
Chief of Police

# MARBLE FALLS POLICE DEPARTMENT

## POLICY ON RACIAL PROFILING

### I. PURPOSE

The purpose of the policy is to reaffirm the City of Marble Falls Police Department's commitment to unbiased policing in all its encounters between officer 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 officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

### II. POLICY

- A. It is the policy of this department to police in a proactive manner and, to aggressively investigate suspected violations of law. Officers shall actively enforce 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. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.
- B. Officers 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 constitutions are equal protection under the law and freedom from unreasonable searches and seizure by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizure must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.
- C. This policy shall not preclude officers 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

- A. 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.
- B. 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.
- C. 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 an officer 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.
  - 1. Examples of racial profiling include but are not limited to the following:
    - a. 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.

- b. 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 possesses that specific make or model of vehicle.
  - c. 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.
2. Examples of permitted use of race, ethnicity or national origin are:
- a. Law enforcement officers may use race in conjunction with other known factors of the suspect.
  - b. Racial profiling is not relevant as it pertains to witnesses.
- D. Race or Ethnicity – Of a particular decent, including White, Hispanic/Latino, Black, Asian/Pacific Islander or Alaska Native/American Indian.
- E. 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.
- F. Traffic Stop – A peace officer conducts a traffic stop when that officer stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

#### **IV. TRAINING**

- A. Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer (TCOLE) training requirements per Texas Code of Criminal Procedure (CCP), Article 2.131 – 2.135.
- B. All officers shall complete a TCOLE training and education program on racial profiling no later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer 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 a least two years, shall complete a TCOLE training and education program on racial profiling no later than September 1, 2003.
- C. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling as mandated by CCP, Article 2.138, Section 11.
- D. An individual appointed or elected as a police chief before the effective date of this Act shall complete the program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

#### **V. COMPLAINT INVESTIGATION**

- A. 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.
- B. 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.

- C. 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.
- D. 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.
- E. If a departmental video or audio recording of the events upon which a complaint of racial profiling is based exists, this department shall promptly provide a copy of the recording to that officer upon receipt of their written request.

## **VI. PUBLIC EDUCATION**

- A. 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.

## **VII. CITATION DATA COLLECTION & REPORTING**

- A. An officer is required to collect information relating to traffic stops in which a citation or warning is issued or an arrest is made. Information collected must include:
  - 1. The person's gender;
  - 2. The person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability;
  - 3. Was race or ethnicity known prior to the traffic stop;
  - 4. Reason for the traffic stop;
  - 5. The street address or approximate location of the stop;
  - 6. Whether a search was conducted;
  - 7. If a search was conducted, was it consensual or with probable cause;
  - 8. Whether any contraband was discovered in the course of the search and, if so, the type of contraband discovered;
  - 9. The result of the stop:
    - a. Arrest;
    - b. Citation;
    - c. Citation and arrest;
    - d. Written warning; or
    - e. Written warning and arrest;
  - 10. If the officer made an arrest as a result of the stop and/or search, what was the reason for the arrest;
  - 11. Was physical force resulting in bodily injury used during the stop?

## **VIII. USE OF VIDEO AND AUDIO EQUIPMENT**

- A. Each motor vehicle used by this department to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment; and

- B. Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video and audio, or audio, as appropriate, is recorded.
- C. This department 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 department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.
- D. Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. Three random recordings of each officer will be reviewed at least once every ninety (90) days. The supervisor will then document the review in Guardian Tracking under Video Review on the dropdown list.
- E. If the equipment used to record audio and/or video of the traffic or pedestrian stop is malfunctioning or otherwise not operable, the officer making the stop shall make a proper written record (paper citation/paper warning or e-citation/e-warning) and report the information as required in Section IX of this policy.

