DEL CARMEN CONSULTING, LLC

Annual Contact Report 2013

The Arlington Police Department

(I) Introduction

Opening Statement

February 7, 2014

Arlington City Council
101 W. Abram Street
Arlington, Texas 76010

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law in 2001. The Arlington Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements are now in place. These most recent requirements have been incorporated by the Arlington Police Department and are also being addressed in this report.

In this report, you will find three sections that contain information on traffic and 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 Arlington 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, in 2009, introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation, which demonstrates compliance by the Arlington Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find 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.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/13 and 12/31/13. In addition, this section contains the TCOLE Tier 2 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report 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 Arlington 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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TCOLE 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 stops. Detained is defined as when a person stopped is not free to leave. The requirements related to pedestrian stops were removed by HB 3389 during the 81st Session of the Texas Legislature.

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 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

S.B. No. 1074

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

Most Recent 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

GENERAL ORDER
ARLINGTON, TEXAS POLICE DEPARTMENT

SUBJECT: **RACIAL/BIAS-BASED PROFILING** NUMBER: **414.00**

APPROVED: _____ EFFECTIVE: 12-31-01
Theron L. Bowman, Ph.D., Police Chief

414.00 RACIAL/BIAS-BASED PROFILING

414.01 POLICY, PURPOSE, AND DEFINITIONS

(Effective 12-31-01) (Revised 08-21-08)

This Racial / Bias-Based Profiling Policy is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure and the CALEA Standard 01.02.09, which prohibits peace officers from engaging in racial/bias-based profiling.

Definitions:

Racial / Bias-Based Profiling. Is defined as a law enforcement-initiated action based on, but not limited to, an individual's race, ethnicity, national origin, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable groups; rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. Racial / bias-based 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, persons needing assistance, or other citizen contacts. (A 01.02.09)

Race or Ethnicity. Of a particular descent, including Caucasian, African, Hispanic, Asian or Native American descent.

An Act Constituting Racial / Bias-Based Profiling. Acts initiating law enforcement action, such as a traffic stop, a subject stop, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, national origin, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable groups; or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.

Subject Stop. An interaction between a peace officer and an individual who is being stopped for the purposes of an investigation in which the individual is not under arrest.

Traffic Stop. The stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance which regulates traffic.

414.02 PROHIBITION

A. Officers are strictly prohibited from engaging in racial / bias-based profiling in traffic contacts, field/pedestrian contacts, and in asset seizure and forfeiture efforts. The prohibition against racial / bias-based profiling does not preclude the use of race, ethnicity, or other factors in a detention decision by a peace officer. Race, ethnicity, or other factors may be legitimate indicators in such a decision when used as part of a description of a suspect or witness for whom a peace officer is searching. (A 01.02.09)

414.03 COMPLAINT PROCESS, PUBLIC EDUCATION, AND CORRECTIVE ACTION

A. **Complaint Process.** Any person who believes that a peace officer employed by the City has engaged in racial / bias-based profiling with respect to that person may file a complaint with the City, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or be discriminated against because they have filed such a complaint. The City shall accept and investigate citizen complaints alleging racial / bias-based profiling by its peace officers. Such complaints shall be in writing, or the city employee, officer, or official receiving the complaint should reduce the same to writing, and should include the time, place, and details of the incident of alleged racial / / bias-based profiling, the identity or description of the peace officer or officers involved, and the identity and manner of contacting the complainant. Any peace officer, city employee, or city official that receives a citizen complaint alleging racial profiling shall forward the complaint to the internal affairs division within 12 hours of receipt of the complaint. Receipt of each complaint shall be acknowledged to the complainant in writing, all such complaints shall be reviewed and investigated by the Internal Affairs Division within guidelines set forth in G.O. 204.00, and the results of the review and investigation shall be filed with the Chief of Police and with the complainant. In investigating a complaint alleging racial / bias-based profiling, Internal Affairs shall seek to determine if the officer who is subject of the complaint has engaged in a pattern of racial / bias-based profiling that includes multiple acts constituting racial / bias-based profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures. A single act constituting racial / bias-based profiling may not be considered a pattern of racial / bias-based profiling.

B. **Public Education**. The police department shall provide education to the public concerning the racial / bias-based profiling complaint process. A summary of the public education efforts made during the preceding year shall be included with the annual report filed with the governing body under 414.04 below.

