

**The Texas State University  
San Marcos Police Department  
Annual Contact Report  
(2005)**



**Texas State University**  
SAN MARCOS

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# **(I) Introduction**

## **Opening Statement**

March 9, 2006

Chancellor Charles Matthews  
The Texas State University System  
Thomas J. Rusk Building  
200 E. 10<sup>th</sup> Street, Suite 600  
Austin, Texas 78701-4311

President Denise M. Trauth  
Texas State University–San Marcos  
601 University Dr.  
San Marcos TX 78666-4615

Dear President Trauth & Chancellor Matthews,

In recent years, the concept of racial profiling has emerged as a prevalent theme among law enforcement agencies in the United States. Four years ago, the Texas legislature, in an attempt to address the issue of racial profiling in policing, passed the Texas Racial Profiling Law (S.B. 1074). Since becoming effective, the Texas State University–San Marcos Police Department, in accordance with S.B. 1074, has collected citation-based contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices among police officers.

In this particular report, you will find three sections that contain information on citation-based contact data along with documentation which aims at demonstrating the manner in which the Texas State University – San Marcos Police Department has complied with S.B. 1074. Section 1 contains the table of content in addition to the Texas Law on Racial Profiling. Also in this section, you will find the list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education). In addition, sections 2 and 3 contain documentation which demonstrates compliance by the Texas State University–San Marcos Police Department with the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the implementation of a racial profiling complaint process (which has been disclosed to the public) and the training administered to all law enforcement personnel are included.

The final components of this report provide statistical data relevant to public contacts, made during the course of traffic stops, between 1/1/05 and 12/31/05. This information has been analyzed and compared to data derived from the U.S. Census Bureau and to the citation-based contact data collected in 2005. The final analysis and recommendations are also included in this report.

I am hopeful that the findings presented in this report represent the willingness of the Texas State University–San Marcos Police Department to identify and resolve any issues relevant to racial profiling.

Sincerely,

Ralph C. Meyer  
Chief, University Police Department

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# Texas Racial Profiling Law Requirements

## Guidelines for Compiling and Reporting Data under Senate Bill 1074

### Background

Senate Bill 1074 of the 77<sup>th</sup> 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 77<sup>th</sup> Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide an analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

#### **Standard 4**

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

### **Commentary**

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

### **Standard 5**

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

### **Commentary**

None

### **Standard 6**

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

### **Commentary**

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

### **Standard 7**

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

### **Commentary**

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

# The Texas Law on Racial Profiling

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.

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President of the Senate

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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.

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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.

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Chief Clerk of the House

Approved:

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Date

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Governor

# **(II) Responding to the Law**

## **Institutional Policy on Racial Profiling**

# Police Department Policies

## *Mission*

### Mission Statement

The Texas State University Police Department focuses on excellence in all we do to provide leadership through innovation and creativity in a dynamic, diverse, and professional organization. We will strive to create a safe and secure learning environment by dedicating ourselves to raising the level of preparedness to meet the needs of today and the challenges of tomorrow. We pledge to sustain a working partnership with our campus community to improve the quality of life. We will accomplish our mission by providing proactive service and encouraging community awareness in support of the University's mission.

### In-Car Digital Video System Operational Procedure

#### 10.01.01 General

**Each officer will obtain the body worn equipment necessary to provide audio recording capability for the in car video system at the beginning of their tour of duty. Such equipment will be worn by the officer at all times when on tour of duty and in contact with the general public. In the event an officer does not utilize the video recording system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 10.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)**

**Each vehicle used for tour of duty will have a video system, which is functional, and such system is to be used during any and all investigative stops made where the patrol vehicle is within proximity to the investigative contact. It is only necessary for one video system to be recording during an investigative contact unless a second officer is conducting additional interviews, which would be pertinent to the situation. In the event a vehicle is not available with a functional video system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 10.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)**

#### 10.02.01 Digital Video Logon Requirement

**The digital video recording system is designed to auto start upon computer start up with officer logon requirements. Officers will log on using their last name and radio/badge number at the screen provided by the system. Upon entering this information the recording application will be accessible.**

#### **10.02.02 Initial Operation Test**

**At the beginning of shift each officer will complete an initial operation test of the digital video recording system.**

- A. On emergency lighting test, when emergency lighting is turned on officer will confirm the record function begins.**
- B. On emergency lighting test, when emergency lighting is turned off officer will confirm the record function ends.**
- C. On body mic test officer will confirm the record function begins by visually observing the green indicator by record status indicator.**
- D. On body mic test officer will confirm the record function ends by visually observing the red indicator by record status indicator.**
- E. Officer will confirm the record function initiates by visually observing the green indicator by record when the record button is pushed on the touch screen display.**
- F. Officer will confirm the record function stops by visually observing the red indicator by record when the stop button is pushed on the touch screen display.**

#### **10.02.03 Video Review in Field**

- A. Officers may review videos prior to auto download by choosing the play option at the left of the touch screen monitor.**
- B. Events stored are shown in a list at the bottom of the play back module, any file shown may be played for review.**
- C. All items in the list are protected from erasure/editing by the digital video recording system.**

#### **10.02.04 Auto Download Process**

- A. Officers will park their vehicles in a position to allow the wireless network interface device to connect with the University Police Departments network or Texas State University's network.**
- B. Down load process will begin upon connection and verification to the network, officer intervention is not necessary.**

**10.02.05 Evidence Handling**

To insure a valid chain of custody the following procedure is to be followed:

- A. Request for video files to be processed for evidence will be made by memo, email or other written communication by the reporting officer.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**
  - 1. Storage media for digital video will be configured in a manner which will allow access only by the Sergeant Special Projects.**
  - 2. After copying the segment an archive copy will be created.**
  - 3. After generating the required copies a supplement report will be written.**
- D. The Sergeant of Special Projects will then place the media showing the segment into evidence.**

**10.03.01 Request for Digital Video Segments-Administrative**

All requests for digital video segments for administrative use must be approved by the Director/Chief of Police or designee.

To insure proper documentation the following procedure is to be followed:

- A. Request for video files to be processed for administrative use will be made by memo, email or other written communication by the requesting party.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**

#### **10.04.01 Handling of Digital Media in the Event of A Complaint**

**All requests for digital video segments for administrative use during a complaint against a police department employee must be approved by the Director/Chief of Police or designee.**

**To insure proper documentation the following procedure is to be followed:**

- A. Request for video files to be processed for administrative use will be made by memo, email or other written communication by the requesting party.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**
- D. Upon completion of the duplication process the media will be provide to the Director/Chief of Police or designee.**

#### **10.05.01 Digital Video Storage**

**All stored data segments, which have been maintained for a minimum of 90 days, in compliance with state law.**

#### **10.06.01 Car Video System Maintenance**

**The department may assign personnel to perform maintenance procedures on the video systems. Such maintenance will be conducted by authorized personnel. Maintenance function will be in a manner which does not endanger any stored digital video.**

#### **10.07.01 Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops**

**An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:**

- A. A physical description of each person detained as a result of the stop, including:**

1. The person's gender;
  2. The person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.
- B. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.
- C. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.
- D. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.

#### **10.08.01 Documenting Video Availability on Citations**

If a traffic violation is video recorded the vehicle number will be place a notation on the citation which indicates the availability of video.

### **In-Car Digital Video System Operational Procedure**

#### **11.00.01 General**

Each officer will obtain the body worn equipment necessary to provide audio recording capability for the in car video system at the beginning of their tour of duty. Such equipment will be worn by the officer at all times when on tour of duty and in contact with the general public. In the event an officer does not utilize the video recording system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 11.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)

The shift supervisor, or senior officer in absence of a supervisor, shall be responsible for any and all access to the video system tape vault. The only exception is when accessed for maintenance related situations. In such case the officer assigned to perform the maintenance will be responsible for documenting the access.

Each vehicle used for tour of duty will have a video system, which is functional, and such system is to be used during any and all investigative stops made where the patrol vehicle is within proximity to the investigative contact. It is only necessary for one video system to be recording during an investigative contact unless a second

officer is conducting additional interviews, which would be pertinent to the situation. In the event a vehicle is not available with a functional video system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 11.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)

#### **11.02.00 Tape Vault Access**

The shift supervisor may access the video system vault at any time to remove and replace a tape. Such access does not require a case number issued by Communications. In the event a supervisor is not on duty, the senior officer may access the video system tape vault by obtaining a case number and vault system keys from Communications.

#### **11.02.02 Installation and Removal of Tapes**

A new tape will be placed in the tape vault with the “vehicle number” and “date in” filled in. Such information is to be recorded on the tape top label.

- A. A “sticker” will be placed on the vault with the enclosed tape number recorded. (The tape number will be placed on all DAR’s, citations where a violation was video taped and reports that are generated as a result of a traffic stop. [Texas State University Police Department Standard Operations Policy 11.08.01 \(Recording of Tape Numbers On Citations\)](#))
- B. The tape removed will be marked with the “date out” filled in.
- C. The “sticker” will be removed from the vault and placed on the tape sleeve and placed in the locked Records Video Tape Box.

#### **11.02.03 Removal of Damaged Tapes**

In the event the tape vault rejects the new tape or damages a tape after insertion, the system will be noted as non-functional and reported for maintenance.

- A. In the event the damaged tape cannot be removed, the system will be noted as non- functional and reported for maintenance.

#### **11.02.04 Removal of a Tape for Evidence Purposes**

Tapes removed for evidence require the reporting officer to be present to receive the tape from the video vault. The shift supervisor or senior officer will observe such receipt by the officer.

- A. The tape removed will be marked with the “date out” filled in and a case number will be written in on the spine label.
- B. A new tape will be placed in the tape vault with the “vehicle number” and “date in” filled in. Such information is to be recorded on the tape top label as stated in [Texas State University Police Department Standard Operations Policy 11.02.02 \(Installation and Removal of Tapes\)](#)

#### **11.02.05 Removal of Recording Tab**

To insure videotapes are not erased the following procedure will be followed:

- A. Removal of the original tape record-enabling tab (If Present).
- B. Removal of the record enabling tape placed on a recycled tape by the department.

#### **11.03.01 Handling of Tapes Removed From the Video Vault**

All tapes removed will be placed in the temporary Locked Records Video Box.

Records Supervisor will remove the videotapes from the Video Box and handle them as official documents of the Department. The tapes will be filed in the 90-day rotation storage if the tape is of no evidence value. At the completion of a minimum 90-day cycle the tapes will be erased, renumbered and returned to service.

For tapes that have evidence value, Records Section will make a copy and forward the tape with the case file to the District Attorney’s Office.

When a tape has reached its 90 -day rotation and it has evidence value (case number assigned) the tape will be transferred to the case file. The tape will not be taken out of service until released by the District Attorney’s Office.

#### **11.04.01 Handling of Tapes in the Event of A Complaint**

Any tape, which is alleged to possess evidence of racial profiling or improper conduct on the part of an officer, shall be immediately removed from the 90-day storage file. Records Section personnel will submit the referenced tape to the Captain of Support Services or the Captain of Patrol Operations in the absence of the Captain of Support Services.

#### **11.05.01 Tape Recycling**

All tapes, which have been maintained for a minimum of 90 days, will be remarked with a new spine number and new tape top label if needed. The spine label

numbering sequence will be a multi-digit sequential number assigned by the Records Section.

#### **11.06.01 Car Video System Maintenance**

The department may assign personnel to perform maintenance procedures on the video systems. Such maintenance will be conducted under the following guidelines:

- A. Maintenance procedures that do not require access to the video vault may be done without the issuance of a case number by Communications.**
- B. Maintenance procedures, which may require access to the video vault require the key for such vault to be checked out and a case number issued.**
- C. Any tape removal performed during maintenance conditions requires a replacement tape and must comply with the handling of tapes removed from video section.**
  - 1. Information will be submitted to the Records Supervisor by the officer detailing why the tape was removed.**
- D. If a tape cannot be removed using the system eject function no maintenance will be performed until the manufacturers are consulted.**
- E. The officer(s) assigned to perform maintenance must perform any “Menu Access” for the system. Such Menu Access does not require a case number.**
- F. The tape in a video vault must be removed by authorized department personnel prior to access by outside maintenance personnel.**

#### **11.07.01 Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops**

An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:

- A. A physical description of each person detained as a result of the stop, including:**
  - 1. The person’s gender;**

**2. The person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.**

- B. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.**
- C. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.**
- D. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.**

**11.08.01 Recording of Tape Numbers On Citations**

**If a traffic violation is video recorded the tape number will be placed on the upper left hand corner of each page/copy of the citation issued.**

**11.09.01 Video Taping of Designated Points**

**Officers may not monitor and record via videotape any intersection or traffic control device without prior approval of the shift sergeant.**

# **Racial Profiling Policy**

## **15.01.00 PURPOSE**

The purpose of the policy is to reaffirm the Texas State University Police Department's commitment to unbiased policing in all its encounters between officer and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

## **15.02.00 POLICY**

It is the policy of this department to police in a proactive manner and, to aggressively investigate suspected violations of law. Officers shall actively enforce State and Federal laws, what may be applicable in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

## **15.03.00 DEFINITIONS**

**Racial Profiling** – A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts.

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of

a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

.01 Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.

.02 Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.

.03 Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect. Racial profiling is not relevant as it pertains to witnesses, etc.

**Race or Ethnicity** – Of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American.

**Pedestrian Stop** – An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

**Traffic Stop** – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

#### **15.04.00 TRAINING**

Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

All officers shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001 held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.

The chief of police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

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

#### **15.05.00 COMPLAINT INVESTIGATION**

.01 The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she has filed such a complaint.

.02 Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint to Captain of Support Services or the Captain of Patrol Operations in the absence of Captain of Support Services. Any employee contacted shall provide to that person a copy of a complaint form or the department process for filing a complaint (Annex #1) Racial Profile complaint form. All employees will report any allegation of racial profiling to their superior before the end of their shift.

.03 Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the chief. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.

.04 If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.

.05 If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

#### **15.06.00 PUBLIC EDUCATION**

This department will inform the public of its policy against racial profiling and the complaint process. The method of publication will be The Campus Watch and the UPD web page.

## **15.07.00 CITATION DATA COLLECTION & REPORTING**

An officer is required to collect information relating to traffic stops in which a citation is issued. On the citation officers must include:

- .01 The violators race or ethnicity;
- .02 Whether a search was conducted;
- .03 was the search consensual; and
- .04 arrest for this cited violation or any other violation.

By March of each year, the department shall submit a report to their governing board that includes the information gathered by the citations. The report will include:

- .05 a breakdown of citations by race or ethnicity;
- .06 number of citations that resulted in a search;
- .07 number of searches that were consensual; and
- .08 number of citations that resulted in custodial arrest for this cited violation or any other violation.

Not later than March 1<sup>st</sup> of each year, this department shall submit a report to our governing body containing this information from the preceding calendar year.

## **15.08.00 USE OF VIDEO AND AUDIO EQUIPMENT**

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

Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video, or audio, will be so recorded.

This department shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.

Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. A recording of each officer will be reviewed at least once every thirty (30) days.

\*If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the officer making the stop may properly record and report the information as required in 15.09.00.

**15.09.00 COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS WHEN VIDEO CAMERA IS NOT USED**

An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information if a citation is issued.

- .01 A physical description of each person detained as a result of the stop, including:
  - a) The person's gender;
  - b) The person's race or ethnicity, as determined by the officer to the best of his/her ability.
  
- .02 The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.
  
- .03 Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.
  
- .04 Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.

This department shall compile and analyze the information contained in these individual reports. Not later than March 1<sup>st</sup> of each year, this department shall submit a report to our governing body containing the information compiled from the preceding calendar year in a manner they approve. This report will include:

- .05 A comparative analysis of the information contained in the individual reports in order to:
  - a) Determine the prevalence of racial profiling by officers in this department; and
  - b) Examine the disposition of traffic and pedestrian stops made by this department's officers, including searches resulting from stops.
  
- .06 Information relating to each complaint filed with this department alleging racial profiling.

This report will not include identifying information about a peace officer who makes a stop or about an individual who is stopped or arrested by a peace officer.

## **CHAPTER 4.00.00**

### **DISCIPLINE**

#### **4.01.00 DUTY TO REPORT MISCONDUCT**

All officers are required to report any misconduct of University Police Department employees to the Director/Chief of Police. Officers who observe other UPD employees acting in a discourteous or disrespectful manner are likewise required to report that conduct to the Director/Chief of Police.

#### **4.01.01 COMPLAINTS TO DIRECTOR/CHIEF OF POLICE**

For a complaint to be considered for an Internal Investigation (IA) by the Director/Chief of Police, “the complaint must be: (1) in writing; and (2) signed by the person making the complaint.” (Vernon’s Annotated Civil Statutes section 614.022.) An inquiry to determine if an IA is warranted does not constitute an “investigation.”

#### **4.01.02 GENERAL PROVISIONS**

- A. The department has an obligation to investigate all allegations of misconduct or complaints made against a police officer. All allegations will be reviewed.
- B. Complaints or allegations of misconduct may be presented by supervisory or commanding officers, other officers or employees of this department, citizens and members of the general public or public officials. Anonymous complaints shall be accepted by phone, mail, or in person from the one who receives it. However, such allegations must be reported to the Director/ Chief of Police and will only be investigated at the discretion of the Director/Chief of Police.
- C. All allegations or complaints of misconduct shall be accepted and forwarded without unnecessary delay to the Director/Chief of Police. All investigations into alleged employee misconduct require prior approval from the Director/Chief of Police.
- D. For complaints which might result in suspension for more than 3 days, or termination, the officer will be notified in writing as soon as reasonably possible, as required by Article 614.023 of Vernon’s Texas Civil Statutes, outlining the nature of the complaint. Officers will be given the opportunity to rebut such allegations.

- E. The Director's Admin Assistant will assign a Personnel Investigation number (PI#) to the investigation.
  - 1. The Director's Admin Assistant shall record and maintain a log of every allegation assigned an investigative number by the Director/Chief of Police.
  - 2. The control log shall contain the following:
    - a. A separate control number for each allegation or matter;
    - b. Name, rank, and identifying number of the employee involved.
    - c. Date and hour the complaint was received;
    - d. Name and address of the complainant;
    - e. Disposition of investigation;
    - f. Hearing disposition, if any; and
    - g. Action taken, if any.
  - 3. The Director/Chief of Police shall verify that any allegations have been recorded and handled in accordance with this policy, within 30 business days of resolution.
  - 4. Only personnel authorized by the Director/Chief of Police may receive access to the control log. Logs and all complaint and investigative materials shall be kept confidential.
- F. Depending upon the circumstances, the Director/Chief of Police will also indicate any change in the officer's duty status during the investigation.
- G. The investigation shall be completed within 25 business days. However, under unique circumstances, an extension may be granted by the Director/Chief of Police provided the Captain in charge of the investigation has, in writing, outlined the reasons for the delay.

- H. All officers shall cooperate during the investigation by providing information, statements, and any other assistance that may be required.
- I. The completed investigation will be forwarded to the Director/Chief of Police. The document will include the findings and a recommendation from the officer's supervisor and Captain, outlining the appropriate course of action.
- J. The final decision regarding the outcome of the investigation and action to be taken will be made by the Director/Chief of Police and provided, in writing, to the officer.
- K. Any disciplinary action taken against an officer will comply with the Texas State University – San Marcos UPPS Number 04.04.40, Disciplining Staff Employees.

