

Guidelines for Complaints Alleging Racial or Other Profiling

The Commission has adopted the following guidelines as policies and procedures to be applicable in cases alleging racial or other profiling by law enforcement officers and agencies that violates the Act concerning racial and other profiling as enacted in 2005 substitute for Senate Bill No. 77, hereinafter also referred to as the Act.

1. **FORM AND CONTENTS OF COMPLAINTS:** As a minimum, complaints must be in writing and be signed and dated by the person alleging that unlawful profiling occurred. Such complaints need not be verified, and the signature of the person filing the complaint need not be notarized. The person filing the complaint shall be referred to as “Complainant,” and the law enforcement officer and/or agency alleged to have violated the Act shall be referred to as “Respondent.” The complaint shall state the names and addresses of the Complainant and Respondent, the date of the incident alleged to have violated the Act, and a statement of the facts upon which the complaint is based. The Commission’s Intake office is authorized to assist persons wishing to file such complaints and to provide to the public a format for the complaint that complies with requirements set forth in these guidelines.
2. **TIME FOR FILING COMPLAINTS:** Any complaint filed with the Commission alleging violation of the Act must be so filed within six months after the alleged act of profiling, unless the act complained of constitutes a continuing pattern or practice of profiling, in which event it will be from the last act of profiling.
3. **NOTICE OF COMPLAINT AND ASSIGNMENT OF INVESTIGATING COMMISSIONER:** Within seven days after the filing of a complaint alleging a violation of the Act, the Commission shall serve a copy of the complaint upon each of the parties alleged to have violated the Act, and shall designate one of the commissioners to make, with the assistance of the Commission’s staff, prompt investigation and/or final disposition of the complaint.
4. **INVESTIGATION AND FINAL DISPOSITION OF THE COMPLAINT:** If the Commissioner designated to investigate the complaint determines that probable cause or no probable cause exists to credit the allegations of the complaint, or if such commissioner determines that in the course of the investigation it has become infeasible or impractical to further investigate the complaint, such Commissioner, within seven business days from such determination, shall cause to be issued and served upon the Complainant and Respondent written notice of such determinations. If probable cause is determined by such Commissioner, the Commission’s staff shall consult with the Respondent in an effort to resolve and settle the complaint. In the case of determinations of no probable cause, lack of jurisdiction or other basis for closure or if the Respondent cannot be contacted or fails to respond, the complaint shall be dismissed, with notice of such dismissal and final

disposition of the complaint to be served in writing upon the parties to the complaint within seven business days of such dismissal and final disposition of the complaint.

5. **NOTICE OF AVAILABILITY OF THIRD-PARTY MEDIATION PROCESS:** When a complaint alleging a violation of Act is filed with the Commission, the parties will be notified of the option of voluntarily participating in mediation, including mediation available through Kansas Legal Services, Inc. and Midland Mediation Service. If the parties attempt mediation, Respondents may defer filing a response to the complaint and the Commission's processing and investigation of the complaint shall be deferred until such mediation efforts are complete.
6. **INITIAL REVIEW OF COMPLAINTS:** Pursuant to the Commission's authority to first review complaints filed hereunder prior to exercising its option to investigate such complaints, the Commission delegates to its Executive Director, or the Director's designee, the authority to make such initial review of complaints. As to any such complaint which the Executive Director believes there is no reasonable basis to conduct an investigation, the Director shall make such recommendation to the Commissioner designated to make a determination in the matter. If said Commissioner agrees with the Director's recommendation, final disposition and dismissal of the complaint shall be made, with notice thereof to be served by the Commission upon all parties to the complaint within seven business days of such disposition.
7. **RECONSIDERATION AND/OR REHEARING:** Any party who is dissatisfied with a determination, dismissal, final disposition or other action of the Kansas Human Rights Commission with regard to a complaint alleging profiling in violation of the Act shall not be required to file a petition for reconsideration or motion for rehearing with the Commission in order to exhaust administrative remedies before the Commission. However, if any such petition or motion is filed with the Commission, such petition or motion shall be deemed denied by operation of Commission Standing Order 05-03 if the petition or motion is not acted upon by the Commission within ten days from the date the petition or motion is filed.
8. **INVESTIGATIVE MATERIALS NOT CONFIDENTIAL:** Complaints and all materials and information in the possession of the Commission regarding complaints alleging violation of the Act and materials and information generated or obtained by the Commission during its review, investigation and processing of said complaints are considered open, public records unless otherwise authorized or required by law.
9. **MISCELLANEOUS:** Whenever feasible, issues arising during the processing of complaints under the Act that are similar to issues arising under the Kansas Act Against Discrimination (KAAD) or Kansas Age Discrimination in

Employment Act (KADEA), shall be governed and addressed in the manner KHRC addresses such issues arising from complaints filed under the KAAD/KADEA.

10. EFFECTIVE DATE OF GUIDELINES: These Guidelines become effective on July 1, 2005.

(Guidelines adopted by the Kansas Human Rights Commission on May 20, 2005.)

KANSAS HUMAN RIGHTS COMMISSION
Standing Order No. 05-03
[Effective July 1, 2005]

Now on this 20th day of May, 2005, it is hereby ordered by the Kansas Human Rights Commission as follows:

Any party dissatisfied with a determination, finding or other disposition by the Kansas Human Rights Commission regarding a complaint alleging racial or other profiling in violation of the Act, shall not be required to file a petition for reconsideration or motion for rehearing with the Commission in order to exhaust administrative remedies before the Commission. If any such petition or motion is filed, such petition or motion shall hereby be deemed denied if not acted upon by the Commission within ten days of the filing of such petition or motion.

IT IS SO ORDERED.

/s/James E. Butler
James E. Butler, Chairman