



Police Department

DATE: March 23, 2011
TO: Mayor Mike Moncrief and Members of the City Council
FROM: Jeffrey W. Halstead, Chief of Police *Jeffrey W. Halstead*
SUBJECT: 2010 Racial Profiling Report

Attached is the Fort Worth Police Department's 2010 Racial Profiling Report. The Fort Worth Police Department's Racial Profiling Report is to be prepared and submitted annually to the City Council and to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) by March 1st each year as required by the Texas Code of Criminal Procedure, Article 2.134.

Two reports are developed to meet this requirement. TCLEOSE receives the department's statistical data through an online system using a reporting format promulgated by TCLEOSE, and the City Council receives a more detailed, explanatory analysis report as prepared by a consultant.

City staff submitted the statistical data through the TCLEOSE online system on February 11, 2011, and it may be viewed through the following website:

http://www.tcleose.state.tx.us/content/racial_profile_report.cfm?county=TARRANT

While city staff submitted the statistical report to TCLEOSE well before the due date, staff was under the impression that the consultant would be providing his detailed analysis to Council. My apologies to you for the delay in the delivery of this report, for we discovered this miscommunication between the consultant and department staff today and now realize that the report had not yet been delivered to you.

I assure you that the Fort Worth Police Department is committed to quality service in partnership with the community, continued racial profiling training, and continued review of applicable administrative policies and procedures to ensure all encountered situations are addressed in a fair and equitable manner.

Please let me know if you have any questions about the report. It will be posted to www.fortworthpd.com after you have had time to review the consultant's analysis.



RACIAL PROFILING REPORT

January 1, 2010 – December 31, 2010



(I) Introduction

Opening Statement

January 27, 2011

City of Fort Worth
Mayor Moncrief
City Council Members
1000 Throckmorton St.
Fort Worth, Texas 76102

Dear Distinguished Members of the City Council,

In 2001, the Texas legislature, in an attempt to address the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. Since 2001, the Fort Worth Police Department, in accordance with the law, has collected and reported traffic-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. During the past legislative session, the Racial Profiling Law was modified and new requirements are now in place. These new requirements have been met and are being addressed in this report.

In this particular report, you will find three sections that contain information on traffic related and more recently, motor vehicle-related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Fort Worth Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074) which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389 which recently introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education) is included. In addition, you will find, in sections 2 and 3, documentation which demonstrates compliance by the Fort Worth Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel, are included.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/10 and 12/31/10. This information has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report.

The findings in this report serve as evidence of the Fort Worth Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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TCLEOSE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th 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.

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 77th 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).

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.

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 Texas Law on Racial Profiling

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE
STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means 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.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy

adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means 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.

(b) A 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 shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) 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 the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

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

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

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

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

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

(8) 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.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means 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.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing

body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

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

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) 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 a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) 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 or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the

Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "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.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) [~~7~~] the date of conviction; and

(9) [~~8~~] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

New Legal Requirements (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION ____ . Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle [~~traffic~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle [~~traffic~~] stops in which a citation is issued and to arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual [~~person~~] detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit [to the governing body of each county or municipality served by the agency] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [~~traffic~~] stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [~~traffic~~] stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b) (7) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b) (6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b) (7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION ____ . Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC AND PEDESTRIAN~~] STOPS. (a) In this article, "race [+

~~(1) "Race~~] or ethnicity" has the meaning assigned by Article 2.132(a).

~~[(2) "Pedestrian stop" means 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.]~~

(b) A 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~~] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [~~each~~] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) 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 the officer's ability;

(2) the initial reason for the stop [~~traffic law or ordinance alleged to have been violated or the suspected offense~~];

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

(4) whether any contraband or other evidence was discovered in the course of the search and a description [~~the type~~] of the contraband or evidence [~~discovered~~];

(5) the reason for the search, including whether:
(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [~~existed and the facts supporting the existence of that probable cause~~];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

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

(8) whether the officer issued a written warning or a citation as a result of the stop [~~, including a description of the warning or a statement of the violation charged~~].

SECTION ____ . Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle [~~, "pedestrian~~] stop" has the meaning assigned by Article 2.132(a) [~~means 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~~].

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each [~~local~~] law enforcement agency shall submit a report containing the incident-based data [~~information~~] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [~~in a manner approved by the agency~~].

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are

not recognized as racial or ethnic minorities [determine the prevalence of racial profiling by peace officers employed by the agency]; and

(B) examine the disposition of motor vehicle [traffic and pedestrian] stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [the] stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [traffic or pedestrian] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b) (1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [traffic and pedestrian] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [traffic and pedestrian] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [traffic and pedestrian] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) 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 or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that

purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle [~~traffic and pedestrian~~] stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION ____ . Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION ____ . Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and
(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;
(2) the person receives community supervision, including deferred adjudication; or
(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION ____ . (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION ____ . (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION ____ . Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION ____ . Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

SECTION ____ . (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this

section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(II) Responding to the Law

Institutional Policy on Racial Profiling



FORT WORTH POLICE DEPARTMENT

GENERAL ORDER SECTION: 321.06

SUBJECT: Racial Profiling

321.06 RACIAL PROFILING

The guidelines in this General Order are intended to reaffirm the department's commitment to unbiased policing, to clarify the circumstances in which an officer can consider race, ethnicity, or national origin, and to assure the department is providing the public with a process by which an individual may file a complaint of racial profiling with the department if the individual believes that an officer has engaged in racial profiling with respect to the individual.