**4.01.03 SUPERVISOR'S ROLE**

- A. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with the first line supervisors.
- B. Each supervisor shall familiarize himself with his/her employees, and closely observe their general conduct and appearance on a daily basis.
- C. A supervisor shall have the authority to reprimand a subordinate employee for minor infractions. Such reprimands, whether oral or written, may include a warning, corrective advice, or recommend counseling or training. A supervisor properly imposes a reprimand when he/she reasonably determines that the alleged misconduct does not require further investigation or action. However, such reprimands are subject to review by the Captain of the Officers' Division or Director/Chief of Police.
- D. A supervisor shall have the authority to temporarily relieve from duty an employee for the balance of the working day (with full pay and benefits) if the employee, by continuing works, would tend to discredit or impair the operation of the department. The supervisor shall immediately notify the Director/Chief of Police by phone or in person and then in writing of any such temporary action. Call the Director/Chief of Police at the time of the incident if it is of such magnitude that it could bring condemnation to the department.

- E. All members who are under suspension shall not wear the uniform nor be armed while under suspension. Members will surrender their badge, issue weapon and police identification upon the request of the Director/Chief or his designee.

**4.01.04 ADMINISTRATIVE CAPTAIN'S RESPONSIBILITIES**

- A. The Administrative Captain has the authority and responsibility to conduct internal investigations, or refer such investigations to his designee, as authorized by this Department Operating Procedure. However, the Director/Chief of Police has the authority to assign Internal Affairs investigations to other command or supervisory personnel at his/her discretion.
- B. Upon the completion of an investigation, the Administrative Captain (or other assigned authority) shall review all statements, evidence, information and photographs, and make a full report and recommendation based upon the investigation as follows:
  - 1. A violation has or has not occurred;
  - 1. Exoneration;
  - 3. Corrective action should be taken; or
  - 4. Disciplinary action should be taken.
- C. The full report shall be forwarded to the Director/Chief of police for review.

**4.01.05 INTERNAL INVESTIGATIONS**

- A. The investigator shall make every effort to interview the complainant, the accused officer, or other persons having knowledge of relevant facts concerning allegations.
- B. Every statement shall be reduced to writing by the investigator.
- C. The Director/Chief of Police may require chemical or other reports or photographs of the employees as an aid to investigation.
- D. The Director/Chief of Police may order the employee to submit to a polygraph examination concerning the matter under investigation.

- E. Any interview of the employee involved shall take place within a reasonable time in relation to the employee's work. However, interviews or telephone conversations conducted outside normal work hours initiated by the subject of the investigation will not be compensated in terms of over-time or compensatory time. The interviewer shall identify his intent and purpose and inform the officer of the nature of the charge. Additionally, the following points should be noted:
1. Questions are directed and narrowly related to the performance of the officer's duties or the officer's fitness as a police officer.
  2. The officer involved is entitled to all rights and privileges guaranteed by the laws and the Constitution of the United States, including the right not to be compelled to incriminate oneself.
  3. Refusal to comply with a department investigation, including answering questions relating to the performance of the employee's official duties or fitness for duty, will be subject to departmental disciplinary actions which may result in termination from the police department.
- F. The interview shall be recorded and/or transcribed.
- G. The Director/Chief of Police may order the employee to answer material and relevant questions specifically, and directly, narrowly relating to the incident.
- H. Upon completion of the investigation, the investigator shall prepare a detailed report of the investigations and conclusions.
- I. All investigations must be completed and the report filed within 25 days from receipt of the allegation unless special circumstances warrant an extension.
- J. The Director/Chief of Police shall have the authority, prior to investigation or hearing and after receipt of a complaint which alleges conduct on the part of the employee which is a felony or crime of moral turpitude, to relieve such employee of duty or to restrict duties, for the good of the department which shall not be construed or reported as disciplinary action.

#### **4.01.06**

#### **CRIMINAL INVESTIGATIONS**

- A. If during an internal investigation evidence of misconduct is found, the investigating officer shall notify the Director/Chief of Police of such finding.
- B. The Director/Chief of Police shall make a determination of what type of investigation is to continue.
  - 1. The Director/Chief of Police may authorize the internal investigation to continue or may authorize a criminal investigation to begin or may authorize both.
  - 2. If both an internal investigation and criminal investigation are authorized, they shall be separate and evidence, statements, and information gathered in one is not interchangeable between the two.
- C. Upon receiving a complaint or information that an employee allegedly engaged in criminal conduct, the Director/Chief of Police shall make a determination as to what agency is to conduct the investigation.
  - A. The employee is not entitled to know details of the criminal investigation if, in the opinion of the Director/Chief of Police or the investigator, such revelation could jeopardize the investigation or prosecution thereof.

## ***Informing the Public on the Process of Filing a Complaint with the Texas State University – San Marcos Police Department***

### ***Educational Campaign:***

*Since 2002, the Texas State University - San Marcos Police Department, in accordance to Senate Bill 1074, has launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, by posting, in the lobby area and its web site information (included) on filing a complaint on a racial profiling violation by a Texas State University - San Marcos Police Officer. The complaint process posted in the lobby area of the police department was written in English and Spanish.*

*The Texas State University - San Marcos Police Department included language, in its current complaint process, pertaining to the manner in which citizens can file a complaint as a consequence of a racial profiling incident. 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.*

# **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 Texas State University – San Marcos Police Department**

Since 2002, the Texas State University – San Marcos Police Department, in accordance to Senate Bill 1074, launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, in the lobby area, information relevant to filing a complaint on a racial profiling violation by a Texas State University – San Marcos police officer.

The Texas State University – San Marcos Police Department included language, in its current complaint process, pertaining to the manner in which citizens can file a complaint as a consequence of a racial profiling incident. 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 Texas State University – San Marcos police officers were instructed, as specified in S.B. 1074, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Texas State University – San Marcos Police Department have completed the TCLEOSE basic training. The main outline used to train the officers of Texas State University – San Marcos has been included in this report.

It is important to recognize that the Chief of the Texas State University – San Marcos 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 Texas State University – San Marcos 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 1/1/05---12/31/05, 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 Texas State University – San Marcos 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 1/1/05 ---- 12/31/05.

Complaints Filed for Possible Violations of S.R. 1074 (The Texas Racial Profiling Law)

Complaint No.	Alleged Violation			Disposition of the Case

**Additional Comments:**

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# Tables Illustrating Traffic Contact

## (I) Tier 1 Data

Traffic-Related Contact Information (1/1/05—12/31/05)

Race/Ethnicity*	Contacts		Searches		Consensual Searches		Probable Cause Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
<b>Caucasian</b>	734	79%	178	84%	37	82%	235	77%	112	84%
<b>African</b>	27	3%	2	1%	0	0%	17	6%	2	1%
<b>Hispanic</b>	150	16%	30	14%	7	16%	50	16%	20	15%
<b>Asian</b>	7	1%	0	0%	0	0%	0	0%	0	0%
<b>Native American</b>	0	0%	0	0%	0	0%	0	0%	0	0%
<b>Other</b>	10	1%	1	0%	1	2%	1	0%	0	0%
<b>Total</b>	928	100%	211	100%	45	100%	304	100%	134	100%

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

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

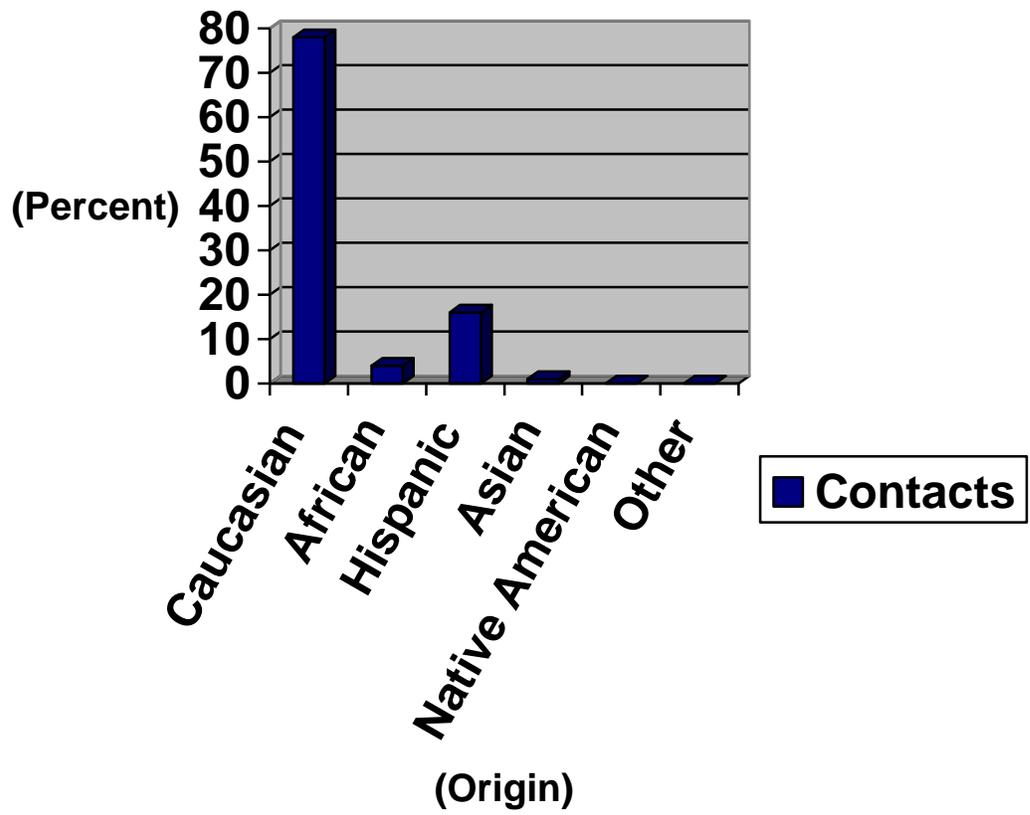
\*\*Figure has been rounded

Race/Ethnicity*	Contacts		TxState University ** Demographic Data		Variance	
	#	%	#	%	#	%
<b>Caucasian</b>	734	79%	21326	70%	86	9%
<b>African</b>	27	3%	1394	5%	-15	-2%
<b>Hispanic</b>	150	16%	6138	20%	-37	-4%
<b>Asian</b>	7	1%	722	2%	-15	-2%
<b>Native American</b>	0	0%	167	1%	-5	-1%
<b>Other</b>	10	1%	771	3%	-13	-1%
<b>Total</b>	928	100%	30518	100%		

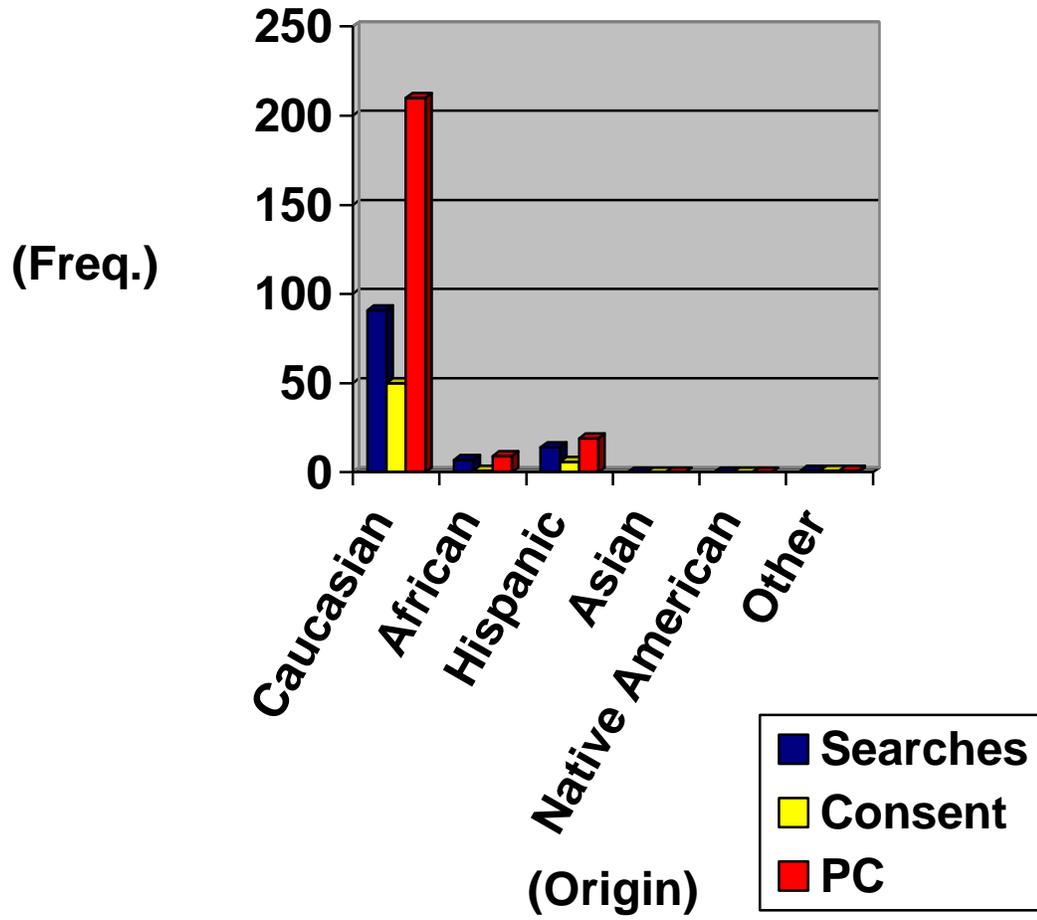
\* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

\*\* Texas State University demographic data is compiled from information published by Texas State University Institutional Research on student enrollment and agency workforce.

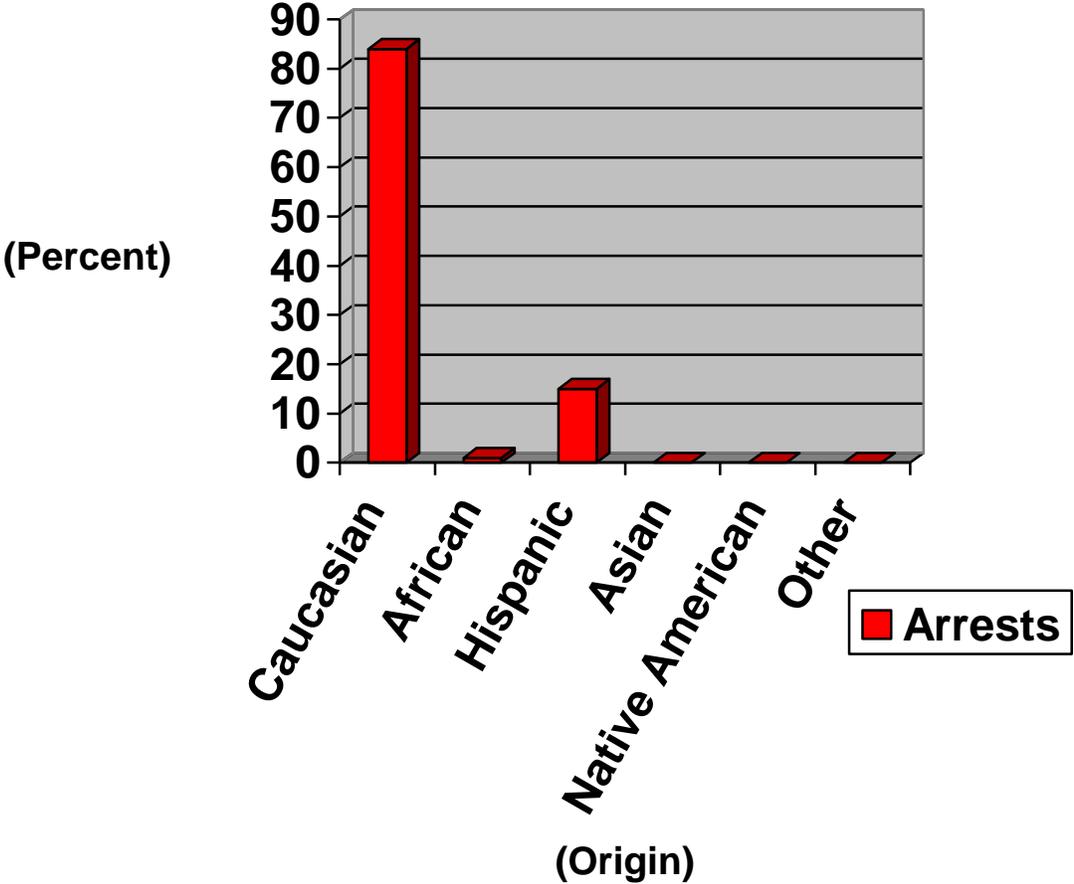
## Tier 1 Data (Contacts)



### Tier 1 Data (Searches)



# Tier 1 Data (Arrests)



# Tier 1 Data (Four-Year Comparative Analysis) (2002—2005)

## (III) Four-Year Tier 1 Data Comparison

### Comparison of Four-Year Traffic-Related Contact Information (1/1/02---12/31/05)

Race/Ethnicity*	Traffic-Related Contacts			
	(02)	(03)	(04)	(05)
	%	%	%	%
<b>Caucasian</b>	77%	77%	78%	79%
<b>African</b>	5%	5%	4%	3%
<b>Hispanic</b>	16.5%	18%	16%	16%
<b>Asian</b>	1%	0%	1%	1%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	.5%	0%	0%	1%
<b>Total</b>	100%	100%	100%	100%

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

\*\* Figure has been rounded.

**Comparison of Four-Year Traffic-Related Search Information  
(1/1/02---12/31/05)**

Race/Ethnicity*	Traffic-Related Searches			
	(02)	(03)	(04)	(05)
	%	%	%	%
<b>Caucasian</b>	81%	76%	81%	84%
<b>African</b>	2.5%	6%	6%	1%
<b>Hispanic</b>	16%	17%	12%	14%
<b>Asian</b>	.5%	0%	0%	0%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	0%	0%	1%	0%
<b>Total</b>	100%	100%	100%	100%

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

\*\* Figure has been rounded.

