

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: POLICE

AGENDA DATE: Monday, February 16, 2009

CONTACT PERSON/PHONE: Assistant Chief Eric Shelton / 564-7309

DISTRICT(S) AFFECTED: All

SUBJECT:

Discussion and action regarding the presentation of the 2008 annual report of the El Paso Police Department pertaining to their analysis of the race and ethnicity information collected in conjunction with traffic stops, as required by Articles 2.132 and 2.134, Code of Criminal Procedure.

BACKGROUND / DISCUSSION:

Articles 2.132 and 2.134 of the Texas Code of Criminal Procedure require City Council review of the contact data for the period of January 1, 2008 through December 31, 2008.

PRIOR COUNCIL ACTION:

On February 19, 2008 the 2007 report was reviewed by City Council. Yearly reviews by City Council as required by statute have been conducted since 2003.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also
Information copy to appropriate Deputy City Manager)

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor and City Council review and accept the El Paso Police Department's Contact Data (Racial Profiling) Annual Report covering the period of January 1, 2008 through December 31, 2008.

ADOPTED this 16th day of February, 2009.

CITY OF EL PASO

John Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Jennifer F. Callan
Assistant City Attorney

APPROVED AS TO CONTENT:

Greg Allen
Interim Chief of Police

The El Paso Police Department Annual Traffic Contact Report (2008)



**DEL CARMEN
CONSULTING, LLC**

(I) Introduction

Opening Statement

January 21, 2009

City of El Paso City Council
#2 Civic Center Plaza
El Paso, Texas 79901

Dear Distinguished Members of the City Council,

Racial profiling is considered to be one of the most pressing themes currently affecting law enforcement agencies in the United States. In 2001, the Texas legislature, in an attempt to address the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. Since 2001, the El Paso Police Department, in accordance with the law, has collected and reported traffic-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices.

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

The last component of this report provides statistical data relevant to contacts, made during the course of traffic stops, between 1/1/08 and 12/31/08. This information has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report.

I am hopeful that the findings presented in this report serve as evidence of the El Paso Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

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

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TCLEOSE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an "agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

The article further defines race or ethnicity as being of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American." The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

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

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

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

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

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

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

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

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

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

Standard 4

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

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

Commentary

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

Standard 5

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

Commentary

None

Standard 6

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

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

Commentary

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

Standard 7

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

Commentary

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

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

The Texas Law on Racial Profiling

AN ACT

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

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

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

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

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

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

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

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

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

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

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

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

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

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

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

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

President of the Senate

Speaker of the House

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

Secretary of the Senate

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

Chief Clerk of the House

Approved:

Date

Governor

(II) Responding to the Law

Institutional Policy on Racial Profiling

3-202. PATROL PROCEDURES.

3-202.01 RACIAL AND BIAS BASED PROFILING. Officers are strictly prohibited from engaging in racial and bias based profiling. The prohibition against racial and bias based profiling does not preclude the use of race, ethnicity, or national origin as factors in a detention decision by a peace officer. Race, ethnicity, or national origin may be legitimate factors in such a decision when used as a part of a description of a suspect or witness for whom a peace officer is searching. *(CALEA 1.2.9 a)*

A. Definitions.

1. Racial Profiling: a law enforcement-initiated action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest, 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, persons needing assistance, or other citizen contacts.

2. Bias Based Profiling: the selection of individuals for enforcement action based solely on a trait common to a group. This includes, but is not limited to gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

3. Race or Ethnicity: of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

4. Pedestrian Stop: an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.

5. Traffic Stop: the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulating traffic.
(Amended on 08-04-2006 C06-20)

3-202.02 OFFICER INITIATED REPORTING DATA. Officers, on or off-duty, who stop motor vehicles for an alleged violation of a law or ordinance regulating traffic or who stop a pedestrian for any suspected offense will comply with the following:

A. The information required on the RMS/I-LEADS arrest module will be completed for each person detained or arrested. In the event that several people are present when making a pedestrian or traffic stop, information

will be captured only for those who are contacted, questioned or searched. Officers making arrests will fill out the Y/N fields in the I-LEADS arrest module:

1. Arrest result of a traffic stop?
2. Was a citation issued?
3. Search conducted?
4. Consent search?
5. City of El Paso resident?

B. Training. *(CALEA 1.1.2) (CALEA 1.2.9 b)*

1. The Academy will conduct annual training with sworn personnel on subjects that include, but are not limited to: profiling, cultural diversity, interaction with citizens, policy, ethics and related topics.
2. Training may be conducted through in-service, special courses, or roll-call training.
3. Participation in training will be documented and recorded in each officer's training record.
4. All officers will complete racial profiling training prior to the second anniversary of the date the officer is listed as a peace officer or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

C. Reporting Requirements.

1. The information collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to City Council no later than March 1 of the following year.
2. The annual report shall not include identifying information about any individual stopped or arrested.
3. The annual report will not include identifying information about any peace officer involved in a stop or arrest.