A. Officers are strictly prohibited from engaging in racial profiling.

B. Definitions

1. Race or ethnicity - a particular descent, including Caucasian, African, Hispanic, Asian, or Native American. On the *Traffic/Pedestrian Stop Checklist*, race designations include White, Black, Asian/Pacific Islander, Native American/Eskimo, or Other; ethnicity includes Hispanic or non-Hispanic.
2. Racial Profiling - Article 3.05 of the *Texas Code of Criminal Procedure* defines racial profiling as 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.

C. Impartiality in law enforcement actions

1. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, searches, and seizures.
2. Officers may take into account the race, ethnicity, or national origin of an individual based upon the individual's behavior or on information identifying the individual as having engaged in criminal activity.
3. Prohibited acts
Any 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, is prohibited.

D. Allegations of racial profiling

1. Individuals may report allegations to any supervisor or Internal Affairs Division for an investigation.
 - a. Officers shall provide the pamphlet, *Racial Profiling Policy and Procedures*, to any individual that inquires about reporting an incident perceived to be racially motivated.
2. Employees shall report allegations to any supervisor or Internal Affairs Division for an investigation.
3. Any supervisor/manager receiving a racial profiling complaint shall notify the Internal Affairs Division in a timely manner of the complaint and the action taken.
4. Supervisors shall monitor the adherence to the General Orders by all employees under their command and shall initiate an investigation into all alleged violations established under this General Order.
5. Allegations of misconduct and disciplinary action shall follow the procedures as outlined in General Orders 410.00. Officers shall be subject to disciplinary action up to and including indefinite suspension for engaging in racial profiling.

E. Data Collection

1. Data shall be collected on all traffic stops in which a citation is issued and when an arrest results from a traffic stop. With the issuance of a citation, officers will record in the appropriate sections on the citation:
 - a. The race and ethnicity of the individual detained, and
 - b. Whether a search was conducted and, if so, whether the person consented to the search.
2. In addition to the citation, officers shall complete the information included on the *Traffic/Pedestrian Stop Checklist* for each individual involved in the following situations:

- a. On all traffic stops for an alleged violation of a law or ordinance regulating traffic or investigation of an offense, a form must be completed for each vehicle passenger interviewed or identified as the result of a traffic stop, and
 - b. For a stop of a pedestrian for any suspected offense. "Pedestrian stop" or a "stop of a pedestrian" means an interaction between an officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.
3. Officers will submit all checklists completed during their tour of duty to their supervisor at the end of their shift. Once all checklists in the book have been completed, the officer will submit the book to their supervisor.
4. Division commanders shall ensure data from the *Traffic/Pedestrian Stop Checklist* is entered into the database in a timely manner. Once the data has been entered into the database, the *Traffic/Pedestrian Stop Checklists* should be stored at the district or division along with the completed books until the end of the year, at which time the forms will be forwarded to the Staff Services Division for compilation of the annual report..
5. Officers completing an offense/incident report on an arrest resulting from a traffic stop shall select "Arrest Resulting from Traffic Stop" on the MO screen. If this flag is selected a second screen will appear and the officer shall check whether a search was conducted and whether the search was consensual.
6. Any vehicle equipped with video and/or audio capabilities shall retain the video and/or audio documentation in accordance with the division's standard operating procedures. Such documentation shall be retained for at least 180 days after the stop, or until disposition if a complaint has been made.
 - a. The department will promptly provide a copy of the documentation to an officer who is the subject of a complaint upon a written request from the officer if the officer pays the replacement cost of the video.
 - b. If a complaint has been made, the documentation shall be retained by the Internal Affairs Division until final disposition of the complaint.
7. The Internal Affairs Division shall be responsible for compiling the number of racial profiling complaints and forwarding this information to the Staff Services Division at the end of the year.
8. At the direction of the Chief of Police or designee, additional data may be collected by the department in an effort to monitor enforcement actions and to provide a overview of department compliance with this General Order.
9. An annual report will be prepared by the Staff Services Division based on the data collection and in accordance with TCLEOSE guidelines and in line with city protocol and forwarded to the city manager within the prescribed time period for presentation to the City Council.



FORT WORTH POLICE DEPARTMENT



SPECIAL ORDER

GENERAL ORDER: 321.06
SUBJECT: Racial Profiling

A revision to the General Orders Manual is being prepared. Until the order is ready for distribution the following provisions shall apply:

321.06 RACIAL PROFILING

The guidelines in this General Order are intended to reaffirm the department's commitment to unbiased policing in all its encounters between an 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 officers from unwarranted accusations of misconduct when acting within the dictates of departmental policy and the law.

- A. Officers shall police in a proactive manner and 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 order. This order shall be applicable to officer's interactions with 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 seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and is strictly prohibited.
- C. This order 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 order prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.
- D. Definitions
 1. 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.
 - a. 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.
 - b. 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. Examples of racial profiling include but are not limited to the following:
 - (1) 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.
 - (2) Stopping or 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 possess that specific make or model of vehicle.
 - (3) Stopping or 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.
 - c. A law enforcement agency can derive these principles from the adoption of this definition of racial profiling:
 - (1) That law enforcement officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search.
 - (2) Racial profiling is not relevant as it pertains to witnesses, etc.
 - (3) That police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may consider race in conjunction with other known factors of the suspect.