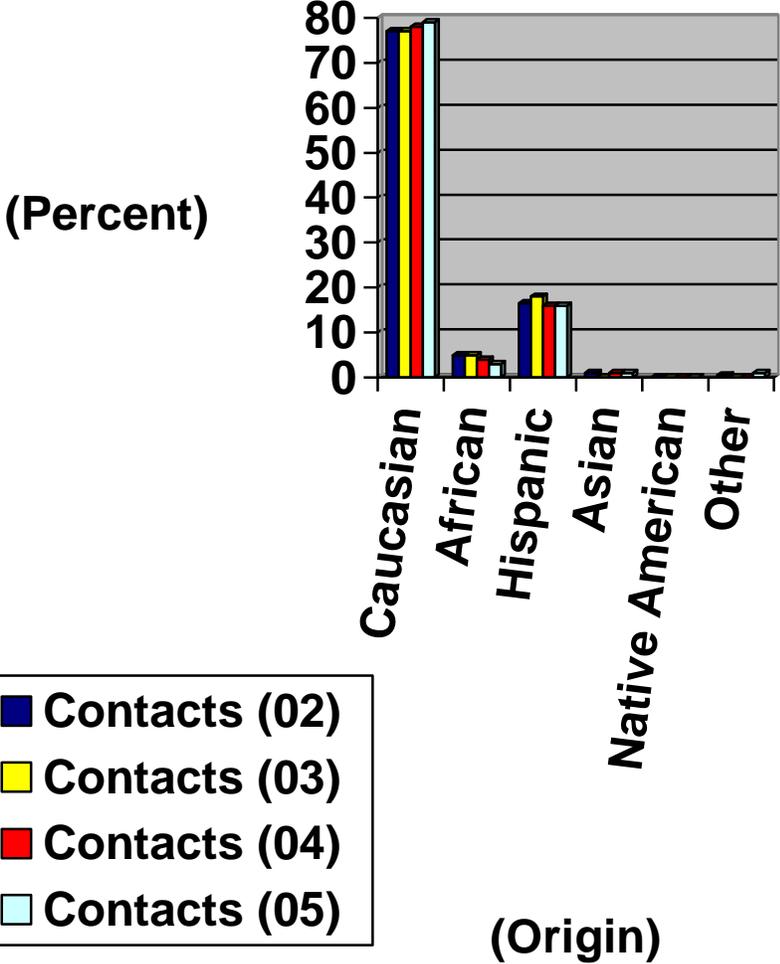
**Comparison of Four-Year Traffic-Related Arrest Information  
(1/1/02---12/31/05)**

Race/Ethnicity*	Traffic-Related Arrests			
	(02)	(03)	(04)	(05)
	%	%	%	%
<b>Caucasian</b>	77%	76%	78%	84%
<b>African</b>	3%	6%	8%	1%
<b>Hispanic</b>	19%	17%	13%	15%
<b>Asian</b>	1%	0%	0%	0%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	0%	1%	1%	0%
<b>Total</b>	100%	100%	100%	100%

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

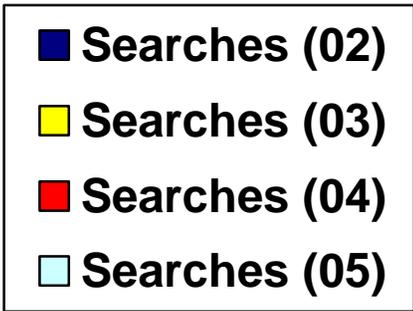
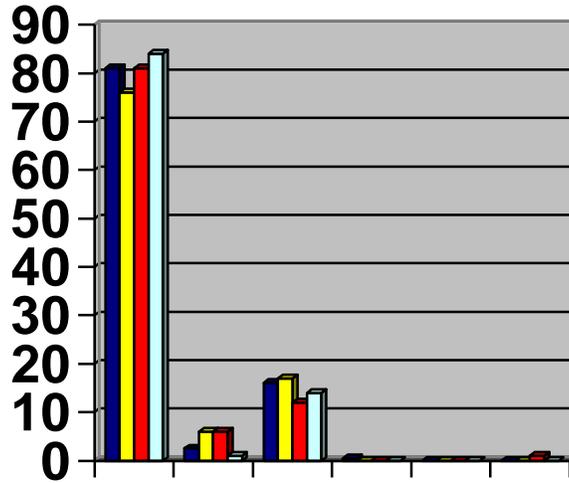
\*\* Figure has been rounded.

### Tier 1 Data (Contacts 02-05)



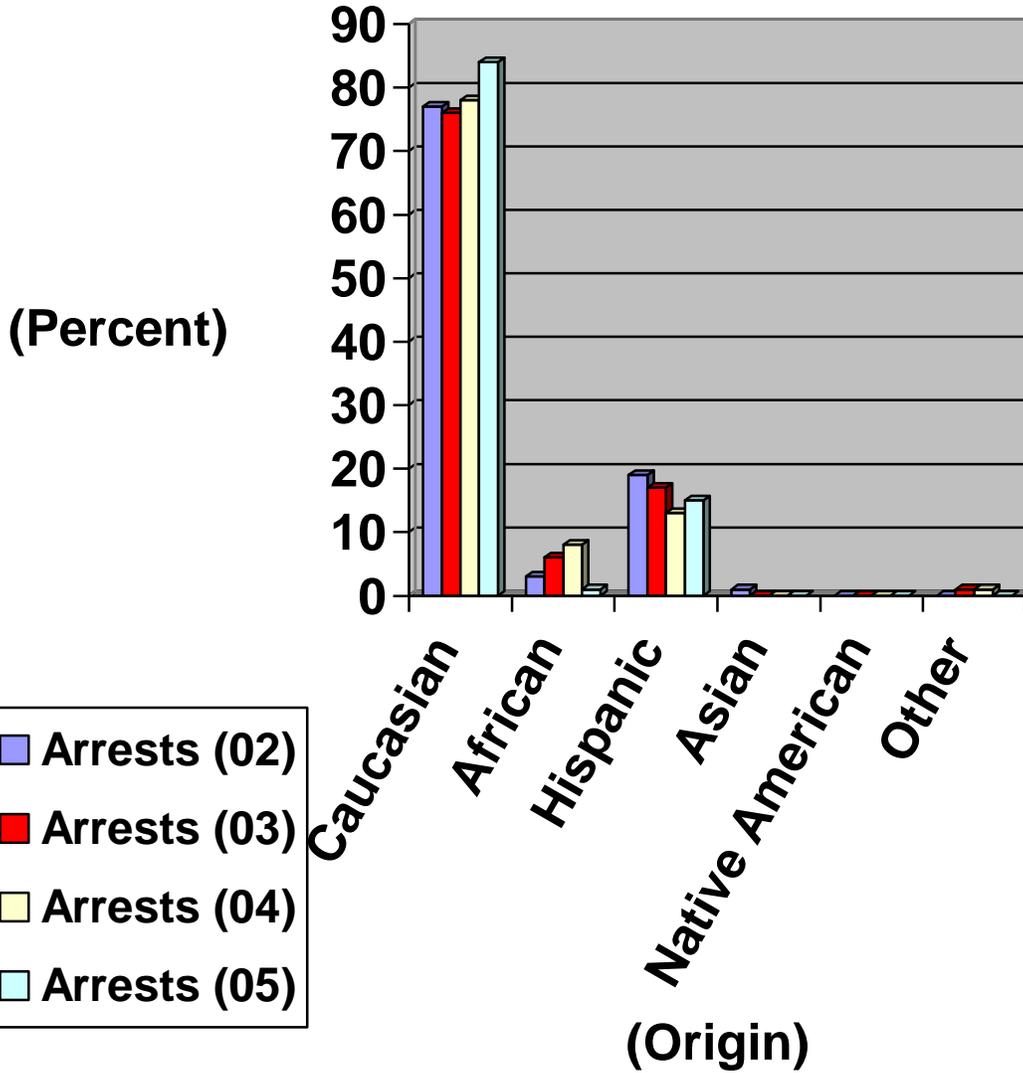
# Tier 1 Data (Searches 02-05)

(Percent)



(Origin)

### Tier 1 Data (Arrests 02-05)



# Analysis and Interpretation of Data

## Analysis

Since 2002, The Texas Racial Profiling Law (S.B. 1074) required that all police departments in the state collect traffic-related data and report this information to their local governing authority. The purpose in collecting and presenting this information is to determine if a police officer is engaging in the practice of profiling minority motorists. Despite the fact most agree that it is a good idea for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if police departments are engaging in racial profiling, from a review of aggregate data. That is, it is very difficult to detect specific “individual” racist behavior from aggregate-level “institutional” data on traffic-related contacts.

Notwithstanding this, the Texas State University – San Marcos Police Department, in an effort to comply with The Texas Racial Profiling Law (S.B. 1074), commissioned the analysis of its 2005 traffic contact data. Thus, three different types of analyses were conducted. The first of these involved a careful evaluation of the 2005 traffic stop data. This particular analysis measured, as required by S.B. 1074, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, and individuals belonging to the “other” category, that came in contact with the police and were issued a traffic-related citation in 2005. In addition, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search (i.e., consensual or probable cause) conducted. Finally, the data analysis highlighted the number and percentage of individuals who, after they were issued a citation, were arrested.

The second type of analysis was based on a comparison of the 2005 traffic contact data with a particular baseline. It should be noted that there is also a great deal of disagreement, in the academic literature, over the type/form of baseline to be used when analyzing traffic-related contact information. Of all the baseline measures available, the Texas State University – San Marcos Police Department decided to adopt, as a baseline measure, the Fair Roads Standard. The Fair Roads Standard is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for race and ethnicity. According to experts, 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. .

The Texas State University – San Marcos 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 “transparency” before the community. The Fair Roads Standard data obtained is relevant to the city of Texas State University – San Marcos.

Finally, a third type of analysis was conducted while using the 2002--2005 traffic contact data. Specifically, all traffic-related contacts made in 2005 were compared to similar figures reported in 2002--2004. When considering this analysis, it was determined that comparing four years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. That is, the four-year comparison has the potential of revealing early indicators that a possible trend of police-initiated contacts with regards to members of a specific minority group, is in fact, developing.

#### Tier 1 (2004) Traffic-Related Contact Analysis

The Tier 1 data collected in 2005 showed that the Texas State University – San Marcos Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received complaints from community members regarding officers misconduct associated with racial profiling practices

The continuing effort to collect police contact data will assure an on-going evaluation of the Texas State University – San Marcos Police Department practices. Thus, allowing for the citizens of the Texas State University – San Marcos community to continue to benefit from professional and courteous service from their police department.

#### Four-Year Comparison

The four-year comparison (02-05) showed similarities with respect to the traffic-related contacts. As evident in table 3, the percentage of drivers contacted is consistent with minimal changes from year to year and percentages shown are consistent with Race/Ethnicity populations for community.

With the four-year comparison in place the Texas State University – San Marcos Police Department does not show an increasing trend for contacts within a specific Race/Ethnicity populace when compared to the overall population increase for the community.

# **(III) Summary**

## **Summary Statement**

The findings suggest that the Texas State University – San Marcos Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received complaints from community members regarding officers misconduct associated with racial profiling practices.

The continuing effort to collect police contact data will assure an on-going evaluation of the Texas State University – San Marcos Police Department practices. Thus, allowing for the citizens of the Texas State University – San Marcos community to continue to benefit from professional and courteous service from their police department.

# Checklist

## Checklist

The following requirements **were** met by the Texas State University – San Marcos Police Department in accordance with Senate Bill 1074:

- Clearly defined act of actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Texas State University – San Marcos Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
  - a) Race and ethnicity of individual detained
  - b) Whether a search was conducted
  - c) If there was a search, whether it was a consent search or a probable cause search
  - d) Whether a custody arrest took place
- Produce an annual report on police contacts (Tier 1) and present this to local governing body by March 1, 2006.
- 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:

Ralph C. Meyer  
Director  
Texas State University – San Marcos Police Department  
615 N. LBJ  
San Marcos, Texas 78666

**The Texas State University -  
San Marcos Police Department  
Annual Contact Report  
(2006)**



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Charles R. Matthews

# **(I) Introduction**

# Opening Statement

March 1, 2007

Chancellor Charles Matthews  
The Texas State University System  
Thomas J. Rusk Building  
200 E. 10<sup>th</sup> Street, Suite 600  
Austin, Texas 78701-4311

President Denise M. Trauth  
Texas State University–San Marcos  
601 University Dr.  
San Marcos TX 78666-4615

Dear President Trauth & Chancellor Matthews,

The concept of eliminating racial profiling has emerged as a prevalent theme among law enforcement agencies in the United States. The Texas legislature, in an attempt to address the issue of racial profiling in policing, passed the Texas Racial Profiling Law (S.B. 1074). Since becoming effective, the Texas State University–San Marcos Police Department, in accordance with S.B. 1074, has collected citation-based contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices among police officers.

In this particular report, you will find three sections that contain information on citation-based contact data along with documentation which aims at demonstrating the manner in which the Texas State University – San Marcos Police Department has complied with S.B. 1074. Section 1 contains the table of content in addition to the Texas Law on Racial Profiling. Also in this section, you will find the list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education). In addition, sections 2 and 3 contain documentation which demonstrates compliance by the Texas State University–San Marcos Police Department with the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the implementation of a racial profiling complaint process (which has been disclosed to the public) and the training administered to all law enforcement personnel are included.

The final components of this report provide statistical data relevant to public contacts, made during the course of traffic stops, between 1/1/06 and 12/31/06. This information has been analyzed and compared to data derived from the Institutional Research Statistics and to the citation-based contact data collected in 2006. The final analysis and recommendations are also included in this report.

I am hopeful that the findings presented in this report represent the willingness of the Texas State University–San Marcos Police Department to identify and resolve any issues relevant to racial profiling.

Sincerely,

Ralph C. Meyer  
Chief, University Police Department

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# Texas Racial Profiling Law Requirements

## Guidelines for Compiling and Reporting Data under Senate Bill 1074

### Background

Senate Bill 1074 of the 77<sup>th</sup> 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 77<sup>th</sup> Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide an analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

#### **Standard 4**

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

#### **Commentary**

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

#### **Standard 5**

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

#### **Commentary**

None

#### **Standard 6**

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

#### **Commentary**

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

#### **Standard 7**

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

#### **Commentary**

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

# The Texas Law on Racial Profiling

S.B. No. 1074

IN 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.

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President of the Senate

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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.

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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.

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Chief Clerk of the House

Approved:

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Date

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Governor

# **(II) Responding to the Law**

## **Institutional Policy on Racial Profiling**

### **Police Department Policies**

#### **Mission Statement**

The Texas State University Police Department focuses on excellence in all we do to provide leadership through innovation and creativity in a dynamic, diverse, and professional organization. We will strive to create a safe and secure learning environment by dedicating ourselves to raising the level of preparedness to meet the needs of today and the challenges of tomorrow. We pledge to sustain a working partnership with our campus community to improve the quality of life. We will accomplish our mission by providing proactive service and encouraging community awareness in support of the University's mission.

#### **In-Car Digital Video System Operational Procedure**

##### **10.01.01 General**

**Each officer will obtain the body worn equipment necessary to provide audio recording capability for the in car video system at the beginning of their tour of duty. Such equipment will be worn by the officer at all times when on tour of duty and in contact with the general public. In the event an officer does not utilize the video recording system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 10.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)**

**Each vehicle used for tour of duty will have a video system, which is functional, and such system is to be used during any and all investigative stops made where the patrol vehicle is within proximity to the investigative contact. It is only necessary for one video system to be recording during an investigative contact unless a second officer is conducting additional interviews, which would be pertinent to the situation. In the event a vehicle is not available with a functional video system the**

**officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 10.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)**

#### **10.02.01 Digital Video Logon Requirement**

**The digital video recording system is designed to auto start upon computer start up with officer logon requirements. Officers will log on using their last name and radio/badge number at the screen provided by the system. Upon entering this information the recording application will be accessible.**

#### **10.02.02 Initial Operation Test**

**At the beginning of shift each officer will complete an initial operation test of the digital video recording system.**

- A. On emergency lighting test, when emergency lighting is turned on officer will confirm the record function begins.**
- B. On emergency lighting test, when emergency lighting is turned off officer will confirm the record function ends.**
- C. On body mic test officer will confirm the record function begins by visually observing the green indicator by record status indicator.**
- D. On body mic test officer will confirm the record function ends by visually observing the red indicator by record status indicator.**
- E. Officer will confirm the record function initiates by visually observing the green indicator by record when the record button is pushed on the touch screen display.**
- F. Officer will confirm the record function stops by visually observing the red indicator by record when the stop button is pushed on the touch screen display.**

#### **10.02.03 Video Review in Field**

- A. Officers may review videos prior to auto download by choosing the play option at the left of the touch screen monitor.**
- B. Events stored are shown in a list at the bottom of the play back module, any file shown may be played for review.**

- C. All items in the list are protected from erasure/editing by the digital video recording system.

**10.02.04 Auto Download Process**

- A. Officers will park their vehicles in a position to allow the wireless network interface device to connect with the University Police Departments network or Texas State University's network.
- B. Down load process will begin upon connection and verification to the network, officer intervention is not necessary.

**10.02.05 Evidence Handling**

To insure a valid chain of custody the following procedure is to be followed:

- A. Request for video files to be processed for evidence will be made by memo, email or other written communication by the reporting officer.
  - 1. The request will include the officer, vehicle, date and time.
- B. Request will be sent to the Sergeant Special Projects.
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.
  - 1. Storage media for digital video will be configured in a manner which will allow access only by the Sergeant Special Projects.
  - 2. After copying the segment an archive copy will be created.
  - 3. After generating the required copies a supplement report will be written.
- D. The Sergeant of Special Projects will then place the media showing the segment into evidence.

**10.03.01 Request for Digital Video Segments-Administrative**

All requests for digital video segments for administrative use must be approved by the Director/Chief of Police or designee.

To insure proper documentation the following procedure is to be followed:

- A. Request for video files to be processed for administrative use will be made by memo, email or other written communication by the requesting party.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**

#### **10.04.01 Handling of Digital Media in the Event of A Complaint**

**All requests for digital video segments for administrative use during a complaint against a police department employee must be approved by the Director/Chief of Police or designee.**

**To insure proper documentation the following procedure is to be followed:**

- A. Request for video files to be processed for administrative use will be made by memo, email or other written communication by the requesting party.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**
- D. Upon completion of the duplication process the media will be provide to the Director/Chief of Police or designee.**

#### **10.05.01 Digital Video Storage**

**All stored data segments, which have been maintained for a minimum of 90 days, in compliance with state law.**

#### **10.06.01 Car Video System Maintenance**

**The department may assign personnel to perform maintenance procedures on the video systems. Such maintenance will be conducted by authorized personnel. Maintenance function will be in a manner which does not endanger any stored digital video.**

**10.07.01 Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops**

**An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:**

- A. A physical description of each person detained as a result of the stop, including:
  - 1. The person's gender;**
  - 2. The person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.****
- B. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.**
- C. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.**
- D. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.**

**10.08.01 Documenting Video Availability on Citations**

**If a traffic violation is video recorded the vehicle number will be place a notation on the citation which indicates the availability of video.**

**In-Car Digital Video System Operational Procedure**

**11.00.01 General**

**Each officer will obtain the body worn equipment necessary to provide audio recording capability for the in car video system at the beginning of their tour of duty. Such equipment will be worn by the officer at all times when on tour of duty and in contact with the general public. In the event an officer does not utilize the video recording system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard](#)**

## **Operations Policy 11.07.01 (Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops)**

The shift supervisor, or senior officer in absence of a supervisor, shall be responsible for any and all access to the video system tape vault. The only exception is when accessed for maintenance related situations. In such case the officer assigned to perform the maintenance will be responsible for documenting the access.

Each vehicle used for tour of duty will have a video system, which is functional, and such system is to be used during any and all investigative stops made where the patrol vehicle is within proximity to the investigative contact. It is only necessary for one video system to be recording during an investigative contact unless a second officer is conducting additional interviews, which would be pertinent to the situation. In the event a vehicle is not available with a functional video system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 11.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)

### **11.02.00 Tape Vault Access**

The shift supervisor may access the video system vault at any time to remove and replace a tape. Such access does not require a case number issued by Communications. In the event a supervisor is not on duty, the senior officer may access the video system tape vault by obtaining a case number and vault system keys from Communications.