C. **Corrective Action.** Any peace officer who is found, after investigation, to have engaged in racial / bias-based profiling in violation of this policy shall be subject to corrective action, which may include reprimand; diversity, sensitivity or other appropriate training or counseling; paid or unpaid suspension; termination of employment, or other appropriate action as determined by the Police Chief. (A 01.02.09)

414.04 DATA COLLECTION AND ANNUAL REPORTING GUIDELINES

A. For each traffic and subject stop in which an officer is not dispatched, the peace officer involved in the stop shall collect information identifying the race or ethnicity of the person involved in the stop, stating whether a search was conducted, and if a search was conducted, whether the person stopped consented to the search. The information collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to the Mayor and City Council no later than March 1 of the following year. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

414.05 COLLECTION, COMPILATION, ANALYSIS, AND REPORTING REQUIREMENTS (REVISED 04-09-10)

A. Each peace officer of the City shall make the following report for each traffic stop and for every subject stop that an officer is not dispatched:

1. 1. a physical description of the driver involved in a traffic stop and a physical description of each person involved in an officer-initiated subject stop, including:
   a. the person's gender; b. whether the officer knew the person's race or ethnicity prior to contact; and
   c. if the race or ethnicity was unknown prior to the stop, the race or ethnicity as stated by the person. If the person does not state a race or ethnicity, it shall be determined by the officer to the best of their ability;
2. the traffic law or ordinances 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 citation as a result of the stop, including a description of the violation charged.

B. The following process will be adhered to when officers conduct traffic stops or subject stops in which the officer is not dispatched:

1. Officers must checkout on every vehicle and subject stop, either via the MDC/MDC/MDT or through dispatch.

2. A call for service will be initiated automatically for every vehicle and subject stop. Initiating the call requires no additional action by the officer. However, the call must be cleared with a disposition code at the conclusion of the stop.

3. Every officer with a MDC/MDC/MDT must clear the call on the MDC/MDC/MDT and not through dispatch. Only an officer without a properly operating MDC/MDC/MDT will clear the call through dispatch.

4. Every vehicle or subject stop must be cleared with a six-letter sequence. The six-letter sequence captures data in six categories of information: race, gender, reason for stop, whether a search was conducted, final outcome, and resident status. The officer is required to collect the information only on the driver (not the passenger(s)) on a vehicle stop. The officer must collect the information on each subject stop. For example, if 3 individuals are questioned on a subject stop, then there should be three calls opened and closed using the six-letter sequence. The codes are as follows:

- **(race)** (Note: Officers may not ask the individual to identify their race) (Revised 04-09-10)

If officer knew race prior to contact:
A = Asian
C = Black
I = Hispanic
F = Native American
X = White
P = Other
L = Middle Eastern

If officer did not know race prior to contact:
D = Asian
B = Black
H = Hispanic
E = Native American
W = White
O = Other
K = Middle Eastern

- **(gender)**
  M = Male
  F = Female

- **(reason for stop)**
  X = hazardous violation
  N = non-hazardous violation
  I = investigative stop

- **(final outcome)**
  K = arrest, misdemeanor
  L = arrest, felony
  C = citation
  R = released without either a citation or arrest
  (Note: When an individual is arrested for a felony and misdemeanor, enter the arrest letter L)

- **(resident status)**
  A = Arlington resident
  V = Visitor (does not reside in Arlington)

- **(search outcome)**
  P = consent search, property found
  Q = consent search, drugs/alcohol found
  S = consent search, no contraband found
  T = probable cause search, property found
  U = probable cause search, drugs/alcohol found
  V = probable cause search, no contraband found
  Z = no search conducted

(Note: Facts supporting the probable cause for the search (only if probable cause was present and if a search was conducted) <u>must</u> be placed in the "MI" field. If both property and drugs/alcohol were found as the result of a search, the officer will mark the more serious offense of the two.)

5. The six-letter disposition code must be entered in the exact sequence as listed as above and without any commas (or other marks) between the letters.

6. It is important that the clearance of the call be recorded separately from any other police activity:

   - If the call vehicle or subject stop results in any additional police action (such as an arrest), an additional separate call must be initiated and cleared independent of the vehicle or subject stop call.
   - Whenever a second call is initiated, the officer must connect the two incidents by listing the traffic or subject stop call number in the "MI" comment area of the second call.
   - The officer should clear the traffic or subject stop call as soon as reasonably possible in order for all new information to be connected to the correct new call.

7. Special Circumstances: Overtaking/Pursuits without a vehicle stop, stopping suspect vehicles or individuals related to open calls:

   - When an officer engages in overtaking or a pursuit and the vehicle is not finally stopped, it does not qualify as a "vehicle stop" for the purposes of this program. An attempt to stop a vehicle that turns into a pursuit shall be cleared "change to investigation, clear #6).
   - An officer stopping a suspect vehicle or individual related to an open (dispatched) call should carry that stop as part of the open call, and not as a traffic or subject stop.
   - An officer that stops a subject because they witnessed an offense would open a call based on that offense and this program would not apply.