2. Race or Ethnicity – Of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern or Native American.
3. Traffic Stop – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

E. Training

1. Officers are responsible for adhering to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training as mandated by law.
2. All officers shall complete a TCLEOSE training and education program on racial profiling not 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 TCLEOSE intermediate proficiency 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.
3. 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.
4. 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 (k), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

F. Complaint Investigation

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 to Internal Affairs or any supervisor or direct the individual(s) to the appropriate supervisor or Internal Affairs Division. Any employee contacted shall provide to that person information on the department's process for filing a complaint. All employees will report any allegation of racial profiling to their supervisor before the end of their shift.
 - a. Officers shall provide the pamphlet, *Racial Profiling Policy and Procedures*, to any individual that inquires about reporting an incident perceived to be racially motivated.
 - b. Any supervisor/manager receiving a racial profiling complaint shall notify the Internal Affairs Division in a timely manner of the complaint and the action taken.
 - c. Supervisors shall monitor the adherence to the General Orders by all employees under their command and shall initiate an investigation into all alleged violations established under this General Order.
3. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the complainant who will receive information regarding the disposition of such complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be sent through the chain of command to the Chief of Police or designee. When applicable, findings and/or recommendations for disciplinary action, retraining, or changes in policy shall be part of the recommendation to the Chief of Police or designee.
4. Allegations of misconduct and disciplinary action shall follow the procedures as outlined in General Order 410.00. Officers shall be subject to disciplinary action up to and including indefinite suspension for engaging in racial profiling.
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 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.

G. Public Education

The police department will inform the public of its guidelines 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. The information pamphlet, *Racial Profiling Policy and Procedures*, has been

developed by department personnel for any individual that inquires about reporting an incident perceived to be racially motivated.

H. Data Collection and Reporting

1. Data shall be collected on all motor vehicle stops in which a citation is issued. Information will be collected on the driver only. The officer shall promptly enter all data required by law into the *Motor Vehicle Stop Checklist* database. The form may be found on the Fort Worth Police internal portal under Racial Profiling. All data shall be entered into the database before the end of the officer's duty shift.
2. Any vehicle equipped with video and/or audio capabilities shall retain the video and/or audio documentation in accordance with the division's standard operating procedures. Such documentation shall be retained for at least 180 days after the stop, or until disposition if a complaint has been made.
 - a. If a complaint has been made, the documentation shall be retained by the Internal Affairs Division until final disposition of the complaint, if not longer as required under other laws or policies.
3. The Internal Affairs Division shall be responsible for compiling the number of racial profiling complaints and forwarding this information to the Information Management Division at the end of the year.
4. At the direction of the Chief of Police or designee, additional data may be collected by the department in an effort to monitor enforcement actions and to provide a overview of department compliance with this General Order.
5. An annual report will be prepared or coordinated by the Information Management Division based on the data collection and in accordance with TCLEOSE guidelines and in line with city protocol and forwarded to the city manager within the prescribed time period for presentation to the City Council.

FEB. 17, 2010
Date of Approval

Jeffrey W. Halstead
Jeffrey W. Halstead
Chief of Police

JH/mah



FORT WORTH POLICE DEPARTMENT



SPECIAL ORDER

GENERAL ORDER: 321.07
SUBJECT: Bias-Based Policing

This addition, General Order 321.07, Bias-Based Policing, shall be effective immediately. This Special Order will be developed for inclusion in the General Order manual.

321.07 BIAS-BASED POLICING

A. Purpose and Scope

The Fort Worth Police Department provides police services to the community in a nonpartisan, fair, equitable, and objective manner without consideration of race, color, gender, age, national origin, religion, disability, economic status, sexual orientation, gender expression, gender identity, transgender status, membership in a cultural group, or other individual characteristics or distinctions.

B. Definitions

1. Biased Policing - Discrimination in the performance of duties, based on personal prejudices or partiality of officers, that interferes with their professional judgment, training or adherence to law. Biased policing includes, but is not limited to, making prejudicial decisions affecting individuals in classes protected by federal, state and local law.
2. Equal Treatment - Persons, irrespective of race or other distinction shall be treated in the same basic manner under the same or similar circumstances. Equal treatment does not mean all persons in the same or similar circumstances can or must be treated identically in all cases. Reasonable considerations and/or accommodations may be made when dealing with individuals with physical or mental disabilities, infirmity, illnesses or similar conditions or when information about them necessitates different treatment.
3. Gender expression - Person's external characteristics and behaviors including, but not limited to, dress, grooming, mannerisms, speech patterns and social interactions that are socially identified with a particular gender.
4. Gender identity - Person's innate, deeply felt sense of gender, which may or may not correspond to the person's physical body or sex listed on their original birth certificate.
5. Sexual orientation - Heterosexuality, homosexuality or bisexuality or being identified with such orientation.
6. Transgender - Person who experiences and/or expresses their gender differently from conventional or cultural expectations including, but not limited to, those who express a gender that does not match the sex listed on their original birth certificate or who physically alter their sex.

C. Limitations

1. Bias-based policing is prohibited both in enforcement of the law and delivery of police services.
2. Officers shall not use race, color, gender, age, national origin, religion, disability, economic status, sexual orientation, gender expression, gender identity, transgender status, membership in a cultural group, or an individual's ability/inability to speak English as the criteria for determining when or how to take enforcement action or provide police services.
3. Nothing in this order prohibits officers from using the traits and characteristics of persons, such as race, ethnicity, or national origin, in combination with other facts, to assist in establishing reasonable suspicion or probable cause in the same manner that officers would use descriptions such as a specific hair color, height, gender or other identifying traits.

D. Any employees who witness or are aware of instances of bias-based policing shall report the incident to their supervisor immediately.

FEBRUARY 4, 2011

Date of Approval

Jeffrey Halstead
Chief of Police

Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the Fort Worth Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, the Fort Worth Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area, information relevant to filing a complaint on a racial profiling violation by a Fort Worth Police officer. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.