#### **11.02.02 Installation and Removal of Tapes**

A new tape will be placed in the tape vault with the “vehicle number” and “date in” filled in. Such information is to be recorded on the tape top label.

- A. A “sticker” will be placed on the vault with the enclosed tape number recorded. (The tape number will be placed on all DAR’s, citations where a violation was video taped and reports that are generated as a result of a traffic stop. [Texas State University Police Department Standard Operations Policy 11.08.01 \(Recording of Tape Numbers On Citations\)](#))
- B. The tape removed will be marked with the “date out” filled in.
- C. The “sticker” will be removed from the vault and placed on the tape sleeve and placed in the locked Records Video Tape Box.

### **11.02.03 Removal of Damaged Tapes**

**In the event the tape vault rejects the new tape or damages a tape after insertion, the system will be noted as non-functional and reported for maintenance.**

- A. In the event the damaged tape cannot be removed, the system will be noted as non-functional and reported for maintenance.**

### **11.02.04 Removal of a Tape for Evidence Purposes**

**Tapes removed for evidence require the reporting officer to be present to receive the tape from the video vault. The shift supervisor or senior officer will observe such receipt by the officer.**

- A. The tape removed will be marked with the “date out” filled in and a case number will be written in on the spine label.**
- B. A new tape will be placed in the tape vault with the “vehicle number” and “date in” filled in. Such information is to be recorded on the tape top label as stated in [Texas State University Police Department Standard Operations Policy 11.02.02 \(Installation and Removal of Tapes\)](#)**

### **11.02.05 Removal of Recording Tab**

**To insure videotapes are not erased the following procedure will be followed:**

- A. Removal of the original tape record-enabling tab (If Present).**
- B. Removal of the record enabling tape placed on a recycled tape by the department.**

### **11.03.01 Handling of Tapes Removed From the Video Vault**

**All tapes removed will be placed in the temporary Locked Records Video Box.**

**Records Supervisor will remove the videotapes from the Video Box and handle them as official documents of the Department. The tapes will be filed in the 90-day rotation storage if the tape is of no evidence value. At the completion of a minimum 90-day cycle the tapes will be erased, renumbered and returned to service.**

**For tapes that have evidence value, Records Section will make a copy and forward the tape with the case file to the District Attorney’s Office.**

**When a tape has reached its 90 -day rotation and it has evidence value (case**

number assigned) the tape will be transferred to the case file. The tape will not be taken out of service until released by the District Attorney's Office.

#### **11.04.01 Handling of Tapes in the Event of A Complaint**

Any tape, which is alleged to possess evidence of racial profiling or improper conduct on the part of an officer, shall be immediately removed from the 90-day storage file. Records Section personnel will submit the referenced tape to the Captain of Support Services or the Captain of Patrol Operations in the absence of the Captain of Support Services.

#### **11.05.01 Tape Recycling**

All tapes, which have been maintained for a minimum of 90 days, will be remarked with a new spine number and new tape top label if needed. The spine label numbering sequence will be a multi-digit sequential number assigned by the Records Section.

#### **11.06.01 Car Video System Maintenance**

The department may assign personnel to perform maintenance procedures on the video systems. Such maintenance will be conducted under the following guidelines:

- A. Maintenance procedures that do not require access to the video vault may be done without the issuance of a case number by Communications.
- B. Maintenance procedures, which may require access to the video vault require the key for such vault to be checked out and a case number issued.
- C. Any tape removal performed during maintenance conditions requires a replacement tape and must comply with the handling of tapes removed from video section.
  1. Information will be submitted to the Records Supervisor by the officer detailing why the tape was removed.
- D. If a tape cannot be removed using the system eject function no maintenance will be performed until the manufacturers are consulted.
- E. The officer(s) assigned to perform maintenance must perform any "Menu Access" for the system. Such Menu Access does not require a case number.
- F. The tape in a video vault must be removed by authorized department personnel prior to access by outside maintenance personnel.

**11.07.01 Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops**

**An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:**

- A. A physical description of each person detained as a result of the stop, including:
  - 1. The person's gender;**
  - 2. The person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.****
- B. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.**
- C. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.**
- D. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.**

**11.08.01 Recording of Tape Numbers On Citations**

**If a traffic violation is video recorded the tape number will be placed on the upper left hand corner of each page/copy of the citation issued.**

**11.09.01 Video Taping of Designated Points**

**Officers may not monitor and record via videotape any intersection or traffic control device without prior approval of the shift sergeant.**

# **Racial Profiling Policy**

## **15.01.00 PURPOSE**

The purpose of the policy is to reaffirm the Texas State University Police Department's commitment to unbiased policing in all its encounters between officer and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

## **15.02.00 POLICY**

It is the policy of this department to police in a proactive manner and, to aggressively investigate suspected violations of law. Officers shall actively enforce State and Federal laws, what may be applicable in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

## **15.03.00 DEFINITIONS**

**Racial Profiling** – A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts.

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of

a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

.01 Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.

.02 Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.

.03 Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect. Racial profiling is not relevant as it pertains to witnesses, etc.

**Race or Ethnicity** – Of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American.

**Pedestrian Stop** – An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

**Traffic Stop** – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

#### **15.04.00 TRAINING**

Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

All officers shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001 held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.

The chief of police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

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

#### **15.05.00 COMPLAINT INVESTIGATION**

.01 The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she has filed such a complaint.

.02 Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint to Captain of Support Services or the Captain of Patrol Operations in the absence of Captain of Support Services. Any employee contacted shall provide to that person a copy of a complaint form or the department process for filing a complaint (Annex #1) Racial Profile complaint form. All employees will report any allegation of racial profiling to their superior before the end of their shift.

.03 Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the chief. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.

.04 If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.

.05 If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

#### **15.06.00 PUBLIC EDUCATION**

This department will inform the public of its policy against racial profiling and the complaint process. The method of publication will be The Campus Watch and the UPD web page.

## **15.07.00 CITATION DATA COLLECTION & REPORTING**

An officer is required to collect information relating to traffic stops in which a citation is issued. On the citation officers must include:

- .01 The violators race or ethnicity;
- .02 Whether a search was conducted;
- .03 was the search consensual; and
- .04 arrest for this cited violation or any other violation.

By March of each year, the department shall submit a report to their governing board that includes the information gathered by the citations. The report will include:

- .05 a breakdown of citations by race or ethnicity;
- .06 number of citations that resulted in a search;
- .07 number of searches that were consensual; and
- .08 number of citations that resulted in custodial arrest for this cited violation or any other violation.

Not later than March 1<sup>st</sup> of each year, this department shall submit a report to our governing body containing this information from the preceding calendar year.

## **15.08.00 USE OF VIDEO AND AUDIO EQUIPMENT**

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

Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video, or audio, will be so recorded.

This department shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.

Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. A recording of each officer will be reviewed at least once every thirty (30) days.

\*If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the officer making the stop may properly record and report the information as required in 15.09.00.

**15.09.00 COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS WHEN VIDEO CAMERA IS NOT USED**

An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information if a citation is issued.

- .01 A physical description of each person detained as a result of the stop, including:
  - a) The person's gender;
  - b) The person's race or ethnicity, as determined by the officer to the best of his/her ability.
- .02 The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.
- .03 Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.
- .04 Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.

This department shall compile and analyze the information contained in these individual reports. Not later than March 1<sup>st</sup> of each year, this department shall submit a report to our governing body containing the information compiled from the preceding calendar year in a manner they approve. This report will include:

- .05 A comparative analysis of the information contained in the individual reports in order to:
  - a) Determine the prevalence of racial profiling by officers in this department; and
  - b) Examine the disposition of traffic and pedestrian stops made by this department's officers, including searches resulting from stops.
- .06 Information relating to each complaint filed with this department alleging racial profiling.

This report will not include identifying information about a peace officer who makes a stop or about an individual who is stopped or arrested by a peace officer.

## **CHAPTER 4.00.00**

### **DISCIPLINE**

#### **4.01.00 DUTY TO REPORT MISCONDUCT**

All officers are required to report any misconduct of University Police Department employees to the Director/Chief of Police. Officers who observe other UPD employees acting in a discourteous or disrespectful manner are likewise required to report that conduct to the Director/Chief of Police.

#### **4.01.01 COMPLAINTS TO DIRECTOR/CHIEF OF POLICE**

For a complaint to be considered for an Internal Investigation (IA) by the Director/Chief of Police, “the complaint must be: (1) in writing; and (2) signed by the person making the complaint.” (Vernon’s Annotated Civil Statutes section 614.022.) An inquiry to determine if an IA is warranted does not constitute an “investigation.”

#### **4.01.02 GENERAL PROVISIONS**

- A. The department has an obligation to investigate all allegations of misconduct or complaints made against a police officer. All allegations will be reviewed.
- B. Complaints or allegations of misconduct may be presented by supervisory or commanding officers, other officers or employees of this department, citizens and members of the general public or public officials. Anonymous complaints shall be accepted by phone, mail, or in person from the one who receives it. However, such allegations must be reported to the Director/ Chief of Police and will only be investigated at the discretion of the Director/Chief of Police.
- C. All allegations or complaints of misconduct shall be accepted and forwarded without unnecessary delay to the Director/Chief of Police. All investigations into alleged employee misconduct require prior approval from the Director/Chief of Police.
- D. For complaints which might result in suspension for more than 3 days, or termination, the officer will be notified in writing as soon as reasonably possible, as required by Article 614.023 of Vernon’s Texas Civil Statutes, outlining the nature of the complaint. Officers will be given the opportunity to rebut such allegations.

- E. The Director's Admin Assistant will assign a Personnel Investigation number (PI#) to the investigation.
  - 1. The Director's Admin Assistant shall record and maintain a log of every allegation assigned an investigative number by the Director/Chief of Police.
  - 2. The control log shall contain the following:
    - a. A separate control number for each allegation or matter;
    - b. Name, rank, and identifying number of the employee involved.
    - c. Date and hour the complaint was received;
    - d. Name and address of the complainant;
    - e. Disposition of investigation;
    - f. Hearing disposition, if any; and
    - g. Action taken, if any.
  - 3. The Director/Chief of Police shall verify that any allegations have been recorded and handled in accordance with this policy, within 30 business days of resolution.
  - 4. Only personnel authorized by the Director/Chief of Police may receive access to the control log. Logs and all complaint and investigative materials shall be kept confidential.
- F. Depending upon the circumstances, the Director/Chief of Police will also indicate any change in the officer's duty status during the investigation.
- G. The investigation shall be completed within 25 business days. However, under unique circumstances, an extension may be granted by the Director/Chief of Police provided the Captain in charge of the investigation has, in writing, outlined the reasons for the delay.

- H. All officers shall cooperate during the investigation by providing information, statements, and any other assistance that may be required.
- I. The completed investigation will be forwarded to the Director/Chief of Police. The document will include the findings and a recommendation from the officer's supervisor and Captain, outlining the appropriate course of action.
- J. The final decision regarding the outcome of the investigation and action to be taken will be made by the Director/Chief of Police and provided, in writing, to the officer.
- K. Any disciplinary action taken against an officer will comply with the Texas State University – San Marcos UPPS Number 04.04.40, Disciplining Staff Employees.

**4.01.03 SUPERVISOR'S ROLE**

- A. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with the first line supervisors.
- B. Each supervisor shall familiarize himself with his/her employees, and closely observe their general conduct and appearance on a daily basis.
- C. A supervisor shall have the authority to reprimand a subordinate employee for minor infractions. Such reprimands, whether oral or written, may include a warning, corrective advice, or recommend counseling or training. A supervisor properly imposes a reprimand when he/she reasonably determines that the alleged misconduct does not require further investigation or action. However, such reprimands are subject to review by the Captain of the Officers' Division or Director/Chief of Police.
- D. A supervisor shall have the authority to temporarily relieve from duty an employee for the balance of the working day (with full pay and benefits) if the employee, by continuing works, would tend to discredit or impair the operation of the department. The supervisor shall immediately notify the Director/Chief of Police by phone or in person and then in writing of any such temporary action. Call the Director/Chief of Police at the time of the incident if it is of such magnitude that it could bring condemnation to the department.

- E. All members who are under suspension shall not wear the uniform nor be armed while under suspension. Members will surrender their badge, issue weapon and police identification upon the request of the Director/Chief or his designee.

**4.01.04 ADMINISTRATIVE CAPTAIN'S RESPONSIBILITIES**

- A. The Administrative Captain has the authority and responsibility to conduct internal investigations, or refer such investigations to his designee, as authorized by this Department Operating Procedure. However, the Director/Chief of Police has the authority to assign Internal Affairs investigations to other command or supervisory personnel at his/her discretion.
- B. Upon the completion of an investigation, the Administrative Captain (or other assigned authority) shall review all statements, evidence, information and photographs, and make a full report and recommendation based upon the investigation as follows:
  - 1. A violation has or has not occurred;
  - 1. Exoneration;
  - 3. Corrective action should be taken; or
  - 4. Disciplinary action should be taken.
- C. The full report shall be forwarded to the Director/Chief of police for review.

**4.01.05 INTERNAL INVESTIGATIONS**

- A. The investigator shall make every effort to interview the complainant, the accused officer, or other persons having knowledge of relevant facts concerning allegations.
- B. Every statement shall be reduced to writing by the investigator.
- C. The Director/Chief of Police may require chemical or other reports or photographs of the employees as an aid to investigation.
- D. The Director/Chief of Police may order the employee to submit to a polygraph examination concerning the matter under investigation.
- E. Any interview of the employee involved shall take place within a reasonable time in relation to the employee's work. However,

interviews or telephone conversations conducted outside normal work hours initiated by the subject of the investigation will not be compensated in terms of over-time or compensatory time. The interviewer shall identify his intent and purpose and inform the officer of the nature of the charge. Additionally, the following points should be noted:

1. Questions are directed and narrowly related to the performance of the officer's duties or the officer's fitness as a police officer.
  2. The officer involved is entitled to all rights and privileges guaranteed by the laws and the Constitution of the United States, including the right not to be compelled to incriminate oneself.
  3. Refusal to comply with a department investigation, including answering questions relating to the performance of the employee's official duties or fitness for duty, will be subject to departmental disciplinary actions which may result in termination from the police department.
- F. The interview shall be recorded and/or transcribed.
- G. The Director/Chief of Police may order the employee to answer material and relevant questions specifically, and directly, narrowly relating to the incident.
- H. Upon completion of the investigation, the investigator shall prepare a detailed report of the investigations and conclusions.
- I. All investigations must be completed and the report filed within 25 days from receipt of the allegation unless special circumstances warrant an extension.
- J. The Director/Chief of Police shall have the authority, prior to investigation or hearing and after receipt of a complaint which alleges conduct on the part of the employee which is a felony or crime of moral turpitude, to relieve such employee of duty or to restrict duties, for the good of the department which shall not be construed or reported as disciplinary action.

#### **4.01.06**

#### **CRIMINAL INVESTIGATIONS**

- A. If during an internal investigation evidence of misconduct is found, the investigating officer shall notify the Director/Chief of Police of such finding.
- B. The Director/Chief of Police shall make a determination of what type of investigation is to continue.
  - 1. The Director/Chief of Police may authorize the internal investigation to continue or may authorize a criminal investigation to begin or may authorize both.
  - 2. If both an internal investigation and criminal investigation are authorized, they shall be separate and evidence, statements, and information gathered in one is not interchangeable between the two.
- C. Upon receiving a complaint or information that an employee allegedly engaged in criminal conduct, the Director/Chief of Police shall make a determination as to what agency is to conduct the investigation.
  - A. The employee is not entitled to know details of the criminal investigation if, in the opinion of the Director/Chief of Police or the investigator, such revelation could jeopardize the investigation or prosecution thereof.

## ***Informing the Public on the Process of Filing a Complaint with the Texas State University – San Marcos Police Department***

### ***Educational Campaign:***

*Since 2002, the Texas State University - San Marcos Police Department, in accordance to Senate Bill 1074, has launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, by posting, in the lobby area and its web site information (included) on filing a complaint on a racial profiling violation by a Texas State University - San Marcos Police Officer. The complaint process posted in the lobby area of the police department was written in English and Spanish.*

*The Texas State University - San Marcos Police Department included language, in its current complaint process, pertaining to the manner in which citizens can file a complaint as a consequence of a racial profiling incident. 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.*

# **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 Texas State University – San Marcos Police Department**

Since 2002, the Texas State University – San Marcos Police Department, in accordance to Senate Bill 1074, launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, in the lobby area, information relevant to filing a complaint on a racial profiling violation by a Texas State University – San Marcos police officer.

The Texas State University – San Marcos Police Department included language, in its current complaint process, pertaining to the manner in which citizens can file a complaint as a consequence of a racial profiling incident. 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 Texas State University – San Marcos police officers were instructed, as specified in S.B. 1074, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Texas State University – San Marcos Police Department have completed the TCLEOSE basic training. The main outline used to train the officers of Texas State University – San Marcos has been included in this report.

It is important to recognize that the Chief of the Texas State University – San Marcos 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 Texas State University – San Marcos 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 1/1/06---12/31/06, 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 Texas State University – San Marcos 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 1/1/06 ---- 12/31/06.