D. Investigating Complaints. *(CALEA 1.2.9 c)*

1. In investigating a complaint alleging racial profiling, the Chief of Police shall seek to determine if the officer who is the subject of the complaint has engaged in a pattern of racial profiling that includes multiple acts constituting racial profiling for which there

is no reasonable, credible explanation based on established police and law enforcement practices. A single act constituting racial profiling may not be considered a pattern of racial profiling, and shall not be grounds for corrective action.

2. Citizens may file complaints against any Officer at any Department facility or at the Internal Affairs (IAD) office. All complaints of racial profiling lodged against an officer will be investigated by the IAD office fairly and objectively to determine the validity of such complaints. Disciplinary or corrective action will be established in a timely and consistent manner in accordance with state laws, local ordinances and the City of El Paso's Civil Service Rules and Regulations.

E. Public Education *(CALEA 1.2.9 d)*

1. The Department, through its philosophy of Community Policing, will provide information to the general public regarding racial profiling policies and procedures, to include the complaint process, by actively addressing the issue in regular Regional Command community meetings, Citizen's Advisory board meetings, the mass media, and by routine officer/citizen contacts. *(Amended 04-05-06 C06-03)*

F. Video Policy. All Officers will follow established procedures for the use of incar video recording equipment. *(Amended 06-04-2008 C08-18)*

3-202.03 PRIMARY UNIT. The patrol unit receiving the assignment from Dispatch is referred to as the "Primary Unit." When an incident occurs where units were not initially dispatched, the first responding unit is the "primary unit." The primary unit is generally responsible for completing necessary reports. *(CALEA 61.2.3 a)*

3-202.04 STOPS/FIELD INTERVIEWS. Stops are "seizures" under the Fourth Amendment. An Officer may stop and question a person when the Officer has **reasonable suspicion** that the person may be involved in past, present or future criminal activity. Reasonable suspicion is less than the probable cause that is needed for an arrest or search. *(CALEA 1.2.3a) (Amended 01-24-2008 C08-06)*

A. Before an Officer stops a person for questioning, he or she must be aware of specific suspicious conduct or circumstances to justify that stop.

B. Officers should rely on their training and experience in analyzing a subject's suspicious conduct and must be able to articulate a reasonable suspicion for an investigatory stop.

C. Officers may detain a person they lawfully stop for a reasonable length of time in an attempt to:

1. Verify the person's identification.
2. Account for the person's conduct.
3. Account for the person's presence.
4. Ascertain whether a crime occurred.
5. Ascertain the person's involvement.

D. An Officer must release a person from an investigative stop as soon as:

1. The Officer fulfills the purpose of the stop,
2. The person eliminates the Officer's reasonable suspicion of criminal involvement, or
2. The Officer fails to develop the probable cause necessary to arrest within a reasonable time.

3-202.05 FRISK. *(CALEA 1.2.4 b)* A frisk is a limited pat down search for the purposes of protection only. Officers may not use the frisk to conduct full scale searches of persons. Under appropriate circumstances, persons, their immediate surrounding areas, and the passenger compartments of a vehicle may be frisked.

A. An Officer may frisk a person who has been stopped when the Officer reasonably suspects that the person is concealing a weapon and that a frisk is necessary to protect the Officer or others.

B. A frisk may be conducted at any point during an investigation or detention when circumstances create a reasonable suspicion for the Officer to fear for his or her or another's safety.

C. An Officer who conducts a frisk must be prepared to articulate the specific factors leading to a reasonable suspicion that the Officer or others were in danger. These factors should be listed in the report.

D. Frisk Procedures.

1. Before beginning the frisk of a person, Officers should let the person know that they are going to conduct a frisk.

2. The Officer should begin the frisk of a person at the part of the person's outer clothing most likely to contain a weapon or dangerous instrument.
3. If the outer clothing is too bulky to allow the Officer to determine if a weapon is concealed underneath, outer clothing such as overcoat and jackets may be opened to allow a pat down on the inner clothing, such as shirts or trousers.
4. The Officer may also frisk or secure any unlocked areas within the detained person's reach or the passenger compartment of a vehicle that the person had been riding in if the Officer reasonably suspects that such areas might contain a weapon.
5. When practical, a male Officer should summon the assistance of a female Officer if it is necessary to frisk a female subject. The frisk will be conducted in a manner that is the least intrusive or offensive to the person.
6. Officers may remove objects located during a frisk which the Officer believes are weapons, a container that may hold a weapon, or objects that the Officer immediately recognizes as being contraband.

3-304. MOBILE VIDEO POLICY. It is the policy of the Department to utilize videotape and/or digital mobile video/audio recording equipment in patrol vehicles to create a video and audio recording of events as they occur. Recordings assist in gathering evidence, enhancing officer safety, and protecting officers against false allegations of misconduct. *(CALEA 41.3.8) (Amended 06-04-2008 C08-18)*

3-304.01 OBJECTIVES. This agency has adopted the use of in-car mobile videotape and digital recording to accomplish the following objectives:

- A. Accurate documentation of events, actions, conditions, and statements made during arrests and critical incidents, so as to document officers' reports, collection of evidence and testimony in court; and
- B. To enhance the department's ability to review arrest procedures, officer interaction with the public and suspects, and evidence for investigative purposes, as well as for officers' evaluations and training.