The Fort Worth Police Department is dedicated to providing the best quality police service to all citizens of Fort Worth and to those who visit our city. We are committed to the principles of justice and equality and carefully select and train the best possible employees to support that commitment. To ensure employee understanding of the importance of fair and equal treatment, departmental policy strictly prohibits the practice known as “racial profiling.”

Racial profiling is defined by the *Texas Code of Criminal Procedure* as 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.

Complaints of racial profiling, as with other complaints against departmental personnel, may be lodged with the Internal Affairs Division or with any supervisor in the police department. The Internal Affairs Division is staffed from 8:00 a.m. until 5:00 p.m., Monday through Friday. Complaints may also be made by phone or in person at any of the patrol division facilities.

A racial profiling complaint should be made in a timely manner after the incident so that the details are readily available to the investigating supervisor and prompt attention can be focused to correct and/or discipline an officer acting in an unacceptable manner. If you feel you have been mistreated or harassed, it is your responsibility to file a formal complaint. Get the officer’s name and identification number. They are required to give you this information if you ask.

Keep a file with copies of everything pertinent to your case: your statements, letters sent and letters received. Keep a written log of who you talk to, the date and time of the conversation, and what was said. Keep track of the progress of your complaint.

Additional provisions of the law require collection of certain information related to each motor vehicle stop for an alleged violation of a law or ordinance regulating traffic. Officers are required to document information related to each driver stopped and any search conducted as a result of the stop. Annual reports will be made to the City Council concerning data reported for the previous calendar year. In compliance with state law, data collection related to traffic and pedestrian stops began on January 1, 2002.

Newly hired recruits as well as tenured officers and supervisors receive classroom training on the state law and departmental policy and procedures related to racial profiling. Such training is mandated by law and standardized through the Texas Commission on Law Enforcement Officer Standards and Education, the regulatory agency charged with establishing, implementing, and maintaining standards for peace officers statewide.

The Fort Worth Police Department is vitally interested in the welfare of all its citizens and visitors and diligent in taking action when its employees have proven derelict in their duties or are guilty of wrongdoing. If it becomes necessary for you to make a complaint, you can be assured that it will be given a fair and thorough investigation. By the same token, if you have occasion to see a police officer doing outstanding work, tell us about it. Your Fort Worth Police Officers are dedicated to serving you and our community.



POLICE
DEPARTMENT

RACIAL PROFILING POLICY AND PROCEDURES

Useful Addresses and Telephone Numbers:

Internal Affairs Division 350 West Belknap Street	817/392-4270
Fort Worth Police Department 350 West Belknap Street	817/335-4222
North Division 2500 North Houston Street	817/392-4600
East Division 5650 East Lancaster Avenue	817/392-4800
South Division 3128 West Bolt Street	817/392-3400
West Division 3525 Marquita Drive	817/392-4700
Central Division 501 Jones Street	817/392-3900



El Departamento de Policía de Fort Worth está dedicado a proveer el mejor servicio policial para todos los ciudadanos de Fort Worth y a esos que visitan nuestra ciudad. Estamos comprometidos a los principios de justicia e igualdad y cuidadosamente hacemos una selección y entrenamos a los mejores empleados posibles para dar soporte a ese compromiso. Para asegurar que el empleado entienda la importancia del tratamiento justo y equitativo, la política departamental estrictamente prohíbe la práctica conocida como “perfil racial.”

Perfil Racial está definido por el *Código de Procedimiento Criminal de Texas o Texas Code of Criminal Procedure* como una acción de iniciación de un oficial de policía basado solamente en la raza, etnicidad, u origen nacional del individuo en vez del comportamiento del individuo o en información que identifica al individuo como una persona involucrada en alguna actividad criminal.

Las quejas de perfil racial, al igual que con otras quejas en contra de empleados del departamento, puede ser presentadas en la División de Asuntos Internos o con cualquier supervisor en el Departamento de Policía. El personal de la División de Asuntos Internos atiende de 8:00 a.m. a 5:00 p.m., de lunes a viernes. Las quejas también pueden ser hechas por teléfono o en persona en cualquier instalación de la división de patrulla.

Una queja racial debe ser hecha de manera oportuna después del incidente a fin de que los detalles estén disponibles para el supervisor investigador y la atención prestada pueda ser enfocada para corregir y/o disciplinar a un oficial actuando en una manera inaceptable. Si usted siente, que ha sido maltratado o acosado, es su responsabilidad archivar una denuncia formal. Obtenga el nombre y número de identificación del oficial. Ellos están obligados a darle esta información si usted pregunta.

Conserve un archivo con copias de todo lo relacionado con su caso: SUS declaraciones, cartas expedidas y sus cartas recibidas. Conserve una anotación de con quien usted habla, la fecha y el tiempo de la conversación, y lo que se dijo. Siga la ruta del progreso de su queja.

Cláusulas adicionales a la ley requieren un archivo de cierta información relacionada con cada detención de un vehículo por violaciones de tránsito. Los oficiales están obligados a documentar información relacionada de cada conductor detenido y cualquier revisión realizada como resultado de la detención. Se harán reportes anuales al Concejo Municipal sobre información concurrente reportada para el año civil previo. De acuerdo con la ley estatal, el archivo de datos guardados con relación a tráfico y parada de peatones empezaron el 1° de enero, 2002.

Los reclutas recién contratados así como también los oficiales y los supervisores en oficio reciben entrenamiento de la ley estatal y la política departamental y los procedimientos relacionados con el perfil racial. Tal entrenamiento es promulgado por la ley y estándar a través de la Comisión de Texas en la Ejecución de la Ley Estándar y Educativa para Oficiales, la agencia reguladora cumple con establecer, implementar, y mantener las normas para oficiales del orden público de todo el estado.