Complaints Filed for Possible Violations of S.R. 1074 (The Texas Racial Profiling Law)

Complaint No.	Alleged Violation			Disposition of the Case

**Additional Comments:**

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# Tables Illustrating Traffic Contact

## (I) Tier 1 Data

Traffic-Related Contact Information (1/1/06—12/31/06)

Race/Ethnicity*	Contacts		Searches		Consensual Searches		Probable Cause Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
<b>Caucasian</b>	781	82%	225	88%	44	98%	183	86%	91	93%
<b>African</b>	28	3%	3	1%	0	0%	3	1%	0	0%
<b>Hispanic</b>	134	14%	28	11%	1	2%	27	13%	6	6%
<b>Asian</b>	3	0%	1	0%	0	0%	1	0%	1	1%
<b>Native American</b>	0	0%	0	0%	0	0%	0	0%	0	0%
<b>Other</b>	7	1%	0	0%	0	0%	0	0%	0	0%
<b>Total</b>	953	100%	257	100%	45	100%	214	100%	98	100%

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

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

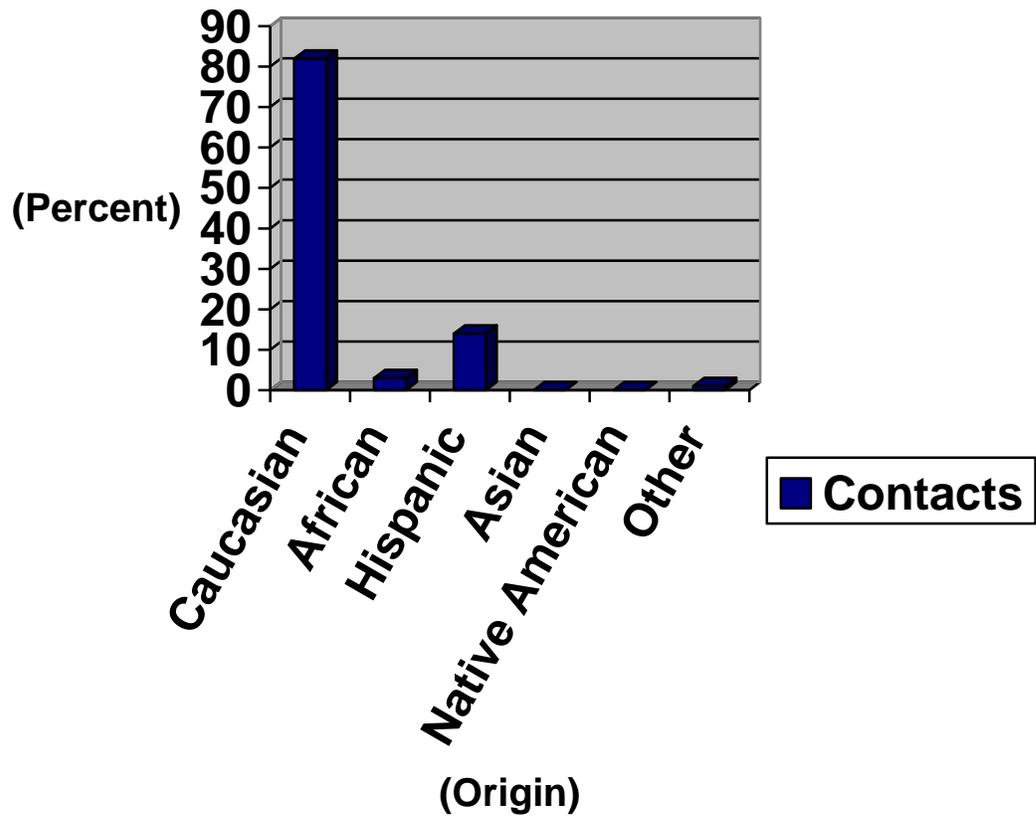
\*\*Figure has been rounded

Race/Ethnicity*	Contacts		TxState University ** Demographic Data		Variance	
	#	%	#	%	#	%
<b>Caucasian</b>	781	82%	21458	69%	123	13%
<b>African</b>	28	3%	1511	5%	-18	-2%
<b>Hispanic</b>	134	14%	6445	21%	-64	-7%
<b>Asian</b>	3	0%	747	2%	-20	-2%
<b>Native American</b>	0	0%	173	1%	-5	-1%
<b>Other</b>	7	1%	754	2%	-16	-2%
<b>Total</b>	953	100%	31088	100%		

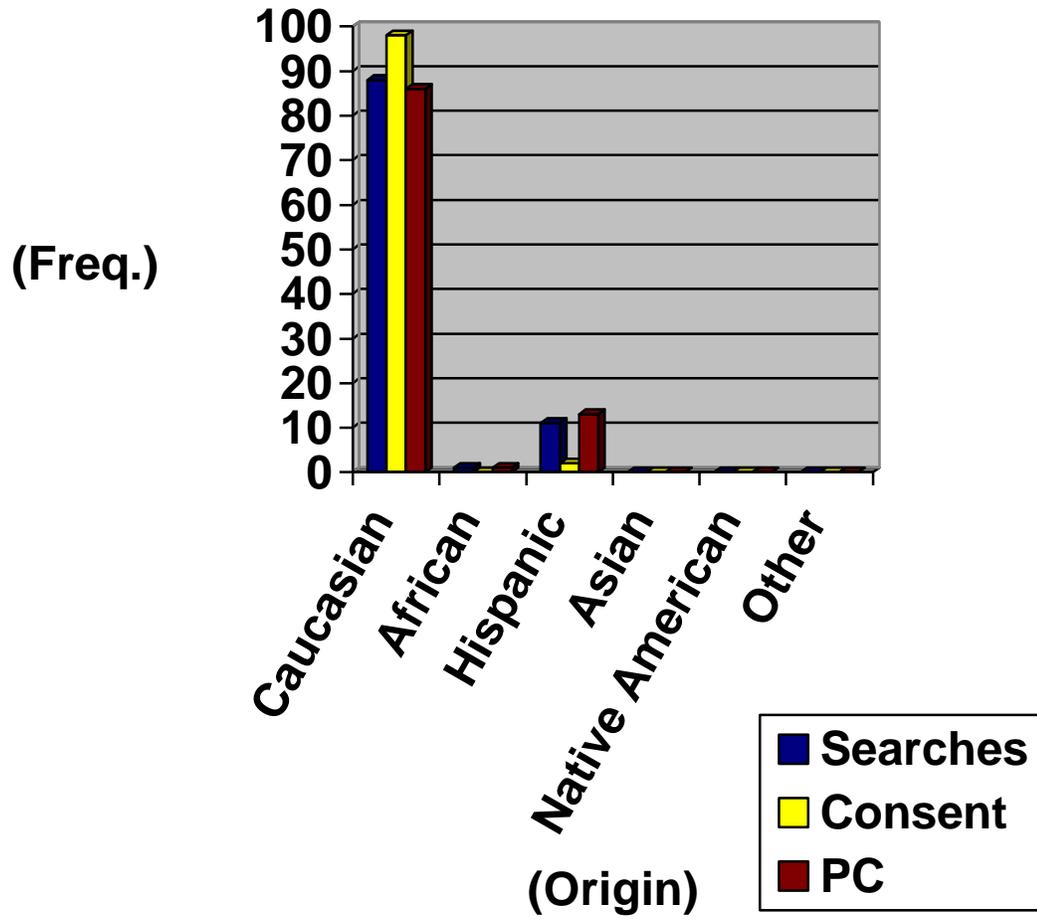
\* Race/Ethnicity are defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".

\*\* Texas State University demographic data is compiled from information published by Texas State University Institutional Research on student enrollment and agency workforce.

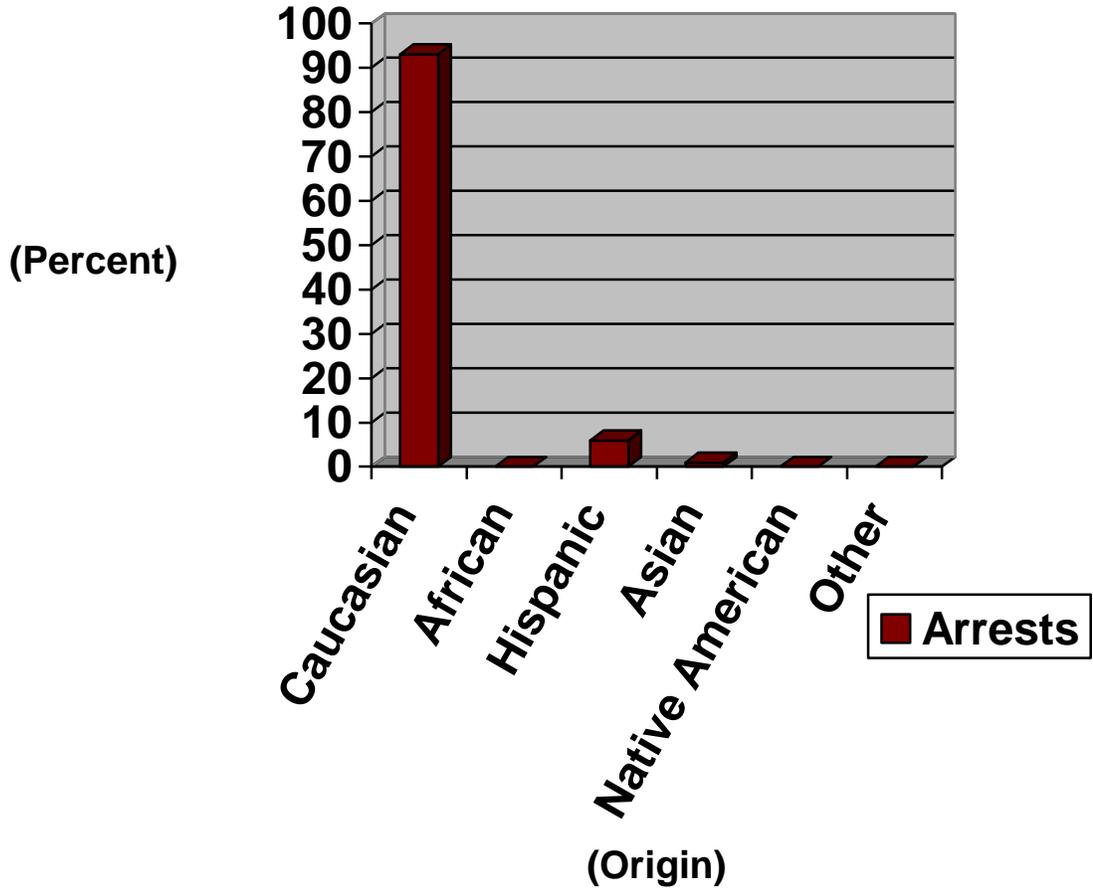
## Tier 1 Data (Contacts)



### Tier 1 Data (Searches)



# Tier 1 Data (Arrests)



# Tier 1 Data (Four-Year Comparative Analysis) (2003—2006)

## (III) Four-Year Tier 1 Data Comparison

### Comparison of Four-Year Traffic-Related Contact Information (1/1/03 - 12/31/06)

Race/Ethnicity*	Traffic-Related Contacts			
	(03)	(04)	(05)	(06)
	%	%	%	%
<b>Caucasian</b>	77%	78%	79%	82%
<b>African</b>	5%	4%	3%	3%
<b>Hispanic</b>	18%	16%	16%	14%
<b>Asian</b>	1%	1%	1%	0%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	0%	0%	1%	1%
<b>Total</b>	100%	100%	100%	100%

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

\*\* Figure has been rounded.

**Comparison of Four-Year Traffic-Related Search Information  
(1/1/03 - 12/31/06)**

Race/Ethnicity*	Traffic-Related Searches			
	(03)	(04)	(05)	(06)
	%	%	%	%
<b>Caucasian</b>	76%	81%	84%	88%
<b>African</b>	6%	6%	1%	1%
<b>Hispanic</b>	17%	12%	14%	11%
<b>Asian</b>	0%	0%	0%	0%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	0%	1%	0%	0%
<b>Total</b>	100%	100%	100%	100%

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

\*\* Figure has been rounded.

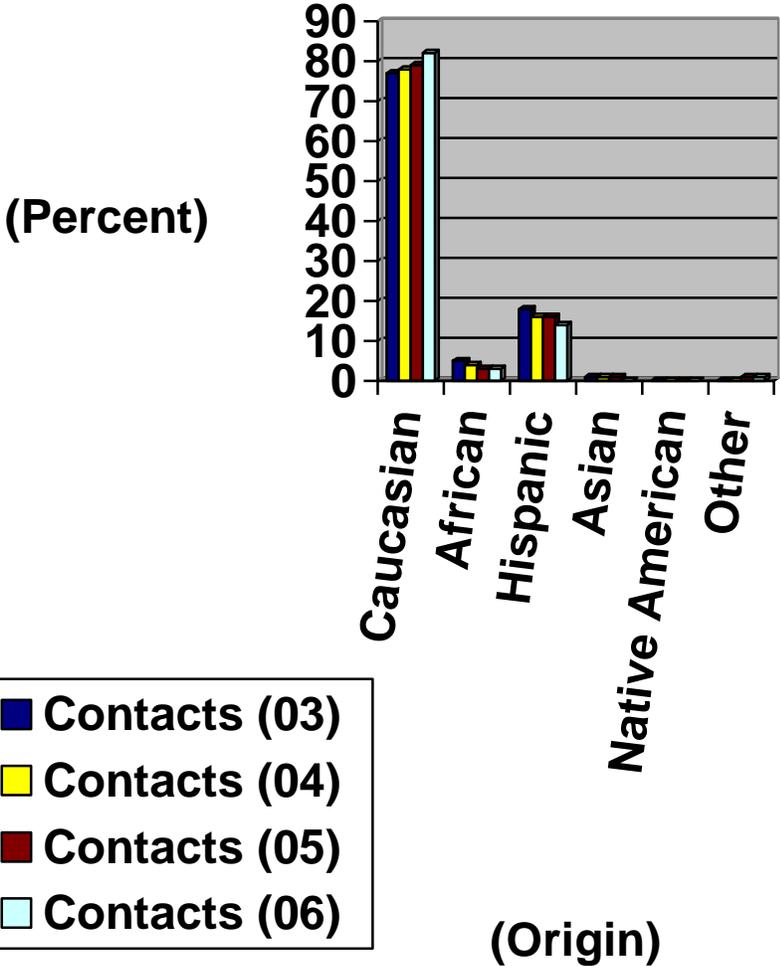
**Comparison of Four-Year Traffic-Related Arrest Information  
(1/1/03---12/31/06)**

Race/Ethnicity*	Traffic-Related Arrests			
	(03)	(04)	(05)	(06)
	%	%	%	%
<b>Caucasian</b>	76%	78%	84%	93%
<b>African</b>	6%	8%	1%	0%
<b>Hispanic</b>	17%	13%	15%	6%
<b>Asian</b>	0%	0%	0%	1%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	1%	1%	0%	0%
<b>Total</b>	100%	100%	100%	100%

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

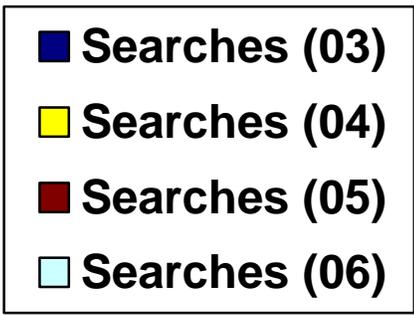
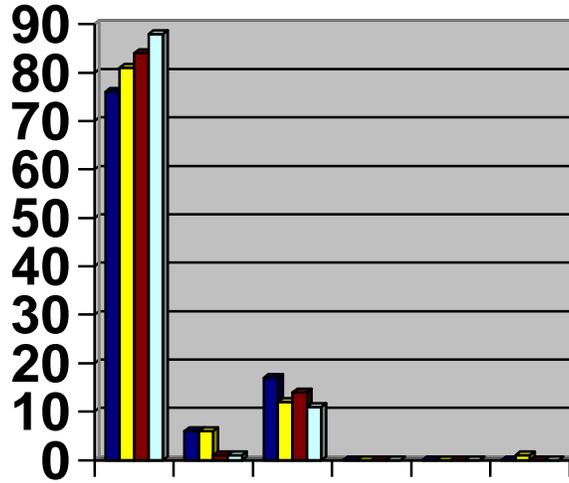
\*\* Figure has been rounded.

### Tier 1 Data (Contacts 03-06)



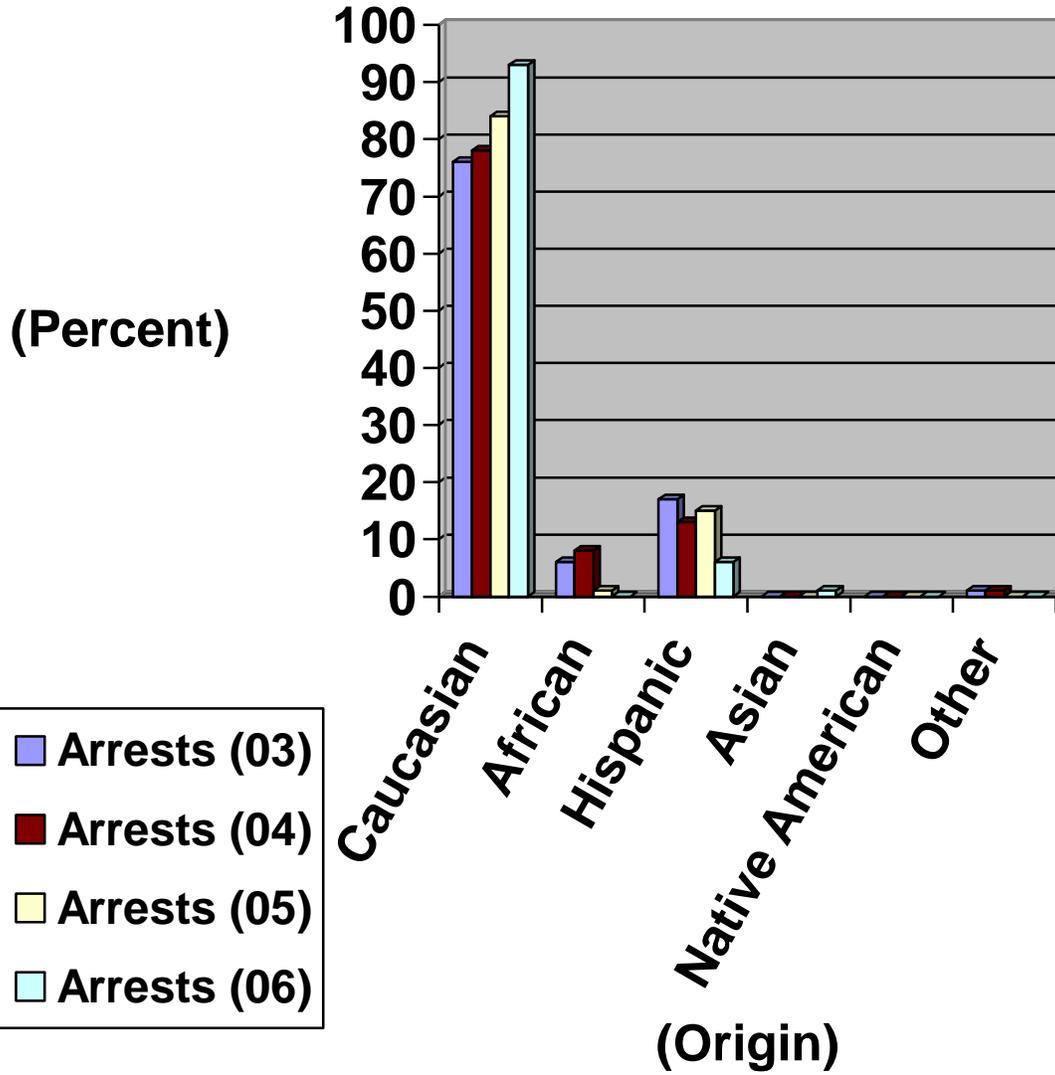
# Tier 1 Data (Searches 03-06)

(Percent)



(Origin)

### Tier 1 Data (Arrests 03-06)



# Analysis and Interpretation of Data

## Analysis

Since 2002, The Texas Racial Profiling Law (S.B. 1074) required that all police departments in the state collect traffic-related data and report this information to their local governing authority. The purpose in collecting and presenting this information is to determine if a police officer is engaging in the practice of profiling minority motorists. Despite the fact most agree that it is a good idea for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if police departments are engaging in racial profiling, from a review of aggregate data. That is, it is very difficult to detect specific “individual” racist behavior from aggregate-level “institutional” data on traffic-related contacts.

Notwithstanding this, the Texas State University – San Marcos Police Department, in an effort to comply with The Texas Racial Profiling Law (S.B. 1074), commissioned the analysis of its 2006 traffic contact data. Thus, three different types of analyses were conducted. The first of these involved a careful evaluation of the 2006 traffic stop data. This particular analysis measured, as required by S.B. 1074, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, and individuals belonging to the “other” category, that came in contact with the police and were issued a traffic-related citation in 2006. In addition, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search (i.e., consensual or probable cause) conducted. Finally, the data analysis highlighted the number and percentage of individuals who, after they were issued a citation, were arrested.