C. The information in each report shall be analyzed and compiled in a report that covers the period January 1 through December 31 of each year, and shall be submitted to the Mayor and City Council no later than March 1 of the following year. Each such report shall include:

1. a comparative analysis of the information compiled by each officer under 414.05A (1)-(8) to:

   - determine the prevalence of racial / bias-based profiling by peace officers employed by the City; and
   - examine the disposition of traffic and subject stops made by officers employed by the City, including searches resulting from such stops; and
   - information relating to each complaint filed with the City alleging that a peace officer employed by the City had engaged in racial / bias-based profiling. (A 01.02.09)

2. The report required by 414.05 may not include identifying information about a peace officer that makes a traffic or pedestrian stop or about an individual who is stopped or arrested by an officer.

414.06 POLICE CHIEF AND PEACE OFFICER TRAINING

A. Each peace officer employed by the City shall complete the comprehensive education and training program on racial / bias-based profiling established by the Texas Commission on Law Enforcement (TCOLE), including legal aspects, not later than the second anniversary of the date the officer was licensed, the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCOLE intermediate proficiency certificate, or who had held a peace officer license issued by TCOLE for at least two years, shall complete a TCOLE training and education program on racial / bias-based profiling not later than September 1, 2003. **(A 01.02.09)**

B. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial / bias-based profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas.

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 Arlington 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 Arlington 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 and on its web site, information relevant to filing a complaint on a racial profiling violation by an Arlington 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.

Racial Profiling Training

Racial Profiling Training

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

It is important to recognize that the Chief of the Arlington 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 Arlington 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 1/1/13---12/31/13, 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 Arlington 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 1/1/13 ---- 12/31/13.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case
001	Alleged Violation of Racial Profiling Law			Unfounded

Additional Comments:

_____
_____
_____
_____
_____
_____
_____
_____
_____

Tables Illustrating Traffic and Motor Vehicle-Related Contacts

Tier 2 Data

Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/13--12/31/13)

Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained	**Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained**
4,138	88,497

TIER 2 REPORTING

FULL REPORTING

<u>Check One</u>

X No motor vehicle or audio equipment

We choose to fully report even though we qualify for the partial exemption

Racial Profiling Reporting (Tier 2)

Department Name	Arlington Police Department
Agency Number	TX2200100
Chief Administrator Name	Will Johnson
Reporting Name	Michael Thomas
Contact Number	817-459-5666
E-mail Address	Michael.Thomas@arlingtontx.gov

Certification to Report 2.132 (Tier 2)

Policy Requirements (2.132(b) CCP):

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 stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

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

(B) whether a search was conducted and, if so, whether the individual 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 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.

These polices are in effect.

Chief Administrator _____ Date _____

Racial Profiling Reporting (Tier 2)

(State of Texas Mandatory Form)

Instructions: Please fill out all boxes. If zero use 0.
1. Total on lines 3, 10, 13, 18, 21, 40, and 51 Must be equal
2. Total on lines 27 and 30 Must equal line 19

Gender:

1. 36,489 Female
2. 56,146 Male

3. 92,635 Total

Race or Ethnicity:

4. 30,010 African
5. 3,125 Asian
6. 39,837 Caucasian
7. 19,415 Hispanic
8. 224 Middle Eastern
9. 24 Native American

10. 92,635 Total

Race or Ethnicity known prior to stop?

11. 4,138 Yes
12. 88,497 No

13. 92,635 Total

Reason for stop:

14. 7,160 Violation of law other than traffic
15. 0 Pre-existing knowledge (i.e. warrant)
16. 60,361 Moving Traffic Violation
17. 25,114 Vehicle Traffic Violation (Equipment, Inspection or Registration)

18. 92,635 Total

Racial Profiling Reporting (Tier 2)

Search conducted?

19. 922 Yes
20. 91,713 No

21. 92,635 Total

Reason for search:
(choose 1 for each search)

22. 290 Consent
23. 0 Contraband/evidence in plain sight
24. 632 Probable cause or reasonable suspicion
25. 0 Inventory search performed as result of towing
26. 0 Incident to arrest/warrant

27. 922 Total Must equal #19

Contraband discovered?