El Departamento de Policía de Fort Worth está sumamente interesado en el bienestar de todos sus ciudadanos y sus visitantes y presto en tomar cartas en el asunto cuando sus empleados han resultado ser ofensores en sus derechos o son culpables de actos contra la ley. Si es necesario para usted hacer una queja, entonces usted puede confiar que recibirá una investigación justa y cabal. Del mismo modo, si usted observa a algún oficial realizando una labor de apremio o sobresaliente, por favor háganoslo saber. Sus Oficiales de Policía de Fort Worth están dedicados a servir a usted y nuestra comunidad.



DEPARTAMENTO DE
POLICÍA

PERFIL RACIAL POLÍTICA Y PROCEDIMIENTOS

Direcciones útiles y Números de teléfono:

División de Asuntos Internos	817/392-4270
350 West Belknap Street	
Departamento de Policía	817/335-4222
350 West Belknap Street	
División Norte	817/392-4600
2500 North Houston Street	
División Este	817/392-4800
5650 Lancaster Avenue	
División Sur	817/392-3400
3128 West Bolt Street	
División Oeste	817/392-4700
3525 Marquita Drive	
División Central	
501 Jones Street	817/392-3900

Racial Profiling Training

Racial Profiling Training

Since 2002, all Fort Worth Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Fort Worth Police Department have completed the TCLEOSE basic training on racial profiling. The main outline used to train the officers of Fort Worth has been included in this report.

It is important to recognize that the Chief of the Fort Worth Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Fort Worth Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

**Racial Profiling
Course Number 3256
Texas Commission on Law Enforcement
September 2001**

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

- A. Drug courier profile (adapted from a profile developed by the DEA)
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
 2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
 3. Vehicle is rented
 4. Driver is a young male, 20-35
 5. No visible luggage, even though driver is traveling
 6. Driver was over-reckless or over-cautious in driving and responding to signals
 7. Use of air fresheners
- B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

- A. Thinking about the totality of circumstances in a vehicle stop
- B. Vehicle exterior
1. Non-standard repainting (esp. on a new vehicle)
 2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
 3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
 4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)
- C. Pre-stop indicators
1. Not consistent with traffic flow
 2. Driver is overly cautious, or driver/passengers repeatedly look at police car
 3. Driver begins using a car- or cell-phone when signaled to stop
 4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/10---12/31/10, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the Fort Worth Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/10 ---- 12/31/10.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case

Additional Comments:

Tables Illustrating Traffic and Motor Vehicle-Related Contacts

Tier 1 Data

(I) Tier 1 Data

Motor Vehicle-Related Contact Information (1/1/10—12/31/10)

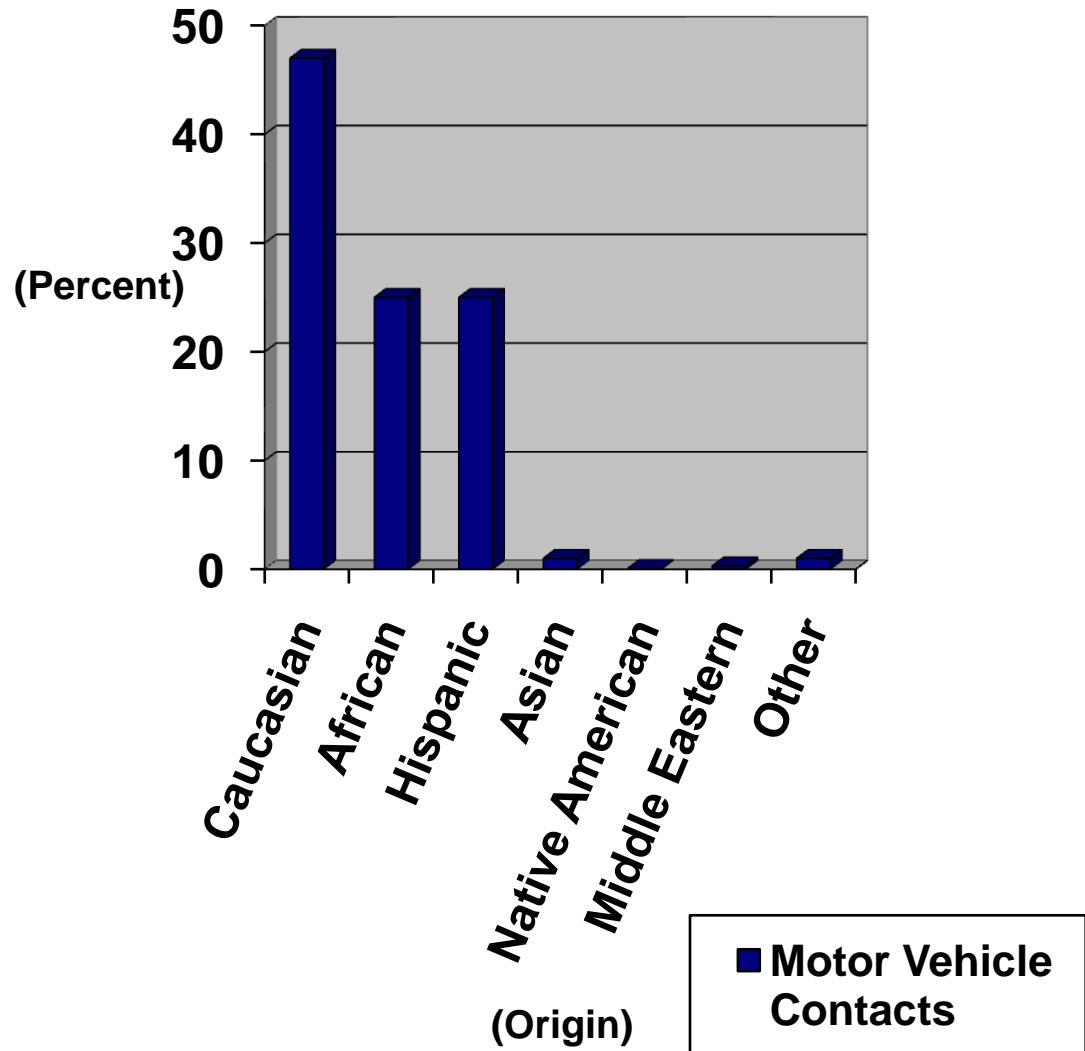
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	68,329	47	892	31	481	35	315	32	765	26
African	36,806	25	1,243	43	557	40	404	41	1,357	46
Hispanic	35,733	25	758	26	338	24	268	27	779	27
Asian	2,140	1	13	.4	7	.5	6	.6	17	.6
Native American	106	.07	0	0	0	0	0	0	0	0
Middle Eastern	403	.3	1	.03	1	.07	1	.1	1	.03
Other/Unknown	1,773	1	7	.2	4	.3	0	0	12	.4
Total	145,290	100	2,914	100	1,388	100	994	100	2,931	100