The second type of analysis was based on a comparison of the 2006 traffic contact data with a particular baseline. It should be noted that there is also a great deal of disagreement, in the academic literature, over the type/form of baseline to be used when analyzing traffic-related contact information. Of all the baseline measures available, the Texas State University – San Marcos Police Department decided to adopt, as a baseline measure, demographic data published by Texas State Institutional Research department on student, faculty, and staff that includes race and ethnicity. This data is accurate for the University population. However, this data does not account for the impact of local residents and visitors. The Texas State University – San Marcos Police Department made a decision that it would use this form of comparison in an attempt to demonstrate its “transparency” before the community.

Finally, a third type of analysis was conducted while using the 2003--2006 traffic contact data. Specifically, all traffic-related contacts made in 2006 were compared to similar figures reported in 2003--2005. When considering this analysis, it was determined that comparing four years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. That is, the four-year comparison

has the potential of revealing early indicators that a possible trend of police-initiated contacts with regards to members of a specific minority group, is in fact, developing.

#### Tier 1 (2006) Traffic-Related Contact Analysis

The Tier 1 data collected in 2006 showed that the Texas State University – San Marcos Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received complaints from community members regarding officers misconduct associated with racial profiling practices

The continuing effort to collect police contact data will assure an on-going evaluation of the Texas State University – San Marcos Police Department practices. Thus, allowing for the citizens of the Texas State University – San Marcos community to continue to benefit from professional and courteous service from their police department.

#### Four-Year Comparison

The four-year comparison (03-06) showed similarities with respect to the traffic-related contacts. As evident in table 3, the percentage of drivers contacted is consistent with minimal changes from year to year and percentages shown are consistent with Race/Ethnicity populations for community.

With the four-year comparison in place the Texas State University – San Marcos Police Department does not show an increasing trend for contacts within a specific Race/Ethnicity populace when compared to the overall population increase for the community.

# **(III) Summary**

## **Summary Statement**

The findings suggest that the Texas State University – San Marcos Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received complaints from community members regarding officers misconduct associated with racial profiling practices.

The continuing effort to collect police contact data will assure an on-going evaluation of the Texas State University – San Marcos Police Department practices. Thus, allowing for the citizens of the Texas State University – San Marcos community to continue to benefit from professional and courteous service from their police department.

# Checklist

## Checklist

The following requirements **were** met by the Texas State University – San Marcos Police Department in accordance with Senate Bill 1074:

- Clearly defined act of actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Texas State University – San Marcos Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
  - a) Race and ethnicity of individual detained
  - b) Whether a search was conducted
  - c) If there was a search, whether it was a consent search or a probable cause search
  - d) Whether a custody arrest took place
- Produce an annual report on police contacts (Tier 1) and present this to local governing body by March 1, 2006.
- 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:

Ralph C. Meyer  
Director  
Texas State University – San Marcos Police Department  
615 N. LBJ  
San Marcos, Texas 78666  
Phone: (512) 245-8336

Publications will, upon request, be available in alternative format

**The Texas State University -  
San Marcos Police Department  
Annual Contact Report  
(2007)**



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Greg Wilkinson (2011)  
Dallas

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Texas State University System  
Chancellor Charles R. Matthews

# **(I) Introduction**

March 1, 2008

Chancellor Charles Matthews  
The Texas State University System  
Thomas J. Rusk Building  
200 E. 10<sup>th</sup> Street, Suite 600  
Austin, Texas 78701-4311

President Denise M. Trauth  
Texas State University–San Marcos  
601 University Dr.  
San Marcos TX 78666-4615

Dear President Trauth & Chancellor Matthews,

The concept of eliminating racial profiling has emerged as a prevalent theme among law enforcement agencies in the United States. The Texas legislature, in an attempt to address the issue of racial profiling in policing, passed the Texas Racial Profiling Law (S.B. 1074). Since becoming effective, the Texas State University–San Marcos Police Department, in accordance with S.B. 1074, has collected citation-based contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices among police officers.

In this particular report, you will find three sections that contain information on citation-based contact data along with documentation which aims at demonstrating the manner in which the Texas State University – San Marcos Police Department has complied with S.B. 1074. Section 1 contains the table of content in addition to the Texas Law on Racial Profiling. Also in this section, you will find the list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education). In addition, sections 2 and 3 contain documentation which demonstrates compliance by the Texas State University–San Marcos Police Department with the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the implementation of a racial profiling complaint process (which has been disclosed to the public) and the training administered to all law enforcement personnel are included.

The final components of this report provide statistical data relevant to public contacts, made during the course of traffic stops, between 1/1/07 and 12/31/07. This information has been analyzed and compared to data derived from the Institutional Research Statistics and to the citation-based contact data collected in 2007. The final analysis and recommendations are also included in this report.

I am hopeful that the findings presented in this report represent the willingness of the Texas State University–San Marcos Police Department to identify and resolve any issues relevant to racial profiling.

Sincerely,

Ralph C. Meyer  
Chief, University Police Department

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- d) The Texas Law on Racial Profiling (S.B. 1074)

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- b) Educational Campaign Relevant to the Complaint Process—  
Addressing Allegations of Racial Profiling Practices
- c) Racial Profiling Training of Law Enforcement Personnel
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- b) Contact Information

# Texas Racial Profiling Law Requirements

## Guidelines for Compiling and Reporting Data under Senate Bill 1074

### Background

Senate Bill 1074 of the 77<sup>th</sup> 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 American, 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 77<sup>th</sup> Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African American, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

#### **Standard 4**

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

#### **Commentary**

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

#### **Standard 5**

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

#### **Commentary**

None

#### **Standard 6**

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

#### **Commentary**

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

#### **Standard 7**

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

#### **Commentary**

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

# The Texas Law on Racial Profiling

S.B. No. 1074

IN 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 American, 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 American, 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.

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President of the Senate

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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.

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Chief Clerk of the House

Approved:

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Date

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Governor

# **(II) Responding to the Law**

## **Institutional Policy on Racial Profiling**

### **Police Department Policies**

#### **Mission Statement**

The Texas State University Police Department focuses on excellence in all we do to provide leadership through innovation and creativity in a dynamic, diverse, and professional organization. We will strive to create a safe and secure learning environment by dedicating ourselves to raising the level of preparedness to meet the needs of today and the challenges of tomorrow. We pledge to sustain a working partnership with our campus community to improve the quality of life. We will accomplish our mission by providing proactive service and encouraging community awareness in support of the University's mission.

#### **In-Car Digital Video System Operational Procedure**

##### **10.01.01 General**

**Each officer will obtain the body worn equipment necessary to provide audio recording capability for the in car video system at the beginning of their tour of duty. Such equipment will be worn by the officer at all times when on tour of duty and in contact with the general public. In the event an officer does not utilize the video recording system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 10.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)**

**Each vehicle used for tour of duty will have a video system, which is functional, and such system is to be used during any and all investigative stops made where the patrol vehicle is within proximity to the investigative contact. It is only necessary**

for one video system to be recording during an investigative contact unless a second officer is conducting additional interviews, which would be pertinent to the situation. In the event a vehicle is not available with a functional video system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 10.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)

#### **10.02.01 Digital Video Logon Requirement**

The digital video recording system is designed to auto start upon computer start up with officer logon requirements. Officers will log on using their last name and radio/badge number at the screen provided by the system. Upon entering this information the recording application will be accessible.

#### **10.02.02 Initial Operation Test**

At the beginning of shift each officer will complete an initial operation test of the digital video recording system.

- A. On emergency lighting test, when emergency lighting is turned on officer will confirm the record function begins.**
- B. On emergency lighting test, when emergency lighting is turned off officer will confirm the record function ends.**
- C. On body mic test officer will confirm the record function begins by visually observing the green indicator by record status indicator.**
- D. On body mic test officer will confirm the record function ends by visually observing the red indicator by record status indicator.**
- E. Officer will confirm the record function initiates by visually observing the green indicator by record when the record button is pushed on the touch screen display.**
- F. Officer will confirm the record function stops by visually observing the red indicator by record when the stop button is pushed on the touch screen display.**

#### **10.02.03 Video Review in Field**

- A. Officers may review videos prior to auto download by choosing the play option at the left of the touch screen monitor.**

- B. Events stored are shown in a list at the bottom of the play back module, any file shown may be played for review.**
- C. All items in the list are protected from erasure/editing by the digital video recording system.**

**10.02.04 Auto Download Process**

- A. Officers will park their vehicles in a position to allow the wireless network interface device to connect with the University Police Departments network or Texas State University’s network.**
- B. Down load process will begin upon connection and verification to the network, officer intervention is not necessary.**

**10.02.05 Evidence Handling**

**To insure a valid chain of custody the following procedure is to be followed:**

- A. Request for video files to be processed for evidence will be made by memo, email or other written communication by the reporting officer.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**
  - 1. Storage media for digital video will be configured in a manner which will allow access only by the Sergeant Special Projects.**
  - 2. After copying the segment an archive copy will be created.**
  - 3. After generating the required copies a supplement report will be written.**
- D. The Sergeant of Special Projects will then place the media showing the segment into evidence.**

**10.03.01 Request for Digital Video Segments-Administrative**

**All requests for digital video segments for administrative use must be approved by the Director/Chief of Police or designee.**

**To insure proper documentation the following procedure is to be followed:**

- A. Request for video files to be processed for administrative use will be made by memo, email or other written communication by the requesting party.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**

#### **10.04.01 Handling of Digital Media in the Event of A Complaint**

**All requests for digital video segments for administrative use during a complaint against a police department employee must be approved by the Director/Chief of Police or designee.**

**To insure proper documentation the following procedure is to be followed:**

- A. Request for video files to be processed for administrative use will be made by memo, email or other written communication by the requesting party.**
  - 1. The request will include the officer, vehicle, date and time.**
- B. Request will be sent to the Sergeant Special Projects.**
- C. The Sergeant Special Projects will locate the segment and copy the segment to the appropriate media.**
- D. Upon completion of the duplication process the media will be provide to the Director/Chief of Police or designee.**

#### **10.05.01 Digital Video Storage**

**All stored data segments, which have been maintained for a minimum of 90 days, in compliance with state law.**

#### **10.06.01 Car Video System Maintenance**

**The department may assign personnel to perform maintenance procedures on the video systems. Such maintenance will be conducted by authorized personnel. Maintenance function will be in a manner which does not endanger any stored digital video.**

**10.07.01 Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops**

**An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:**

- A. A physical description of each person detained as a result of the stop, including:
  - 1. The person's gender;**
  - 2. The person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.****
- B. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.**
- C. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.**
- D. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.**

**10.08.01 Documenting Video Availability on Citations**

**If a traffic violation is video recorded the vehicle number will be place a notation on the citation which indicates the availability of video.**

**In-Car Digital Video System Operational Procedure**

**11.00.01 General**

**Each officer will obtain the body worn equipment necessary to provide audio recording capability for the in car video system at the beginning of their tour of duty. Such equipment will be worn by the officer at all times when on tour of duty and in contact with the general public. In the event an officer does not utilize the video recording system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 11.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)**

The shift supervisor, or senior officer in absence of a supervisor, shall be responsible for any and all access to the video system tape vault. The only exception is when accessed for maintenance related situations. In such case the officer assigned to perform the maintenance will be responsible for documenting the access.

Each vehicle used for tour of duty will have a video system, which is functional, and such system is to be used during any and all investigative stops made where the patrol vehicle is within proximity to the investigative contact. It is only necessary for one video system to be recording during an investigative contact unless a second officer is conducting additional interviews, which would be pertinent to the situation. In the event a vehicle is not available with a functional video system the officer will be responsible for documenting the investigative contact as per the [Texas State University Police Department Standard Operations Policy 11.07.01 \(Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops\)](#)

#### **11.02.00 Tape Vault Access**

The shift supervisor may access the video system vault at any time to remove and replace a tape. Such access does not require a case number issued by Communications. In the event a supervisor is not on duty, the senior officer may access the video system tape vault by obtaining a case number and vault system keys from Communications.

#### **11.02.02 Installation and Removal of Tapes**

A new tape will be placed in the tape vault with the “vehicle number” and “date in” filled in. Such information is to be recorded on the tape top label.

- A. A “sticker” will be placed on the vault with the enclosed tape number recorded. (The tape number will be placed on all DAR’s, citations where a violation was video taped and reports that are generated as a result of a traffic stop. [Texas State University Police Department Standard Operations Policy 11.08.01 \(Recording of Tape Numbers On Citations\)](#))
- B. The tape removed will be marked with the “date out” filled in.
- C. The “sticker” will be removed from the vault and placed on the tape sleeve and placed in the locked Records Video Tape Box.

#### **11.02.03 Removal of Damaged Tapes**

**In the event the tape vault rejects the new tape or damages a tape after insertion, the system will be noted as non-functional and reported for maintenance.**

- A. In the event the damaged tape cannot be removed, the system will be noted as non-functional and reported for maintenance.**

#### **11.02.04 Removal of a Tape for Evidence Purposes**

**Tapes removed for evidence require the reporting officer to be present to receive the tape from the video vault. The shift supervisor or senior officer will observe such receipt by the officer.**

- A. The tape removed will be marked with the “date out” filled in and a case number will be written in on the spine label.**
- B. A new tape will be placed in the tape vault with the “vehicle number” and “date in” filled in. Such information is to be recorded on the tape top label as stated in [Texas State University Police Department Standard Operations Policy 11.02.02 \(Installation and Removal of Tapes\)](#)**

#### **11.02.05 Removal of Recording Tab**

**To insure videotapes are not erased the following procedure will be followed:**

- A. Removal of the original tape record-enabling tab (If Present).**
- B. Removal of the record enabling tape placed on a recycled tape by the department.**

#### **11.03.01 Handling of Tapes Removed From the Video Vault**

**All tapes removed will be placed in the temporary Locked Records Video Box.**

**Records Supervisor will remove the videotapes from the Video Box and handle them as official documents of the Department. The tapes will be filed in the 90-day rotation storage if the tape is of no evidence value. At the completion of a minimum 90-day cycle the tapes will be erased, renumbered and returned to service.**

**For tapes that have evidence value, Records Section will make a copy and forward the tape with the case file to the District Attorney’s Office.**

**When a tape has reached its 90 -day rotation and it has evidence value (case number assigned) the tape will be transferred to the case file. The tape will not be taken out of service until released by the District Attorney’s Office.**

#### **11.04.01 Handling of Tapes in the Event of A Complaint**

**Any tape, which is alleged to possess evidence of racial profiling or improper conduct on the part of an officer, shall be immediately removed from the 90-day storage file. Records Section personnel will submit the referenced tape to the Captain of Support Services or the Captain of Patrol Operations in the absence of the Captain of Support Services.**

#### **11.05.01 Tape Recycling**

**All tapes, which have been maintained for a minimum of 90 days, will be remarked with a new spine number and new tape top label if needed. The spine label numbering sequence will be a multi-digit sequential number assigned by the Records Section.**

#### **11.06.01 Car Video System Maintenance**

**The department may assign personnel to perform maintenance procedures on the video systems. Such maintenance will be conducted under the following guidelines:**

- A. Maintenance procedures that do not require access to the video vault may be done without the issuance of a case number by Communications.**
- B. Maintenance procedures, which may require access to the video vault require the key for such vault to be checked out and a case number issued.**
- C. Any tape removal performed during maintenance conditions requires a replacement tape and must comply with the handling of tapes removed from video section.
  - 1. Information will be submitted to the Records Supervisor by the officer detailing why the tape was removed.****
- D. If a tape cannot be removed using the system eject function no maintenance will be performed until the manufacturers are consulted.**
- E. The officer(s) assigned to perform maintenance must perform any “Menu Access” for the system. Such Menu Access does not require a case number.**
- F. The tape in a video vault must be removed by authorized department personnel prior to access by outside maintenance personnel.**

#### **11.07.01 Collection and Reporting Collection Information Gathered from Traffic and Pedestrian Stops**

**An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:**

- A. A physical description of each person detained as a result of the stop, including:
  - 1. The person's gender;**
  - 2. The person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.****
- B. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.**
- C. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.**
- D. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.**

**11.08.01 Recording of Tape Numbers On Citations**

**If a traffic violation is video recorded the tape number will be placed on the upper left hand corner of each page/copy of the citation issued.**

**11.09.01 Video Taping of Designated Points**

**Officers may not monitor and record via videotape any intersection or traffic control device without prior approval of the shift sergeant.**

# **Racial Profiling Policy**

## **15.01.00 PURPOSE**

The purpose of the policy is to reaffirm the Texas State University Police Department's commitment to unbiased policing in all its encounters between officer and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

## **15.02.00 POLICY**

It is the policy of this department to police in a proactive manner and, to aggressively investigate suspected violations of law. Officers shall actively enforce State and Federal laws, what may be applicable in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

## **15.03.00 DEFINITIONS**

**Racial Profiling** – A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts.

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of

a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

.01 Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.

.02 Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.

.03 Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect. Racial profiling is not relevant as it pertains to witnesses, etc.

**Race or Ethnicity** – Of a particular decent, including Caucasian, African American, Hispanic, Asian, or Native American.

**Pedestrian Stop** – An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

**Traffic Stop** – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

#### **15.04.00 TRAINING**

Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

All officers shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001 held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.

The chief of police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

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

#### **15.05.00 COMPLAINT INVESTIGATION**

.01 The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she has filed such a complaint.

.02 Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint to Captain of Support Services or the Captain of Patrol Operations in the absence of Captain of Support Services. Any employee contacted shall provide to that person a copy of a complaint form or the department process for filing a complaint (Annex #1) Racial Profile complaint form. All employees will report any allegation of racial profiling to their superior before the end of their shift.

.03 Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the chief. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.

.04 If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.

.05 If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

#### **15.06.00 PUBLIC EDUCATION**

This department will inform the public of its policy against racial profiling and the complaint process. The method of publication will be The Campus Watch and the UPD web page.

## **15.07.00 CITATION DATA COLLECTION & REPORTING**

An officer is required to collect information relating to traffic stops in which a citation is issued. On the citation officers must include:

- .01 The violators race or ethnicity;
- .02 Whether a search was conducted;
- .03 was the search consensual; and
- .04 arrest for this cited violation or any other violation.

By March of each year, the department shall submit a report to their governing board that includes the information gathered by the citations. The report will include:

- .05 a breakdown of citations by race or ethnicity;
- .06 number of citations that resulted in a search;
- .07 number of searches that were consensual; and
- .08 number of citations that resulted in custodial arrest for this cited violation or any other violation.

Not later than March 1<sup>st</sup> of each year, this department shall submit a report to our governing body containing this information from the preceding calendar year.

## **15.08.00 USE OF VIDEO AND AUDIO EQUIPMENT**

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

Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video, or audio, will be so recorded.

This department shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.

Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. A recording of each officer will be reviewed at least once every thirty (30) days.

\*If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the officer making the stop may properly record and report the information as required in 15.09.00.

## **15.09.00 COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS WHEN VIDEO CAMERA IS NOT USED**

An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information if a citation is issued.

- .01 A physical description of each person detained as a result of the stop, including:
  - a) The person's gender;
  - b) The person's race or ethnicity, as determined by the officer to the best of his/her ability.
  