3-304.02 OPERATING PROCEDURES.

A. All recording equipment installed in vehicles is the responsibility of the officers assigned to that vehicle and will be operated according to the manufacturer's recommendations.

- 1.** When assigned a vehicle with a videotape or digital recording system, officers will ensure the system is in the on position and activated at the start of their tour of duty.
- 2.** Officers will ensure the wireless microphone is activated and in working order.
- 3.** With videotape systems, officers will log in with their name, ID number, date/time and district.
- 4.** The digital recording systems do not require a login, but officers will ensure the correct date and time appear on screen.
- 5.** Officers will update the screen and/or login information if necessary.

B. Officers, during the pre-shift inspection and at any other time during their tour of duty, will determine whether all components of the recording equipment are working satisfactorily and will bring any problems to the attention of their immediate supervisor who will determine if the vehicle will be utilized. Supervisors must be notified of any malfunctioning videotapes, hard drives or system components in order to obtain a replacement or repair. Any noted malfunctions of video equipment must be documented on the officer's daily log sheet and on a vehicle gripe form in order to complete repairs.

C. Recording will automatically activate when the vehicle's emergency warning devices are in operation. The equipment may be manually deactivated during nonemergency activities such as when performing traffic control at accident scenes.

- 1.** Whenever equipment is manually deactivated, officers will document the reasons for this action on the recording prior to deactivation.
- 2.** The wireless microphone will be activated to record the audio portion of the incident at all times when the unit is recording.

D. The officer is responsible for ensuring that equipment is in operating order to record traffic stops or other enforcement actions. In doing so they will ensure that:

- 1.** The video recorder is positioned and adjusted to record events;
- 2.** The recorder is not deactivated until the enforcement action is completed and the offender vehicle has pulled away.
- 3.** The wireless microphone is activated in order to provide narration with the video recording to explain the reason for their current or planned enforcement action.
- 4.** When a police vehicle equipped with recording equipment is used as back up for another police unit, the back up unit will be positioned in a manner that will allow the vehicle to record the incident whenever possible.

E. Officers will use the recording equipment to record:

- 1.** All traffic stops.
- 2.** When following a suspected DWI offender prior to conducting traffic stops. Officers will not follow DWI suspects longer than it is necessary to determine probable cause for a stop. The digital recording systems are programmed to capture 30 seconds of activity prior to the system being activated. In most instances this will capture the driving behavior or incident that precedes activation of emergency equipment. Officers will narrate into the microphone any activity they observe while stopping the suspected DWI suspect. Officers will make a reasonable effort to leave enough distance between the patrol car and the suspect's vehicle to allow a clear recording of the entire vehicle and allow sufficient space to conduct field sobriety tests in front of the camera and allow for the suspect to be in full view of the camera.
- 3.** Document crime scene and accident scenes or other circumstances at events such as the confiscation and documentation of evidence or contraband.
- 4.** The actions of suspects during interviews, when undergoing sobriety checks, or when placing a suspect in custody.
- 5.** When utilizing the code III response mode.
- 6.** Any situation where the gathering of video evidence may be beneficial in the prosecution of a criminal case.

7. Any event where the officer feels that his or her safety is in jeopardy or where the use of force is known to be potentially necessary.

F. Officers **will not** turn off the Mobile Video Recorder for any reason:

1. During a traffic stop
2. While utilizing the code III response mode.

G. Officers will not erase, alter recordings, record over any incident, intentionally cause the unit to malfunction, make a duplicate copy of a recording, or in any way interfere with the recording system.

H. Officers are encouraged to inform their supervisor of any audio/video recording sequences that may be of value for training purposes.

I. Officers will note within the incident report when video/audio recordings were made.

J. Officers will only use recording media issued and approved by the department.

K. At no time will officers remove tapes or hard drives from recording systems. Officers will not be permitted into the tape or hard drive storage areas for any reason. Officers are not permitted access to the storage server/computer system for digital recordings. When supervisors remove tapes identified as evidence or remove hard drives for copying of a file for DVD evidence, the officer requesting the assistance will remain with the supervisor to maintain the chain of evidence. The supervisor will note on the appropriate log that a tape was turned in as evidence or a DVD was burned for evidence.

L. Officers will notify a supervisor and request a replacement tape or fresh hard drive when the system shows less than one hour of recording time remaining. Supervisors will replace the videotape or hard drive.