"N" represents "number" of traffic-related contacts

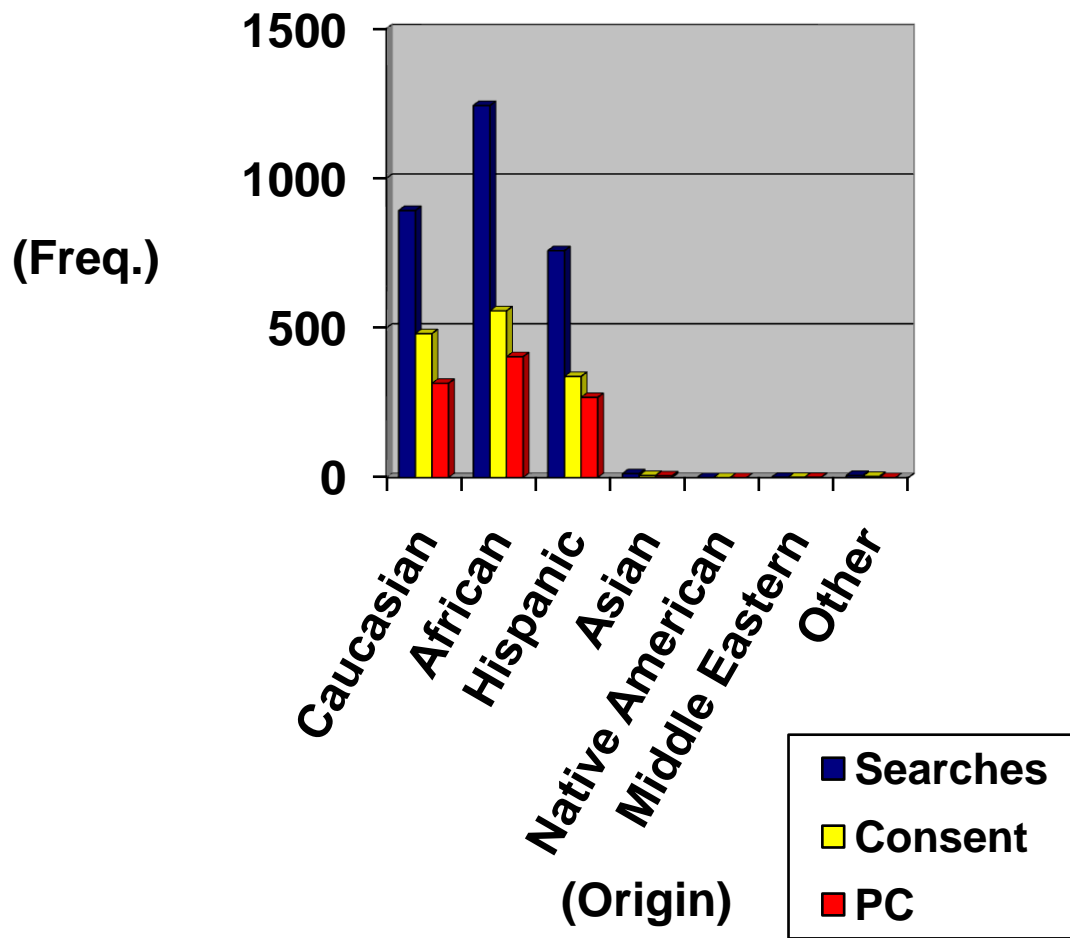
* Race/Ethnicity is defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern".