- .02 The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.
  
- .03 Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search.
  
- .04 Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.

This department shall compile and analyze the information contained in these individual reports. Not later than March 1<sup>st</sup> of each year, this department shall submit a report to our governing body containing the information compiled from the preceding calendar year in a manner they approve. This report will include:

- .05 A comparative analysis of the information contained in the individual reports in order to:
  - a) Determine the prevalence of racial profiling by officers in this department; and
  - b) Examine the disposition of traffic and pedestrian stops made by this department's officers, including searches resulting from stops.
  
- .06 Information relating to each complaint filed with this department alleging racial profiling.

This report will not include identifying information about a peace officer who makes a stop or about an individual who is stopped or arrested by a peace officer.

## **CHAPTER 4.00.00**

### **DISCIPLINE**

#### **4.01.00 DUTY TO REPORT MISCONDUCT**

All officers are required to report any misconduct of University Police Department employees to the Director/Chief of Police. Officers who observe other UPD employees acting in a discourteous or disrespectful manner are likewise required to report that conduct to the Director/Chief of Police.

#### **4.01.01 COMPLAINTS TO DIRECTOR/CHIEF OF POLICE**

For a complaint to be considered for an Internal Investigation (IA) by the Director/Chief of Police, “the complaint must be: (1) in writing; and (2) signed by the person making the complaint.” (Vernon’s Annotated Civil Statutes section 614.022.) An inquiry to determine if an IA is warranted does not constitute an “investigation.”

#### **4.01.02 GENERAL PROVISIONS**

- A. The department has an obligation to investigate all allegations of misconduct or complaints made against a police officer. All allegations will be reviewed.
- B. Complaints or allegations of misconduct may be presented by supervisory or commanding officers, other officers or employees of this department, citizens and members of the general public or public officials. Anonymous complaints shall be accepted by phone, mail, or in person from the one who receives it. However, such allegations must be reported to the Director/ Chief of Police and will only be investigated at the discretion of the Director/Chief of Police.
- C. All allegations or complaints of misconduct shall be accepted and forwarded without unnecessary delay to the Director/Chief of Police. All investigations into alleged employee misconduct require prior approval from the Director/Chief of Police.
- D. For complaints which might result in suspension for more than 3 days, or termination, the officer will be notified in writing as soon as reasonably possible, as required by Article 614.023 of Vernon’s Texas Civil Statutes, outlining the nature of the complaint. Officers will be given the opportunity to rebut such allegations.

- E. The Director's Admin Assistant will assign a Personnel Investigation number (PI#) to the investigation.
1. The Director's Admin Assistant shall record and maintain a log of every allegation assigned an investigative number by the Director/Chief of Police.
  2. The control log shall contain the following:
    - a. A separate control number for each allegation or matter;
    - b. Name, rank, and identifying number of the employee involved.
    - c. Date and hour the complaint was received;
    - d. Name and address of the complainant;
    - e. Disposition of investigation;
    - f. Hearing disposition, if any; and
    - g. Action taken, if any.
  3. The Director/Chief of Police shall verify that any allegations have been recorded and handled in accordance with this policy, within 30 business days of resolution.
  4. Only personnel authorized by the Director/Chief of Police may receive access to the control log. Logs and all complaint and investigative materials shall be kept confidential.
- F. Depending upon the circumstances, the Director/Chief of Police will also indicate any change in the officer's duty status during the investigation.
- G. The investigation shall be completed within 25 business days. However, under unique circumstances, an extension may be granted by the Director/Chief of Police provided the Captain in charge of the investigation has, in writing, outlined the reasons for the delay.

- H. All officers shall cooperate during the investigation by providing information, statements, and any other assistance that may be required.
- I. The completed investigation will be forwarded to the Director/Chief of Police. The document will include the findings and a recommendation from the officer's supervisor and Captain, outlining the appropriate course of action.
- J. The final decision regarding the outcome of the investigation and action to be taken will be made by the Director/Chief of Police and provided, in writing, to the officer.
- K. Any disciplinary action taken against an officer will comply with the Texas State University – San Marcos UPPS Number 04.04.40, Disciplining Staff Employees.

**4.01.03 SUPERVISOR'S ROLE**

- A. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with the first line supervisors.
- B. Each supervisor shall familiarize himself with his/her employees, and closely observe their general conduct and appearance on a daily basis.
- C. A supervisor shall have the authority to reprimand a subordinate employee for minor infractions. Such reprimands, whether oral or written, may include a warning, corrective advice, or recommend counseling or training. A supervisor properly imposes a reprimand when he/she reasonably determines that the alleged misconduct does not require further investigation or action. However, such reprimands are subject to review by the Captain of the Officers' Division or Director/Chief of Police.
- D. A supervisor shall have the authority to temporarily relieve from duty an employee for the balance of the working day (with full pay and benefits) if the employee, by continuing works, would tend to discredit or impair the operation of the department. The supervisor shall immediately notify the Director/Chief of Police by phone or in person and then in writing of any such temporary action. Call the Director/Chief of Police at the time of the incident if it is of such magnitude that it could bring condemnation to the department.

- E. All members who are under suspension shall not wear the uniform nor be armed while under suspension. Members will surrender their badge, issue weapon and police identification upon the request of the Director/Chief or his designee.

**4.01.04 ADMINISTRATIVE CAPTAIN'S RESPONSIBILITIES**

- A. The Administrative Captain has the authority and responsibility to conduct internal investigations, or refer such investigations to his designee, as authorized by this Department Operating Procedure. However, the Director/Chief of Police has the authority to assign Internal Affairs investigations to other command or supervisory personnel at his/her discretion.
- B. Upon the completion of an investigation, the Administrative Captain (or other assigned authority) shall review all statements, evidence, information and photographs, and make a full report and recommendation based upon the investigation as follows:
  - 1. A violation has or has not occurred;
  - 1. Exoneration;
  - 3. Corrective action should be taken; or
  - 4. Disciplinary action should be taken.
- C. The full report shall be forwarded to the Director/Chief of police for review.

**4.01.05 INTERNAL INVESTIGATIONS**

- A. The investigator shall make every effort to interview the complainant, the accused officer, or other persons having knowledge of relevant facts concerning allegations.
- B. Every statement shall be reduced to writing by the investigator.
- C. The Director/Chief of Police may require chemical or other reports or photographs of the employees as an aid to investigation.
- D. The Director/Chief of Police may order the employee to submit to a polygraph examination concerning the matter under investigation.
- E. Any interview of the employee involved shall take place within a reasonable time in relation to the employee's work. However,

interviews or telephone conversations conducted outside normal work hours initiated by the subject of the investigation will not be compensated in terms of over-time or compensatory time. The interviewer shall identify his intent and purpose and inform the officer of the nature of the charge. Additionally, the following points should be noted:

1. Questions are directed and narrowly related to the performance of the officer's duties or the officer's fitness as a police officer.
  2. The officer involved is entitled to all rights and privileges guaranteed by the laws and the Constitution of the United States, including the right not to be compelled to incriminate oneself.
  3. Refusal to comply with a department investigation, including answering questions relating to the performance of the employee's official duties or fitness for duty, will be subject to departmental disciplinary actions which may result in termination from the police department.
- F. The interview shall be recorded and/or transcribed.
- G. The Director/Chief of Police may order the employee to answer material and relevant questions specifically, and directly, narrowly relating to the incident.
- H. Upon completion of the investigation, the investigator shall prepare a detailed report of the investigations and conclusions.
- I. All investigations must be completed and the report filed within 25 days from receipt of the allegation unless special circumstances warrant an extension.
- J. The Director/Chief of Police shall have the authority, prior to investigation or hearing and after receipt of a complaint which alleges conduct on the part of the employee which is a felony or crime of moral turpitude, to relieve such employee of duty or to restrict duties, for the good of the department which shall not be construed or reported as disciplinary action.

#### **4.01.06**

#### **CRIMINAL INVESTIGATIONS**

- A. If during an internal investigation evidence of misconduct is found, the investigating officer shall notify the Director/Chief of Police of such finding.
- B. The Director/Chief of Police shall make a determination of what type of investigation is to continue.
  - 1. The Director/Chief of Police may authorize the internal investigation to continue or may authorize a criminal investigation to begin or may authorize both.
  - 2. If both an internal investigation and criminal investigation are authorized, they shall be separate and evidence, statements, and information gathered in one is not interchangeable between the two.
- C. Upon receiving a complaint or information that an employee allegedly engaged in criminal conduct, the Director/Chief of Police shall make a determination as to what agency is to conduct the investigation.
  - A. The employee is not entitled to know details of the criminal investigation if, in the opinion of the Director/Chief of Police or the investigator, such revelation could jeopardize the investigation or prosecution thereof.

## ***Informing the Public on the Process of Filing a Complaint with the Texas State University – San Marcos Police Department***

### ***Educational Campaign:***

*Since 2002, the Texas State University - San Marcos Police Department, in accordance to Senate Bill 1074, has launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, by posting, in the lobby area and its web site information (included) on filing a complaint on a racial profiling violation by a Texas State University - San Marcos Police Officer. The complaint process posted in the lobby area of the police department was written in English and Spanish.*

*The Texas State University - San Marcos Police Department included language, in its current complaint process, pertaining to the manner in which citizens can file a complaint as a consequence of a racial profiling incident. 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.*

# **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 Texas State University – San Marcos Police Department**

Since 2002, the Texas State University – San Marcos Police Department, in accordance to Senate Bill 1074, launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, in the lobby area, information relevant to filing a complaint on a racial profiling violation by a Texas State University – San Marcos police officer.

The Texas State University – San Marcos Police Department included language, in its current complaint process, pertaining to the manner in which citizens can file a complaint as a consequence of a racial profiling incident. 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 Texas State University – San Marcos police officers were instructed, as specified in S.B. 1074, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Texas State University – San Marcos Police Department have completed the TCLEOSE basic training. The main outline used to train the officers of Texas State University – San Marcos has been included in this report.

It is important to recognize that the Chief of the Texas State University – San Marcos 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 Texas State University – San Marcos 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 1/1/06---12/31/06, 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 Texas State University – San Marcos 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 1/1/07 ---- 12/31/07.

Complaints Filed for Possible Violations of S.R. 1074 (The Texas Racial Profiling Law)

Complaint No.	Alleged Violation			Disposition of the Case

**Additional Comments:**

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# Tables Illustrating Traffic Contact

## (I) Tier 1 Data

Traffic-Related Contact Information (1/1/07—12/31/07)

Race/Ethnicity*	Contacts		Searches		Consensual Searches		Probable Cause Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	782	80%	242	84%	61	86%	196	84%	155	82%
African American	33	3%	10	3%	2	3%	4	2%	5	3%
Hispanic	153	16%	33	11%	7	10%	32	14%	27	14%
Asian	6	1%	1	0%	1	1%	0	0%	0	1%
Native American	0	0%	0	0%	0	0%	0	0%	0	0%
Other	4	0%	1	0%	0	0%	0	0%	1	1%
<b>Total</b>	<b>978</b>	<b>100%</b>	<b>287</b>	<b>100%</b>	<b>71</b>	<b>100%</b>	<b>232</b>	<b>100%</b>	<b>188</b>	<b>100%</b>

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

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

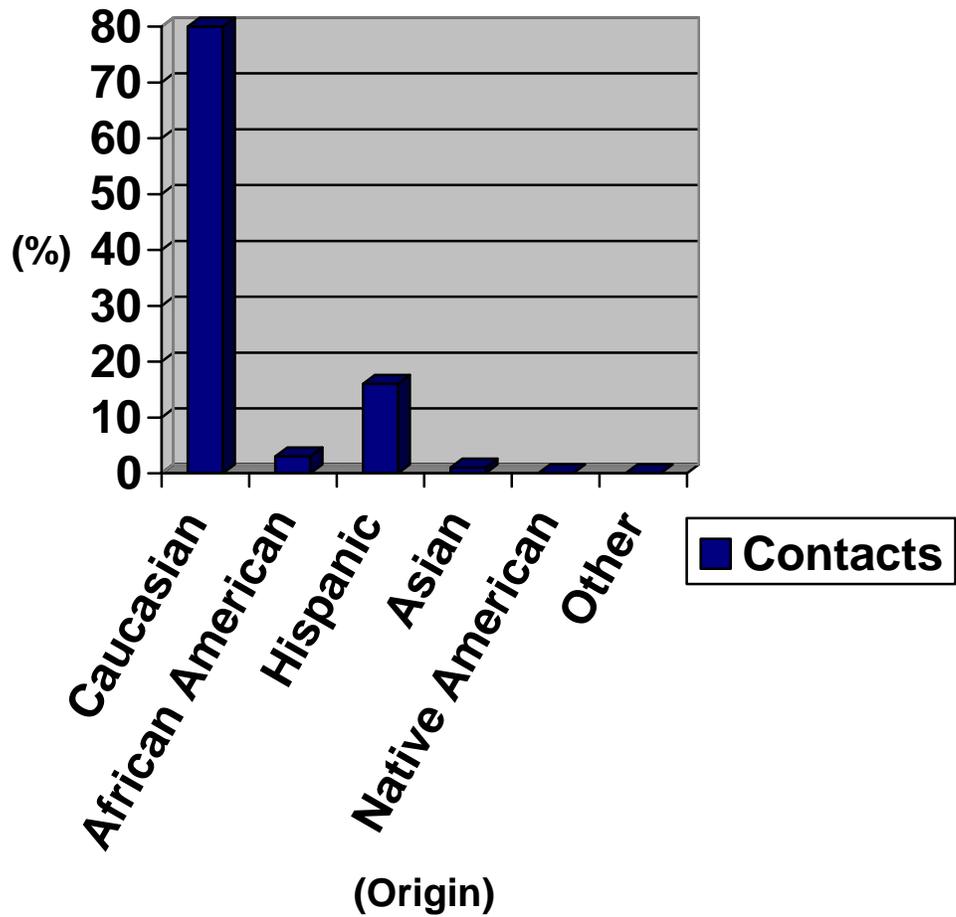
\*\*Figure has been rounded

Race/Ethnicity*	Contacts		TxState University ** Demographic Data		Variance	
	#	%	#	%	#	%
Caucasian	782	80%	21458	69%	107	11%
African American	33	3%	1511	5%	-15	-1%
Hispanic	153	16%	6445	21%	-50	-5%
Asian	6	1%	747	2%	-17	-2%
Native American	0	0%	173	1%	-5	-1%
Other	4	0%	754	2%	-20	-2%
<b>Total</b>	<b>978</b>	<b>100%</b>	<b>31088</b>	<b>100%</b>		

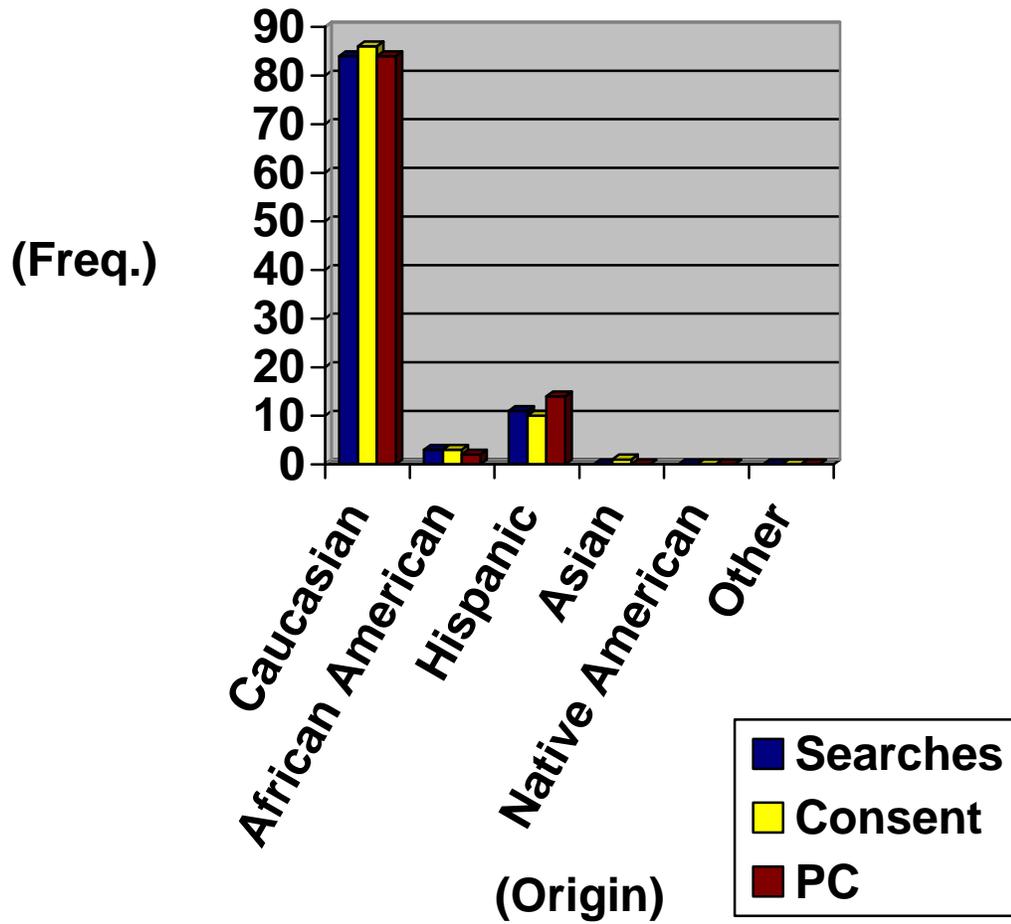
\* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African American, Hispanic, Asian, or Native American”.

\*\* Texas State University demographic data is compiled from information published by Texas State University Institutional Research on student enrollment and agency workforce.