3-304.03 RECORDING CONTROL AND MANAGEMENT. *(CALEA 41.3.8b)*

A. All videotapes containing information that may be of value for administrative investigations, case prosecution or in any criminal or civil adversarial proceeding will be safeguarded. Recordings authorized by Legal for release to another criminal justice agency will be copied to a DVD or VHS tape provided by the requesting agency and the original recording will remain stored for the required time period as set out in this policy.

B. Tapes not scheduled for court or complaint proceedings shall be maintained for 90 days at the Regional Commands/Section and will be taken to the Photo Lab for copying as necessary. Copying machines will be located at the Photo Lab and at the Internal Affairs Division. Hard drives will be maintained for 90 days. Digital files that need to be copied for evidence or administrative case purposes will be copied to a DVD by a supervisor. All tapes and hard drives shall be maintained in a manner that allows efficient identification and retrieval.

C. If any complaint is filed with the department with respect to an incident appearing on a recording, including alleged racial profiling, the department shall retain a copy of the videotape or DVD copy of the digital recording until final disposition of the complaint including any claim or lawsuit filed against the City.

D. Upon receipt of a request from Internal Affairs or other Departmental section for a copy of a videotape or a digital file, supervisors will coordinate with the requestor to provide the materials requested.

E. On written request by an officer to the Internal Affairs Division, IAD shall provide that officer with a copy of the recording (videotape or digital DVD) in which a racial profiling complaint has been filed. IAD will keep documentation regarding the release of the recording to the officer and will notify the Chief of Police of the request.

F. No videotapes or hard drives shall be re-issued for operational use unless completely erased by designated personnel of the department in accordance with retention schedules.

G. For videotape systems, a sufficient number of tapes will be kept in reserve for tape exchanges at least weekly on Sunday's day shift, or more often as needed and/or to accommodate replacement of tapes turned in as evidence.

H. Each vehicle with a digital system will have four hard drives designated. The hard drives will be exchanged on the first of every month. Hard drives with recordings will be properly stored for the designated time period.

3-304.04 SUPERVISORY RESPONSIBILITY. Only supervisory personnel will have access to keys to the recording equipment, videotapes, hard drives, and the computer/software used for downloading, copying or storage of digital recordings. Supervisors will change the tape or hard drive at intervals set by this policy. The tapes or digital system hard drives will be changed as needed for evidentiary reasons. *(CALEA 41.3.8b)* Upon removing a videotape or hard drive for replacement, evidence retrieval, or administrative purposes, the supervisor will

complete the appropriate log and document the reason for removal. Any time a digital recording is needed for evidence or an administrative case, a copy of the needed file will be copied to a DVD by a supervisor. If for evidence, supervisors will copy the file with the requesting officer present and will provide the DVD copy to the officer. Any time a video tape recording is needed for evidence or an administrative case, the supervisor will retrieve the video tape. If for evidence, the supervisor will retrieve the videotape with the requesting officer present and will provide the videotape to the officer. Supervisors will ensure that:

- A.** All officers follow established procedures for the use of recording equipment, and completion of recording documentation;
- B.** On a bimonthly basis, recordings are randomly reviewed to assist in periodic assessment of officer performance, determine whether the recording equipment is being fully and properly used and to identify material that may be appropriate for training;
- C.** Repairs and replacement of damaged or non-functional recording equipment is performed;
- D.** All statistical reporting requirements are being completed as required to ensure adequate program evaluation;
- E.** All videotapes and hard drives, while not in use in a vehicle, will be kept in locked cabinets at each regional command or other facility where officers using video system-equipped vehicles are assigned.

3-304.05 STATION MANAGER RESPONSIBILITY.

- A.** Station managers, or unit supervisors for personnel assigned to other Divisions, will be responsible for conducting random checks and inspections of recording equipment to ensure proper operation. *(CALEA 17.5.3)*
- B.** Station Managers, or unit supervisors for personnel assigned to other Divisions, will mark each video tape and hard drive with the vehicle number. Each video tape or hard drive will be documented in the appropriate log sheet with the tape or hard drive number, date and time in, date and time out, supervisor's ID number, vehicle number and disposition of tape or hard drive.
- C.** Station Managers or unit supervisors are responsible for erasing videotapes and hard drives prior to re-use.
- D.** Defective hard drives with case evidence or recordings needed for an administrative investigation will be sent to the Financial Crimes Unit so that properly trained personnel may attempt data recovery. If recovery of

data is beyond the capabilities of Financial Crimes Unit personnel, they may obtain assistance from an outside lab. Defective tapes or hard drives with case evidence or administrative case recordings will be retained for 90 days or until no longer needed for the case, whichever is later. The tapes or hard drives will then be destroyed and the destruction will be noted on the appropriate log.

E. Defective tapes and hard drives will be replaced.

3-304.06 TRAINING.

A. All officers will receive training on camera equipment prior to use. The training will follow the manufacturer's specifications and policy.

B. The trained officer will receive a written copy of the directions on the use of the camera.

3-304.07 DISPOSITION OF EVIDENTIARY RECORDINGS. All recorded arrests will be considered evidence, including defective recordings. Any other recording that an officer feels may be of value in an investigation will be turned in as evidence, whether video tape or a DVD copy, per proper evidence procedures. Notations of any action taken under this section will be noted on the appropriate log.