**Figure has been rounded

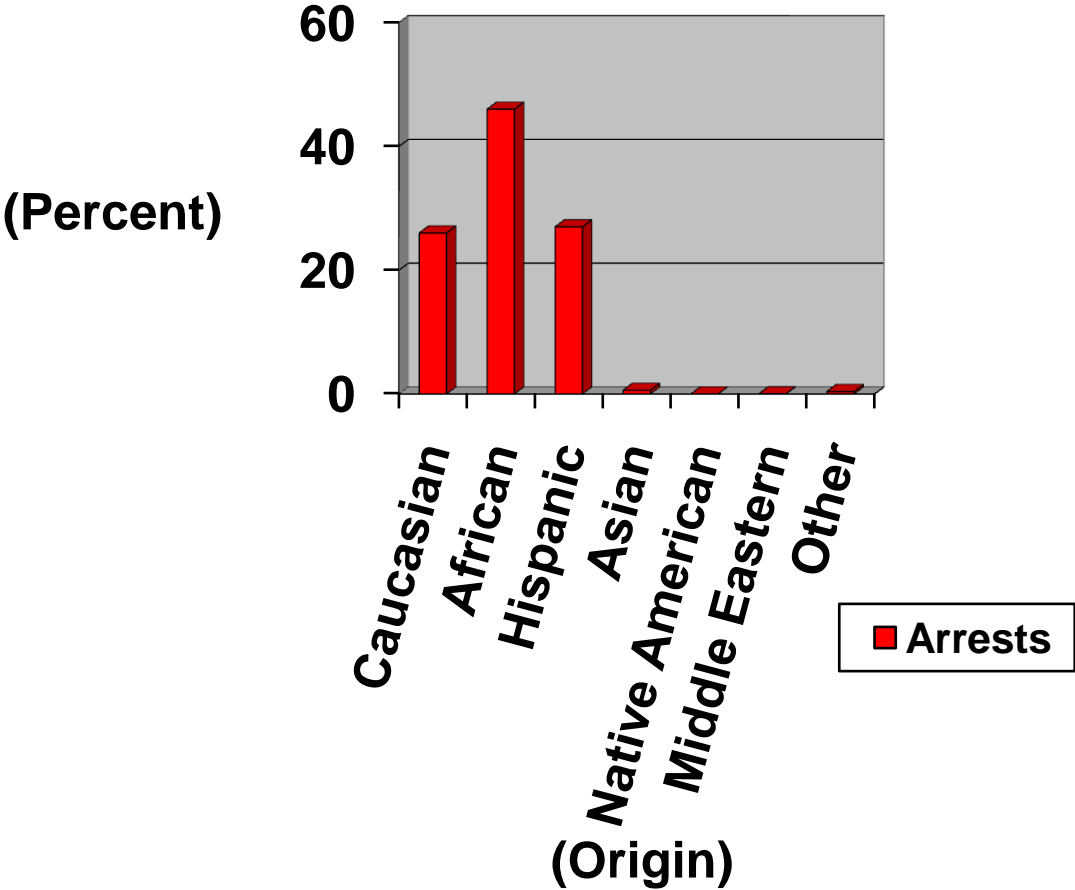
Tier 1 Data (Motor Vehicle Contacts)



Tier 1 Data (Searches)



Tier 1 Data (Arrests)





**Fort Worth Police Department
Partial Exemption Racial Profiling Reporting
(Tier 1)**

Lines 4, 11, 14, 17 must be equal. Lines 15 and 20 must be equal

Number of Motor Vehicle Stops			
Citation Only	100,867		
Arrest Only	1,712		
Both	1,220		
No Citation or Arrest	41,491		
(4) Total		145,290	

Race or Ethnicity			
African	36,806		
Asian	2,140		
Caucasian	68,329		
Hispanic	35,733		
Middle Eastern	403		
Native American	106		
Other	682		
Unknown	1,091		
(11) Total		145,290	

Race or Ethnicity Known Prior to Stop			
Yes	145,290		Default
No	0		Default
(14) Total		145,290	Malfunction in program

Search Conducted			
Yes	(15)	2,914	
No		142,376	
(17) Total		145,290	

Was Search Consented			
Yes		1,388	
No		1,526	
(20) Total		2,914	

**Tier 1 Baseline Comparison
(Fair Roads Standard)**

(II) Motor Vehicle-Contacts and Fair Roads Standard Comparison

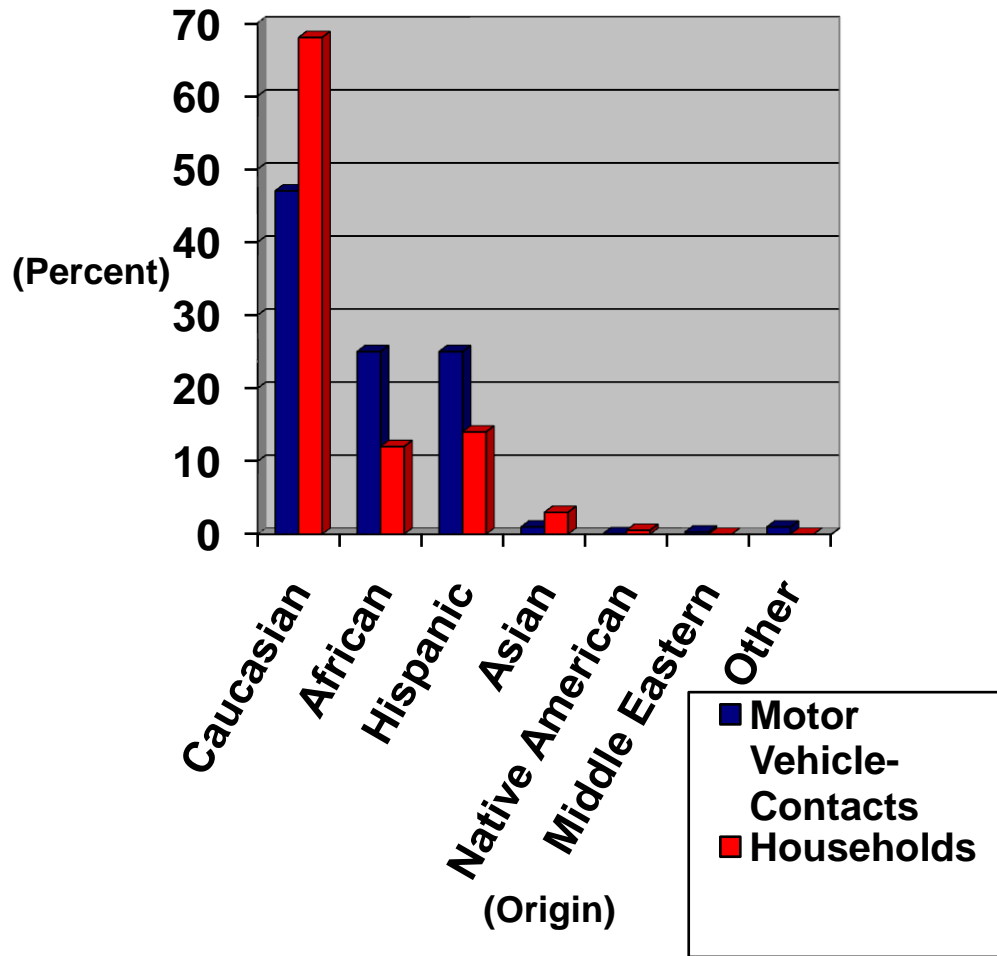
Comparison of motor vehicle-related contacts with households in DFW that have vehicle access (in percentages). (1/1/10—12/31/10)

