

SANTA FE COUNTY SHERIFF'S OFFICE



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35 Camino Justicia – Santa Fe, New Mexico 87508

MEMORANDUM

To: All Commissioned Personnel

Fr: Robert A. Garcia *RAG*

Date: July 25, 2012

Re: Re- issued of Bias based policing S.O.P. (Racial Profiling)

SPECIAL ORDERS
12-177

The New Mexico Prohibition of Profiling Practices Act, NMSA 1978 § 29-21-1 et seq., requires law enforcement agencies to maintain written policies and procedures designed to eliminate practices by its law enforcement officers that violate the Act. It also requires law enforcement agencies to provide training regarding Prohibition of Profiling Practices Act provisions during orientation and at least once every two years. We are also required to provide complaint forms, track complaints and report them to the Attorney General's Office. Below is the completed statute and the S.O.P. and complaint form we have adopted for the Santa Fe County Sheriff's Office. It will be effective on Friday December 11, 2009. Briefing Training will be scheduled by C.S.S.. All commissioned personnel are required to obtain a copy of the S.O.P., make themselves familiar with it and follow it.

29-21-2. Profiling practices prohibited.

A. In conducting a routine or spontaneous investigatory activity, including an interview, a detention, a traffic stop, a pedestrian stop, a frisk or other type of bodily search or a search of personal or real property, or in determining the scope, substance or duration of the routine or spontaneous investigatory activity, a law enforcement agency or a law enforcement officer shall not rely on race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, except in a specific suspect description related to a criminal incident or suspected criminal activity, to select a person for or subject a person to the routine or spontaneous investigatory activity.

B. In conducting an investigatory activity in connection with an investigation, a law enforcement agency or a law enforcement officer shall not rely on race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, except to the extent that credible information, relevant to the locality or time frame, links a person with those identifying characteristics to an identified criminal incident or criminal activity.

29-21-3. Policies and procedures--required.

A. A law enforcement agency shall:

(1) maintain written policies and procedures designed to eliminate practices by its law enforcement officers that violate the provisions of Section 2 [29-21-2 NMSA 1978] of the

Prohibition of Profiling Practices Act; and

(2) provide training to its law enforcement officers, during orientation and at least once every two years, that the law enforcement agency determines will assist its law enforcement officers in adhering to the applicable provisions of the Prohibition of Profiling Practices Act and to the law enforcement agency's policies and procedures.

B. As part of a law enforcement agency's administrative complaint procedures, the law enforcement agency shall, at a minimum:

(1) investigate a complaint alleging its law enforcement officer violated the provisions of Section 2 of the Prohibition of Profiling Practices Act;

(2) take appropriate measures to discipline a law enforcement officer, including facilitating mediation or other restorative justice measures, when it is determined that the law enforcement officer violated the provisions of Section 2 of the Prohibition of Profiling Practices Act;

(3) provide appropriate forms for submitting the complaint against its law enforcement officer;

(4) publish the policies and procedures designed to eliminate practices that violate the provisions of Section 2 of the Prohibition of Profiling Practices Act; and

(5) submit a redacted copy of the complaint and the disposition to the attorney general, which shall disclose the nature and disposition of the complaint but shall not disclose personal identifying information of a law enforcement officer or complainant.

C. A law enforcement agency shall establish a time frame within which a complaint alleging a violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act may be made; provided that in no event shall the time frame be less than ninety days or exceed one hundred eighty days after the commission of the alleged violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act. A law enforcement agency shall allow a complaint alleging a violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act by its law enforcement officer to be made:

(1) in person or in writing sent by mail, facsimile or electronic mail and signed by the complainant; or

(2) by telephone, anonymously or by a third party; provided that the law enforcement agency shall determine the complaint to be valid before taking appropriate measures pursuant to Paragraph (2) of Subsection B of this section and shall comply with the provisions of Section 29-14-4 NMSA 1978.

29-21-4 Independent oversight; complaints; confidentiality

The attorney general shall establish independent procedures for receiving, and for maintaining a record of, complaints alleging profiling by a law enforcement officer or agency. The attorney general may initiate an investigation of a complaint alleging a violation, or a systematic pattern of violations, of the provisions of Section 2 [29-21-2 NMSA 1978] of the Prohibition of Profiling Practices Act and take necessary actions as the attorney general deems appropriate. The attorney general may publish a report or summary of the attorney general's findings regarding violations of the provisions of the Prohibition of Profiling Practices Act [29-21-1 NMSA 1978]; provided that personal and identifying information shall not be published or released to the public.

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Citizen Complaint Form

You have the right to make a complaint against any Sheriff's Office Employee for alleged improper conduct. The Sheriff's Office will conduct an investigation and you will be notified of the outcome if you have given us a way to contact you. We may be unable to provide specific actions taken against the employee but will offer whether the complaint was determined to be sustained (allegation is supported by evidence), not sustained (insufficient evidence to prove or disprove), unfounded (the allegation is determined to be false and not based on fact), or exonerated (the incident complained of or that occurred was determined to be lawful or proper). This form may be completed by the Complainant or by Sheriff's Office Employees taking the complaint by phone, fax, email, in person or anonymously.

Complainant Information (if known):

Name: _____

Address: _____

Phone(s): _____

Email(s): _____

Sheriff's Office personnel involved in the alleged misconduct (if known):

Name: _____

Name: _____

Description of incident (please provide as much detail as possible):

Continued next page

Continued Description of incident (please provide as much detail as possible):

I understand that this statement will be submitted to the Santa Fe County Sheriff's Office and will serve as a basis for an internal investigation. In some cases another police agency may be asked to investigate this case. I declare and affirm that the facts contained in this statement are complete, accurate and true to the best of my knowledge and belief. Furthermore, I agree to fully cooperate with any investigation and agree to appear at any civil or criminal proceedings, if necessary. I also understand that if I attest to any intentional false statement it may be cause for criminal and/or civil proceeding against me.

Signed: _____ Date: _____

Parent or Guardian if under 18 years of age: _____

Sheriff's Office personnel accepting the complaint:

Name (printed) _____ Date: _____