RULE NO. 27 ADHERENCE TO LAW ENFORCEMENT CODE OF ETHICS

Departmental personnel will adhere at all times to the Law Enforcement Code of Ethics below:

a. As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

b. I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule, develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

c. I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and

appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

d. I recognize the badge of my office as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of the police service.

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 El Paso Police Department

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

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



How to File a Complaint

POLICE DEPARTMENT

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Chief's Page

Arrest Photos

Victim Services

Regional Commands

Bureaus & Sections

Online Reports

Youth & Education

Police Initiatives

FAQs

Operation I.D.

History of EPPD

Employment

Citation Search

Be A Volunteer

Contact Us

En Español



| [FILE A COMMENDATION ON-LINE](#) | [FILE A COMPLAINT ON-LINE](#) |

Internal Affairs Division

2211 E. Missouri, Suite W-205
(915) 544-7633

Police officers are granted a public trust that requires that they consistently demonstrate the highest degree of integrity. With this in mind, The El Paso Police Department has established Codes of Conduct which set forth the standards requiring officers to maintain a high level of personal and official behavior in order to command the respect and confidence of the public.

When members of the public believe that a police officer with the El Paso Police Department has engaged in misconduct, to include a violation of racial profiling laws, they may report this misconduct at any Police Department facility or at the offices of the Internal Affairs Division located at 2211 E. Missouri, Suite W-205.

The function of the Internal Affairs Division of the El Paso Police Department is to investigate alleged violations of departmental policies and procedures by members of the Department. All investigators assigned to the Internal Affairs Division are members of the National Internal Affairs Investigators Association (N.I.A.I.A.).

This office conducts only Administrative investigations and any statement taken, or allegation made in this office will have no effect on any criminal proceedings pending against you. The complete investigation and final disposition of a case is all handled within the El Paso Police Department. All information obtained and found during the course of the investigation is kept confidential to the extent allowed by law. This office does not investigate criminal allegations. It normally takes the investigators approximately one-hundred and twenty (120) days to completely investigate each case.

After the case has been completed, it is forwarded to the Office of the Chief of Police for review and disposition. Once the final disposition is made on the case you will be notified, in writing. Every member of the El Paso Police Department has a right to appeal disciplinary action taken against him/her. You may be requested or subpoenaed to testify, in person, at a Disciplinary or Appeal Hearing. This appearance will not be mandatory, but may affect the outcome of the hearing.

S E R V I C E
S O L U T I O N S
S U C C E S S





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Citizen Complaint Form

**El Paso Police Department
Citizen Complaint Form**

Mission Statement

It is the mission of the El Paso Police Department to provide services with integrity and dedication, to preserve life, to enforce the law, and to work in partnership with the community to enhance the quality of life in the City of El Paso.

Your Complaint against our employee(s) is considered serious and will be actively pursued for any misconduct. For this reason, please ensure that your complaint is based upon fact and you have provided us with all of the facts to the best of your ability.

Citizen Complaint Request Form

Enter the appropriate information in the fields below and click the "Send Request" button.

Date and Time Information:

Date of Report:

Address Where Incident Occurred:

Incident occurred between:

Start Date: _____ **End Date:** _____ **(MM/DD/YYYY)**

Start Time: _____ **End Time:** _____ **(HH:MM AM/PM)**

Your Information:

Last Name: _____ **First Name:** _____

Home Address: _____ **City:** _____

State: _____ **Zip:** _____ **Home Phone:** _____ **Work Phone:** _____

Email Address: _____ **Confirm Email Address:** _____

S E R V I C E S
S O L U T I O N S
S U P P O R T

DOB (MM/DD/YYYY) Race: Sex: Male
Female

Ht: Wt: Hair:
Eye Color:

Driver's License #: State:

Witness Information:

Witness #1

Last Name: First Name:

Home Address: City:

State: Zip: Home Phone: Work Phone:

Email Address: Date of Birth:

Race: Sex: Male Female

Witness #2

Last Name: First Name:

Home Address: City:

State: Zip: Home Phone: Work Phone:

Email Address: Date of Birth:

Race: Sex: Male Female

If you have additional witnesses or information please provide the information in the Narrative of this Form

Police Department Employee Description or Information

Employee #1

Last Name: _____ **First Name:** _____

Race: _____ **Sex:** Male Female **Ht:** _____ **Wt:** _____

Hair Color/Length: _____ **Eye Color:** _____

Approximate Age: _____

Was the Accused Employee in Uniform? Yes No Unsure

Anything unusual (for example: Badge#, glasses, mustache, tattoos)

Employee #2

Last Name: _____ **First Name:** _____

Race: _____ **Sex:** Male Female **Ht:** _____ **Wt:** _____

Hair Color/Length: _____ **Eye Color:** _____

Approximate Age: _____

Was the Accused Employee in Uniform? Yes No Unsure

Anything unusual (for example: Badge#, glasses, mustache, tattoos)

If you have additional employee(s) or additional information please provide the information in the Narrative of this Form

Narrative or Witness Statement

Please Give a brief description of the incident:

I affirm that this information is true and correct

Your signature:

Please type your name as it appears above that this report is true and correct. By doing so you declare and affirm that your statement has been made by you voluntarily, without persuasion, coercion, or promise of any kind.