28. 538 Yes
29. 384 No

30. 922 Total Must equal #19

Description of Contraband
(Chose only One)

31. 161 Illegal drugs/drug paraphernalia
32. 19 Currency
33. 24 Weapons
34. 321 Alcohol
35. 0 Stolen property
36. 13 Other

37. 538 Total Must equal #28

Arrest result of stop or search:

38. 2,624 Yes
39. 90,011 No

40. 92,635 Total

Racial Profiling Reporting (Tier 2)

Arrest based on:

41. 454 Violation of the Penal Code
42. 599 Violation of a Traffic Law
43. 37 Violation of City Ordinance
44. 1,534 Outstanding Warrant

Street address or approximate location of the stop:

45. 63,575 City Street
46. 10,248 US Highway
47. 18,812 County Road
48. 0 Private Property or Other

Written warning or a citation as a result of the stop:

49. 53,978 Yes
50. 38,657 No

51. 92,635 Total

Please submit electronically the analysis in PDF format required by 2.134 CCP(c) which contains:

(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; and

(B) examine the disposition of motor vehicle 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 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.

This analysis meets the above requirements.

Chief Administrator _____ Date _____

All five (5) pages will be entered via a TCLEOSE Web entry form and the analysis is to be uploaded to the website in PDF format

www.tcleose.texas.gov

Baseline Comparison
(Fair Roads Standard)

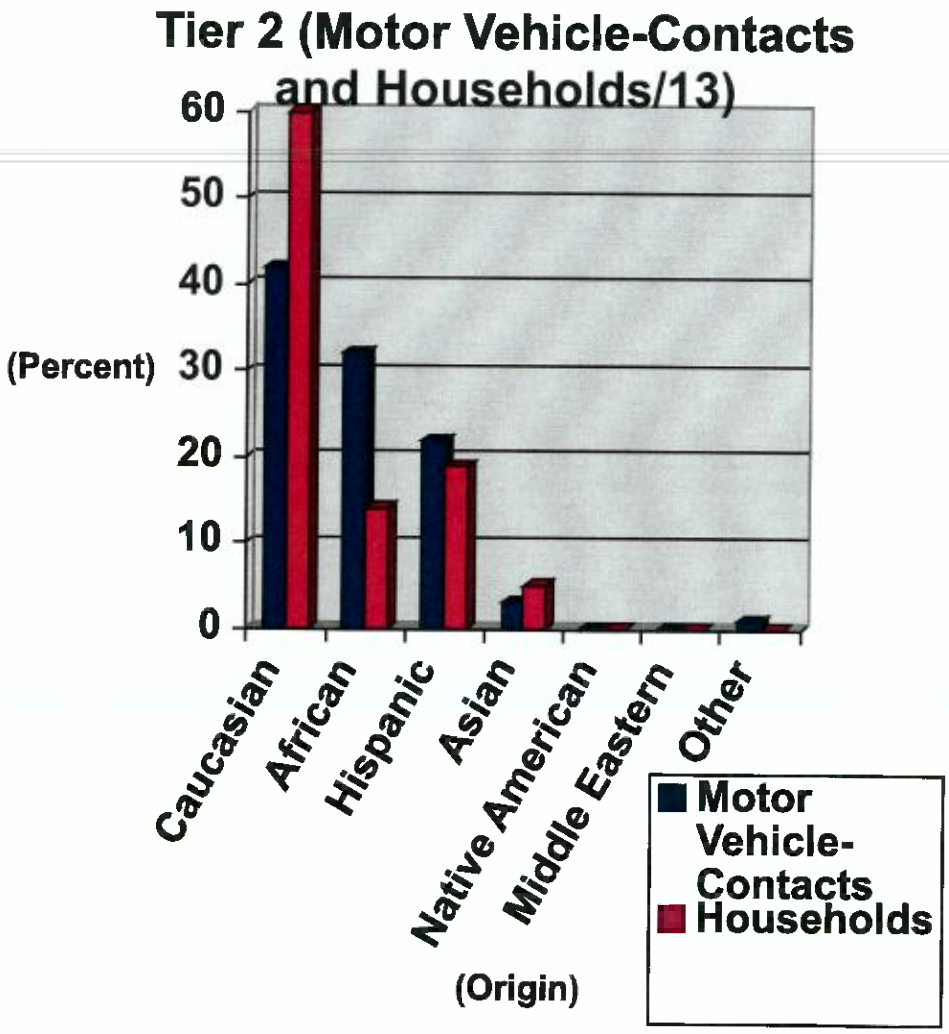
(Table I) Motor Vehicle-Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households in DFW that have vehicle access (in percentages). (1/1/13—12/31/13)

Race/Ethnicity*	Contacts (in percentages)	Households with vehicle access (in percentages)
Caucasian	42	60
African	32	14
Hispanic	21	19
Asian	3	5
Native American	.03	N/A
Middle Eastern	.2	N/A
Other	1	N/A
Total	100**	98**