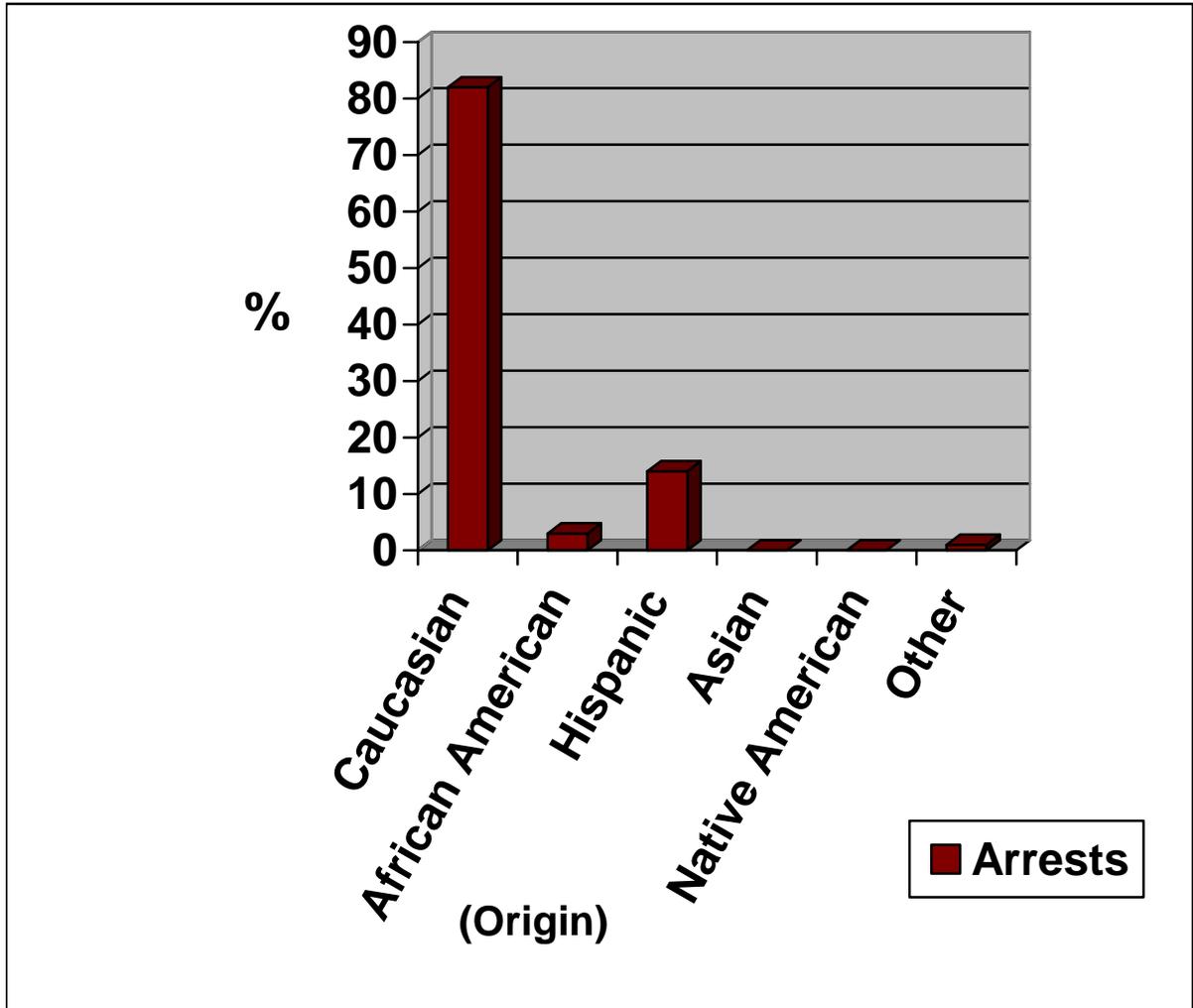
## Tier 1 Data (Contacts and Percentages)



### Tier 1 Data (Searches)



## Tier 1 Data (Arrests and Percentages)



## Tier 1 Data (Four-Year Comparative Analysis) (2004—2007)

### (III) Four-Year Tier 1 Data Comparison

Comparison of Four-Year Traffic-Related Contact Information  
(1/1/04 - 12/31/07)

Race/Ethnicity*	Traffic-Related Contacts			
	(04)	(05)	(06)	(07)
	%	%	%	%
<b>Caucasian</b>	78%	79%	82%	80%
<b>African American</b>	4%	3%	3%	3%
<b>Hispanic</b>	16%	16%	14%	16%
<b>Asian</b>	1%	1%	0%	1%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	0%	1%	1%	0%
<b>Total</b>	100%	100%	100%	100%

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

\*\* Figure has been rounded.

**Comparison of Four-Year Traffic-Related Search Information  
(1/1/04 - 12/31/07)**

Race/Ethnicity*	Traffic-Related Searches			
	(04)	(05)	(06)	(07)
	%	%	%	%
<b>Caucasian</b>	81%	84%	88%	84%
<b>African American</b>	6%	1%	1%	3%
<b>Hispanic</b>	12%	14%	11%	11%
<b>Asian</b>	0%	0%	0%	0%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	1%	0%	0%	0%
<b>Total</b>	100%	100%	100%	100%

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

\*\* Figure has been rounded.

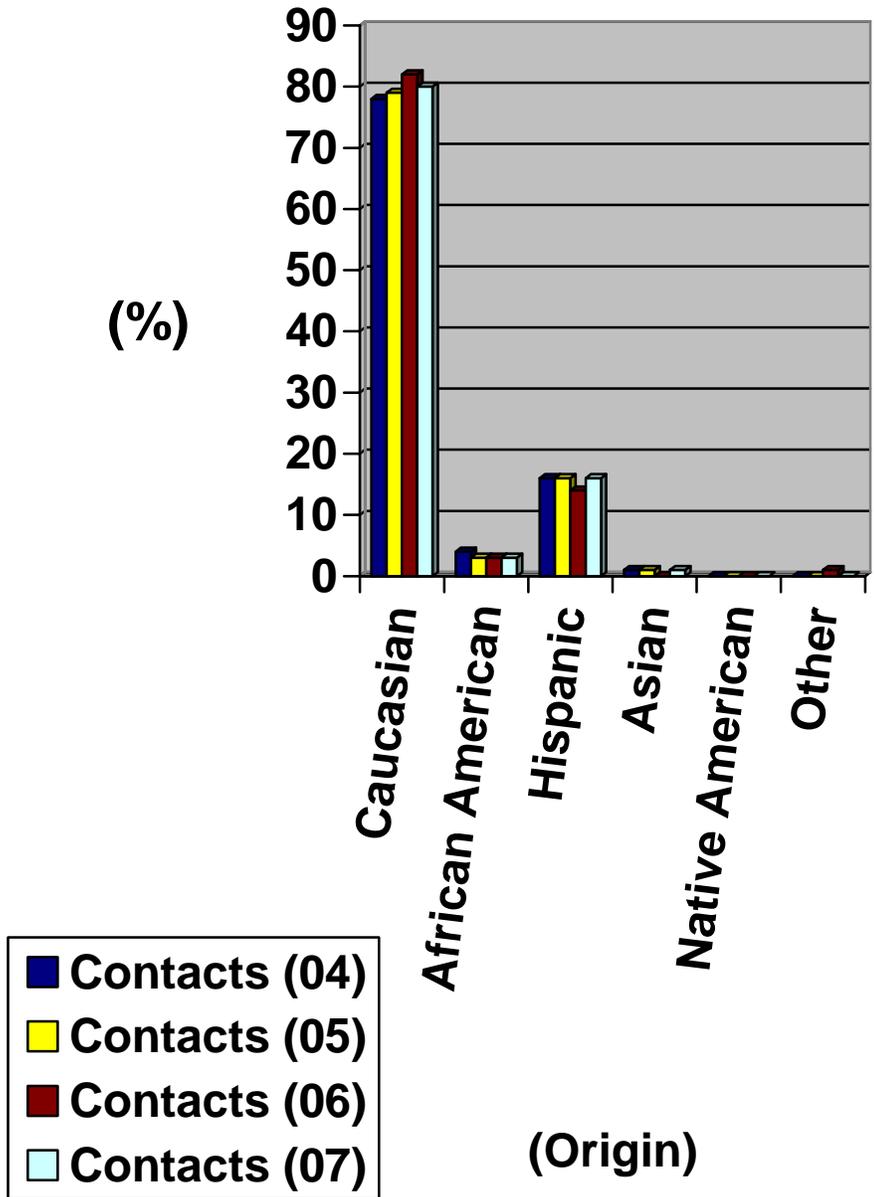
**Comparison of Four-Year Traffic-Related Arrest Information  
(1/1/04---12/31/07)**

Race/Ethnicity*	Traffic-Related Arrests			
	(04)	(05)	(06)	(07)
	%	%	%	%
<b>Caucasian</b>	78%	84%	93%	82%
<b>African American</b>	8%	1%	0%	3%
<b>Hispanic</b>	13%	15%	6%	14%
<b>Asian</b>	0%	0%	1%	0%
<b>Native American</b>	0%	0%	0%	0%
<b>Other</b>	1%	0%	0%	1%
<b>Total</b>	100%	100%	100%	100%

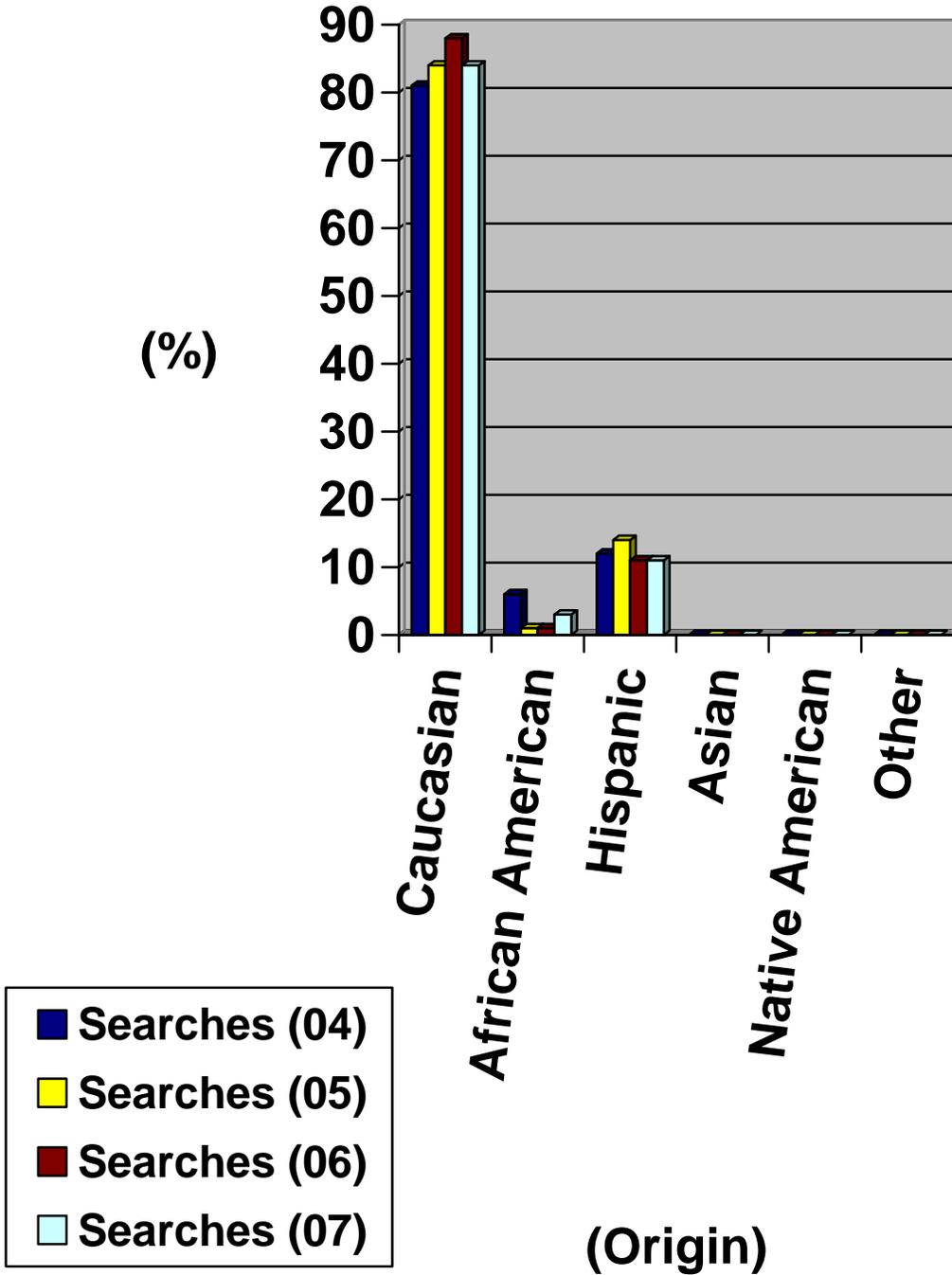
\* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African American, Hispanic, Asian, or Native American”.

\*\* Figure has been rounded.

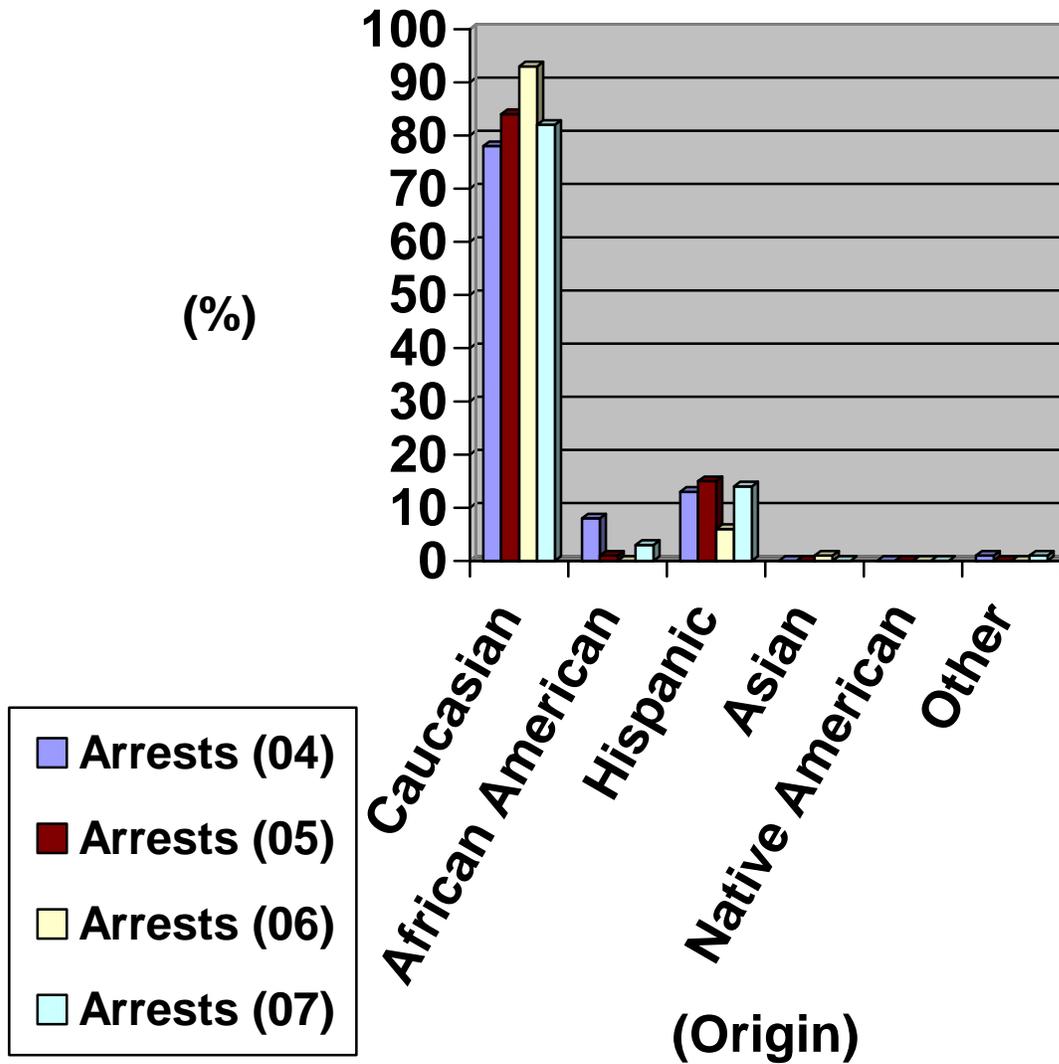
## Tier 1 Data 04-07 (Contacts and Percentages)



## Tier 1 Data 04-07 (Searches and Percentages)



## Tier 1 Data 07-07 (Arrests and Percentages)



# Analysis and Interpretation of Data

## Analysis

Since 2002, The Texas Racial Profiling Law (S.B. 1074) required that all police departments in the state collect traffic-related data and report this information to their local governing authority. The purpose in collecting and presenting this information is to determine if a police officer is engaging in the practice of profiling minority motorists. Despite the fact most agree that it is a good idea for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if police departments are engaging in racial profiling, from a review of aggregate data. That is, it is very difficult to detect specific “individual” racist behavior from aggregate-level “institutional” data on traffic-related contacts.

Notwithstanding this, the Texas State University – San Marcos Police Department, in an effort to comply with The Texas Racial Profiling Law (S.B. 1074), commissioned the analysis of its 2007 traffic contact data. Thus, three different types of analyses were conducted. The first of these involved a careful evaluation of the 2007 traffic stop data. This particular analysis measured, as required by S.B. 1074, the number and percentage of Caucasians, African American, Hispanics, Asians, Native Americans, and individuals belonging to the “other” category, that came in contact with the police and were issued a traffic-related citation in 2007. In addition, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search (i.e., consensual or probable cause) conducted. Finally, the data analysis highlighted the number and percentage of individuals who, after they were issued a citation, were arrested.

The second type of analysis was based on a comparison of the 2007 traffic contact data with a particular baseline. It should be noted that there is also a great deal of disagreement, in the academic literature, over the type/form of baseline to be used when analyzing traffic-related contact information. Of all the baseline measures available, the Texas State University – San Marcos Police Department decided to adopt, as a baseline measure, demographic data published by Texas State Institutional Research department on student, faculty, and staff that includes race and ethnicity. This data is accurate for the University population. However, this data does not account for the impact of local residents and visitors. The Texas State University – San Marcos Police Department made a decision that it would use this form of comparison in an attempt to demonstrate its “transparency” before the community.

Finally, a third type of analysis was conducted while using the 2004-2007 traffic contact data. Specifically, all traffic-related contacts made in 2007 were compared to similar figures reported in 2004-2007. When considering this analysis, it was determined that comparing four years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. That is, the four-year comparison has the potential of revealing early indicators that a possible trend of police-initiated contacts with regards to members of a specific minority group, is in fact, developing.

#### Tier 1 (2007) Traffic-Related Contact Analysis

The Tier 1 data collected in 2007 showed that the Texas State University – San Marcos Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received complaints from community members regarding officers misconduct associated with racial profiling practices

The continuing effort to collect police contact data will assure an on-going evaluation of the Texas State University – San Marcos Police Department practices. Thus, allowing for the citizens of the Texas State University – San Marcos community to continue to benefit from professional and courteous service from their police department.

#### Four-Year Comparison

The four-year comparison (04-07) showed similarities with respect to the traffic-related contacts. As evident in table 3, the percentage of drivers contacted is consistent with minimal changes from year to year and percentages shown are consistent with Race/Ethnicity populations for community.

With the four-year comparison in place the Texas State University – San Marcos Police Department does not show an increasing trend for contacts within a specific Race/Ethnicity populace when compared to the overall population increase for the community.

# **(III) Summary**

## **Summary Statement**

The findings suggest that the Texas State University – San Marcos Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received complaints from community members regarding officers misconduct associated with racial profiling practices.

The continuing effort to collect police contact data will assure an on-going evaluation of the Texas State University – San Marcos Police Department practices. Thus, allowing for the citizens of the Texas State University – San Marcos community to continue to benefit from professional and courteous service from their police department.

# Checklist

## Checklist

The following requirements **were** met by the Texas State University – San Marcos Police Department in accordance with Senate Bill 1074:

- Clearly defined actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Texas State University – San Marcos Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
  - a) Race and ethnicity of individual detained
  - b) Whether a search was conducted
  - c) If there was a search, whether it was a consent search or a probable cause search
  - d) Whether a custody arrest took place
- Produce an annual report on police contacts (Tier 1) and present this to local governing body by March 1, 2007.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

# Contact Information

## Contact Information

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

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