You should receive a confirmation e-mail of receipt of your complaint within 10 working days from submission. If you do not receive any confirmation or you have any further questions please contact the El Paso Police Department's Internal Affairs Division at 544-7633 Monday through Friday 8:00 a.m. to 4:00 p.m.



It is the mission of the
El Paso Police Department
to provide
services with integrity and
dedication, to preserve life,
to enforce the law, and to
work in partnership with
the community
to enhance the quality of life
in
the City of El Paso.



Interim Chief Gregory K. Allen

ChiefofPolice@elpasotexas.gov



El Paso Police Department

HOW TO COMMEND AN OFFICER

HOW TO FILE A COMPLAINT

INTERNAL AFFAIRS DIVISION

2211 E. Missouri, Ste. W205
El Paso, TX 79903

Phone: 915-544-7633
Fax: 915-544-5320

How to Commend an Officer

El Paso Police Officers make every effort to perform their duties in a competent, courteous and professional manner. Frequently, many officers exceed the expectations of the public by providing exceptional service that surpasses the norm. If you observe an officer performing their duties in a manner that you think is exceptional and reflects favorably upon the officer and the Department, then we encourage you to take a moment and tell us about it.

Officers take great pride in being recognized by members of the public when they have performed their duties in an exceptional manner. Perhaps more importantly, officers who receive such accolades and encouragement from the citizenry recognize how their efforts are appreciated. Such an encouraging atmosphere improves officer morale and encourages all officers to work harder to improve their individual performance and quality of the services they provide to the public.

If you would like to tell us about an exceptional service that you were the recipient of or observed being done for someone else, you may send an email to the Chief of Police, make a telephone call to a supervisor, send a letter to any region or visit our website to file your report online.



How to file a Complaint

Police officers are granted a public trust that requires that they consistently demonstrate the highest degree of integrity. With this in mind, The El Paso Police Department has established Codes of Conduct which set forth the standards requiring officers to maintain a high level of personal and official behavior in order to command the respect and confidence of the public.

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After the case has been completed, it is forwarded to the Office of the Chief of Police for review and disposition. Once the final disposition is made on the case you will be notified, in writing. Every member of the El Paso Police Department has a right to appeal disciplinary action taken against him/her. You may be requested or subpoenaed to testify, in person, at a Disciplinary or Appeal Hearing. This appearance will not be mandatory, but may affect the outcome of the hearing.



Locations to file Commendations Or Complaints

WWW.EPPD.ORG

Internal Affairs Division

2211 E. Missouri, Ste. W205 79903; 544-7633

Police Headquarters

911 N. Raynor, 79903; 564-7000

Central Regional Command Center

200 S. Campbell, 79901; 577-5000

Mission Valley Regional Command Center

9011 Escobar, 79915; 872-3600

Northeast Regional Command Center

9600 Dyer, 79924; 759-2000

Pebble Hills Regional Command Center

10780 Pebble Hills, 79935 ; 599-5500

Westside Regional Command Center

4801 Osborne, 79922; 585-6000

LA MISION DEL DEPARTAMENTO
DE POLICIA
ES DE PROVEER
SERVICIOS CON INTEGRIDAD Y
DEDICACION,
PROTEJER LA VIDA, HACER RESPETAR
LA LEY
Y TRABAJAR EN SOCIEDAD CON LA
COMUNIDAD
PARA AUMENTAR LA CALIDAD DE
VIDA
EN LA CIUDAD DE
EL PASO.



Jefe Interino De Policia
Gregory K. Allen

ChiefofPolice@elpasotexas.gov



Departamento De Policia De El Paso

COMO RECOMENDAR A UN AGENTE
DE POLICIA
Como Poner Una Queja

DIVISION DE ASUNTOS INTERNOS

2211 E. Missouri, Ste. W205
El Paso, TX 79903

Telefono: 915-544-7633
Fax: 915-544-5320

Racial Profiling Training

Racial Profiling Training

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

It is important to recognize that the Chief of the El Paso 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 El Paso 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 1/1/08---12/31/08, 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 El Paso 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 1/1/08 ---- 12/31/08.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

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

Additional Comments:

Tables Illustrating Traffic Contact

Tier 1 Data

(I) Tier 1 Data

Traffic-Related Contact Information (1/1/08—12/31/08)