Race/Ethnicity*	Contacts (in percentages)	Households with vehicle access (in percentages)
Caucasian	47	68
African	25	12
Hispanic	25	14
Asian	1	3
Native American	.07	.54
Middle Eastern	.3	N/A
Other	1	N/A
Total	100**	100**

* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American and Middle Eastern”.

**Represents rounded figure

Tier 1 (Motor Vehicle-Contacts and Households/10)



Analysis and Interpretation of Data

Analysis

In 2001, the Texas Legislature passed Senate Bill 1074 which later became the Texas Racial Profiling Law. The law came into effect on January 1, 2002 and required that all police departments in Texas collect traffic-related data and report this information to their local governing authority by March 1st of each year. Recently, this was changed to all motor vehicle related contacts where a citation was issued or arrest made. In addition, the law requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, the new law requires that agencies report motor vehicle related data to their local governing authority and the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of profiling minority motorists.

In addition, the Texas Racial Profiling Law requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if police departments are engaging in racial profiling, from a review or analysis of aggregate data. In other words, it is challenging for a reputable researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic or motor vehicle-related contacts.

During the past legislative session, the Texas Legislature passed House Bill 3389 which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These new changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the new law requires adding "middle eastern" to the racial and ethnic category and submitting the annual traffic data report to TCLEOSE before March 1st of each year, starting this year. I am pleased to inform you that these new requirements have been addressed by the Fort Worth Police Department as it is demonstrated throughout this report.

The Fort Worth Police Department, in an effort to comply with The Texas Racial Profiling Law, commissioned the analysis of its 2010 traffic contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2010 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related stop, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis

included the number and percentage of individuals who, after they came in contact with the police, were arrested.

The additional data analysis performed was based on a comparison of the 2010 motor vehicle related contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing contact information. Of the baseline measures available, the Fort Worth Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Fort Worth Police Department in 2010 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Throughout the years, several civil rights groups in Texas have expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Fort Worth Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort-Worth (DFW) Metroplex. Unfortunately, the data being used for comparative purposes in from the previous census as the most recent census data was not available. It is expected that the new and more recent census data will be used in future reports.

Tier 1 (2010) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2010, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. With respect to searches, most of them were performed on African American drivers. This was also followed by Caucasians and Hispanics. It is important to note that the arrest data revealed that African American drivers were arrested the most in motor vehicle-related contacts; this was followed by Hispanics and Caucasians. In addition, no arrests were made, in motor vehicle related incidents, of Native American drivers.

Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in DFW who indicated, in the 2000 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American and Hispanic descent that came in contact with the police was higher than the percentage of African American and Hispanic households in DFW that claimed, in the 2000 census, to have access to vehicles. With respect to Caucasians, Asians and Native Americans, a lower percentage of contacts were detected. That is, the percentage of Caucasian, Asian and Native American drivers that came in contact with the police in 2010 was lower than the percentage of Caucasian, Asian and Native American households in DFW with access to vehicles.

Summary of Findings

The comparison of motor vehicle contacts showed that the Fort Worth Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian, Asian and Native American drivers than the percentage that resided in DFW and had access to vehicles. Further, the data suggested that the percentage of African American and Hispanic drivers that came in contact with the police in 2010 was higher than the percentage of African American and Hispanic households in DFW with access to vehicles. In addition, the data showed that the race or ethnicity of a large number of individuals who were detained was not known to the police prior to their detention; when compared to those whose race or ethnicity was known before being detained.

While considering the findings made in this analysis, it is recommended that the Fort Worth Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals; particularly with African Americans and Hispanics. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public. As part of this effort, the Fort Worth Police Department is also encouraged to:

- 1) Perform an independent search analysis on the search data collected in the first quarter of 2011.
- 2) Commission at least one data audit in 2011 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

It should be noted that the Department addressed all of the major recommendations made in last year's report. Further, the information and analysis provided in this report serves as evidence that the Fort Worth Police Department has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements were met by the Fort Worth Police Department in accordance with The Texas Racial Profiling Law:

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Fort Worth Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Indicate total number of individuals whose race or ethnicity was known/not known before being detained.
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCLEOSE by March 1, 2011.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

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

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