* 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 2 (Motor Vehicle-Contacts and Households/13)
60
50
40
(Percent) 30
20
10
0
Caucasian
African
Hispanic
Asian
Native American
Middle Eastern
Other
(Origin)
Motor Vehicle-Contacts
Households

(Table II) All Motor Vehicle Contacts (1/1/13-12/31/13)

Race/Ethnicity*	All Motor Vehicle Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	38,603	41.67%	308	33.41%	117	40.34%	191	30.22%	692	26.37%
African	30,010	32.40%	383	41.54%	100	34.48%	283	44.78%	1,236	47.10%
Hispanic	19,415	20.96%	203	22.02%	63	21.72%	140	22.15%	650	24.77%
Asian	3,125	3.37%	14	1.52%	2	0.69%	12	1.90%	30	1.14%
Native American	24	0.03%	2	0.22%	1	0.34%	1	0.16%	1	0.04%
Middle Eastern	224	0.24%	0	0.00%	0	0.00%	0	0.00%	2	0.08%
Other	1,234	1.33%	12	1.30%	7	2.41%	5	0.79%	13	0.50%
Total	92,635	100.00%	922	100.00%	290	100.00%	632	100.00%	2,624	100.00%

"N" represents "number" of all 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."

Analysis and Interpretation of Data

Analysis

The Texas legislature, in 2001, passed Senate Bill 1074 which became the Texas Racial Profiling Law. That is, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) 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 racially profiling minority motorists.

The Texas Racial Profiling Law also 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 individual police officers are engaging in racial profiling, from a review and analysis of aggregate/institutional 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.

As stated previously, in 2009, 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 most recent 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 more recent law requires adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year. I am pleased to inform you that these additional requirements have been addressed, since 2009, by the Arlington Police Department as it is demonstrated throughout this report.

In an effort to comply with The Texas Racial Profiling Law, the Arlington Police Department commissioned the analysis of its 2013 motor vehicle contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2013 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 contact. Further, the analysis included information relevant to the number and percentage of searches 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 for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2013 motor vehicle 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 motor vehicle-related contact information. Of the baseline measures available, the Arlington 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 (2010) 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 Arlington Police Department in 2013 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.

Since 2002, several civil rights groups in Texas 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 Arlington 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.

It should also be noted that the Arlington Police Department opted to report on ALL contacts made during the course of a motor vehicle contact. In the first table, contacts made in the course of a motor vehicle contact (not including pedestrians) were reported. This does include written warnings. In the second table, all motor vehicle contacts were reported. Thus, the APD, for the sake of transparency, reported data beyond the minimum requirements of Tier 2.

Tier 2 (2013) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 2 data collected in 2013, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. In addition, most contacts were made in 2013 with males for moving traffic violations. As a result of most contacts, no searches were made. Further, of those searches made, most were due to probable cause or consent. In addition, contraband was found as a result of the search. Of the contraband found, in most instances, alcohol and illegal drugs/drug paraphernalia was cited as the most frequent item found.

The tier 2 data findings also suggested that an arrest was not made, for the most part, as a result of the stops. Further, of those arrested, outstanding warrants were the most cited reason for the arrest. Most of the locations of the stops were on city streets; this was followed by country roads.

As mentioned earlier, the Arlington Police Department opted to disclose (and include in this report), all contacts made with individuals in the course of a motor vehicle stop. That is, contacts that qualified (and those that did not) under the racial profiling law are being reported by the Arlington Police Department in an effort to show transparency and disclosure. It should be further noted that the data for all contacts is similar, in nature and context, to the tier 2 data submitted to TCOLE.

Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of "households" in the DFW who indicated, in the 2010 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 2010 census, to have access to vehicles. With respect to Caucasians and Asians, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Asian drivers that came in contact with the police in 2013 was lower than the percentage of Caucasian and Asian households in DFW with access to vehicles.

Summary of Findings

The comparison of motor vehicle contacts showed that the Arlington Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Asian 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 2013 was higher than the percentage of African American and Hispanic households in DFW with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

While considering the findings made in this analysis, it is recommended that the Arlington 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 Arlington Police Department is also encouraged to:

1) Perform an independent search analysis on the search data collected in the first quarter of 2014.

2) Commission data audits in 2014 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Arlington Police Department has complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements **<u>were</u>** met by the Arlington 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 Arlington 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 2) 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 officers who knew and did not know, the race/ethnicity of individuals before being detained.

☒ Produce an annual report on police contacts (Tier 2) and present this to local governing body and TCOLE by March 1, 2014.

☒ 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:

Del Carmen Consulting, LLC

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