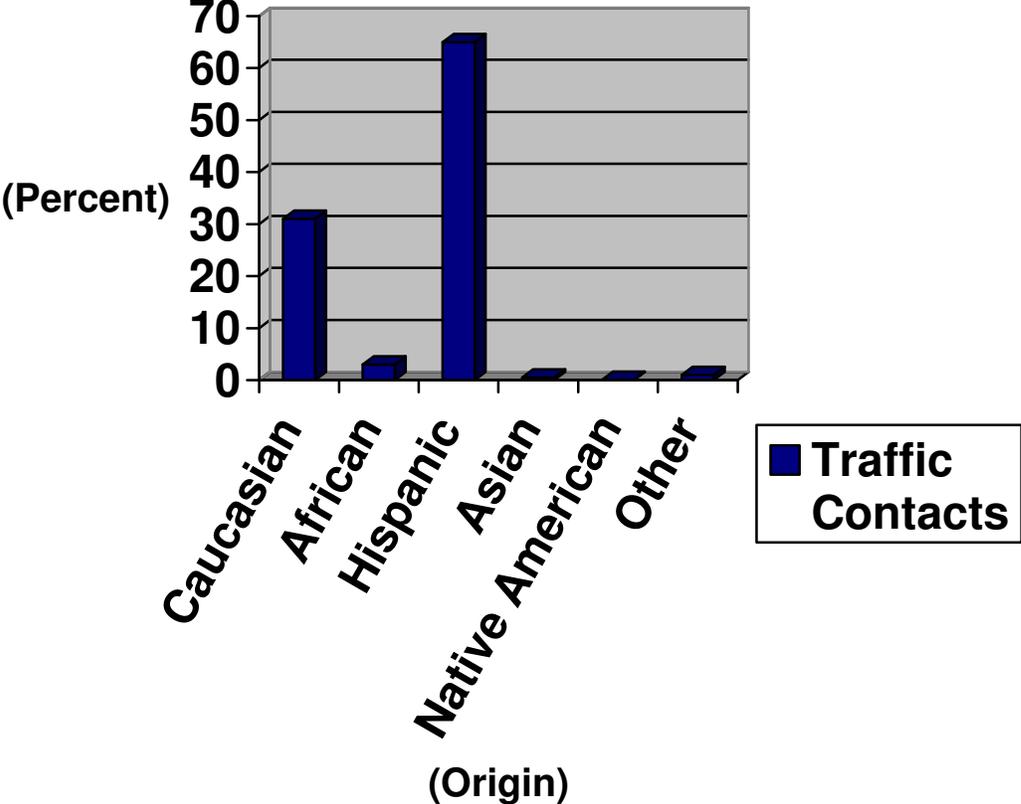
Race/Ethnicity *	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	42016	31	4508	28	4180	30	328	15	720	12
African	3945	3	800	5	660	5	140	6	326	5
Hispanic	87239	65	10874	67	9127	65	1747	79	5180	83
Asian	633	.5	57	.3	55	.4	2	.09	15	.2
Native American	56	.04	8	.05	7	.05	1	.05	1	.02
Other	1316	1	62	.4	60	.4	2	.09	9	.1
Total	135205	100	16309	100	14089	100	2220	100	6251	100

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

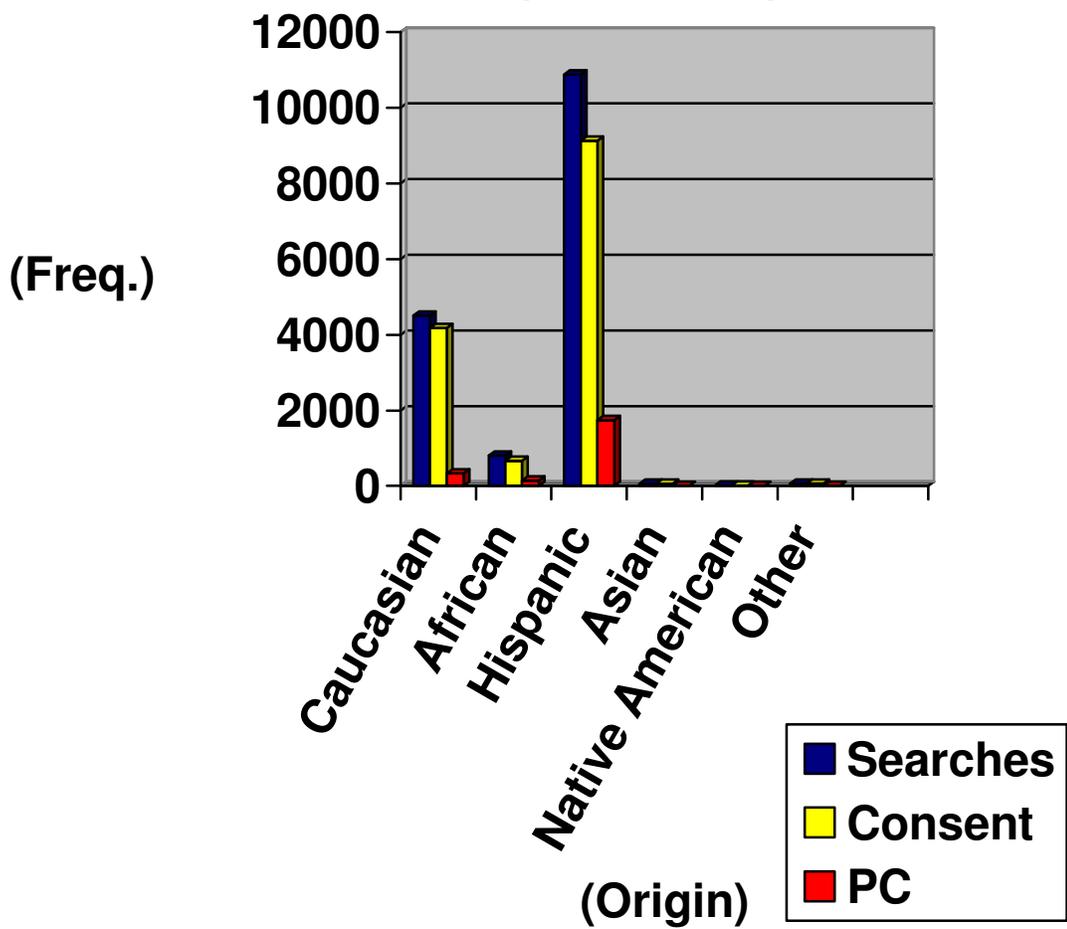
* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