**IX. COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS WITHOUT THE USE OF VIDEO AND AUDIO EQUIPMENT**

- A. An 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, shall record and report the same information required in Section VII.
- B. 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 our governing body containing the information compiled from the preceding calendar year. 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 officers in this department; and
    - b. Examine the disposition of traffic and pedestrian stops made by this department's officers, including searches resulting from stops.
  - 2. Information relating to these individual reports regarding 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.*

## Motor Vehicle-Related Contact Information (January 1, 2018 — December 31, 2018)

Race/Ethnicity*	Contacts	
	N	%
<b>Black</b>	113	5%
<b>Asian/Pacific Islander</b>	25	1%
<b>White</b>	1851	74%
<b>Hispanic/Latino</b>	480	19%
<b>Alaska Native/American Indian</b>	30	1%
<b>Total</b>	2499	100%

Total Number of Contacts in which Officers knew Race and Ethnicity of Individual Before Being Detained	Total Number of Contacts in which Officers <i>did not know</i> Race and Ethnicity of Individual Before Being Detained
432	2,067

“N” represents “number” of traffic-related contacts

\* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Black, Asian/Pacific Islander, White, Hispanic/Latino or Alaska Native/American Indian.”

<b>Reason for Stop?</b>	<b>Contacts</b>	
	<b>N</b>	<b>%</b>
<b>Violation of Law</b>	60	2%
<b>Pre-Existing Knowledge (warrant)</b>	20	1%
<b>Moving Traffic Violation</b>	1685	67%
<b>Vehicle Traffic Violation</b>	734	30%
<b>Total</b>	2499	100%

<b>Result of the Stop</b>	<b>Contacts</b>	
	<b>N</b>	<b>%</b>
<b>Citation</b>	939	37%
<b>Citation and Arrest</b>	13	1%
<b>Written Warning</b>	1517	61%
<b>Written Warning and Arrest</b>	30	1%
<b>Total</b>	2499	100%

“N” represents “number” of traffic-related contacts

\* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Black, Asian/Pacific Islander, White, Hispanic/Latino or Alaska Native/American Indian.”



Reason for Search	Contacts	
	N	%
Consent	15	0.6%
Contraband in Plain View	4	0.2%
Incident to Arrest	7	0.3%
Inventory	10	0.4%
No Search	2,438	97.5%
Probable Cause	25	1%
<b>Total</b>	2,499	100%

Description of Contraband Discovered	Contacts	
	N	%
Alcohol	5	13%
Currency	1	3%
Drugs	28	74%
Weapons	1	3%
Other	3	7%
<b>Total</b>	38	100%

“N” represents “number” of traffic-related contacts

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Arrest Based On	Contacts	
	N	%
Outstanding Warrant	6	14%
Violation of Penal Code	24	56%
Violation of Traffic Law	13	30%
<b>Total</b>	43	100%

Was physical force resulting in bodily injury used during stop?	Contacts	
	N	%
Yes	1	.04%
No	2,498	99.96%
<b>Total</b>	2,499	100%

“N” represents “number” of traffic-related contacts

\* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Black, Asian/Pacific Islander, White, Hispanic/Latino or Alaska Native/American Indian.”

## Comparison of Twelve-Year Traffic and Motor Vehicle- Related Contact Information (January 1, 2007 – December 31, 2018)

Race/Ethnicity*												
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>White</b>	77.97 %	81.50 %	82.73 %	81.69 %	84.37 %	88.34 %	89.89 %	91.01 %	82.75 %	84.40 %	88.74 %	74.07 %
<b>Black</b>	2.36 %	2.37 %	2.45 %	2.19 %	3.02 %	3.00 %	3.27 %	2.37 %	4.25 %	2.89 %	3.95 %	4.52 %
<b>Hispanic/Latino</b>	19.34 %	15.45 %	14.38 %	15.50 %	11.34 %	7.64 %	6.05 %	5.84 %	11.95 %	10.41 %	5.68 %	19.21 %
<b>Asian/Pacific Islander</b>	0.18 %	0.48 %	0.31 %	0.45 %	0.55 %	0.66 %	0.59 %	0.30 %	0.50 %	0.75 %	0.97 %	1.00 %
<b>Alaska Native/ American Indian</b>	0.15 %	0.20 %	0.13 %	0.17 %	0.72 %	0.36 %	0.20 %	0.48 %	0.55 %	1.55 %	0.66 %	1.20 %
<b>Total**</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

\* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a “particular descent, including White, Black, Hispanic/Latino, Asian/Pacific Islander or Alaska Native/American Indian.”

\*\* Figure has been rounded.

### **Twelve-Year Comparison**

The twelve-year comparison from 2007 through 2018 showed similarities with respect to the traffic-related contacts. As evident in the Table, the percentage of drivers contacted by our officers (in traffic-related incidents) remains consistent over the past twelve years.

# Contact Information

For additional questions regarding the information presented in this report, please contact:

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