**Figure has been rounded

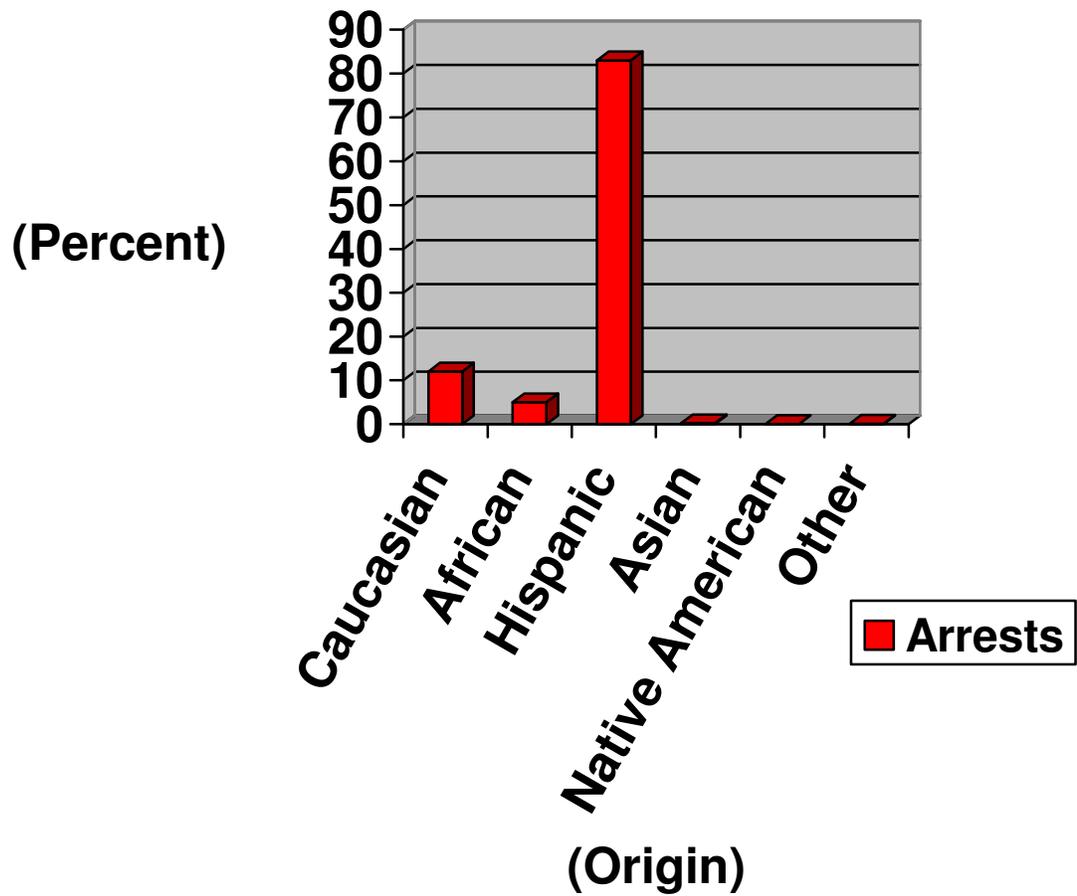
Tier 1 Data (Traffic Contacts)



Tier 1 Data (Searches)



Tier 1 Data (Arrests)



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

(II) Traffic-Contacts and Fair Roads Standard Comparison

Comparison of traffic-related contacts with households in El Paso that have vehicle access (in percentages). (1/1/08—12/31/08)

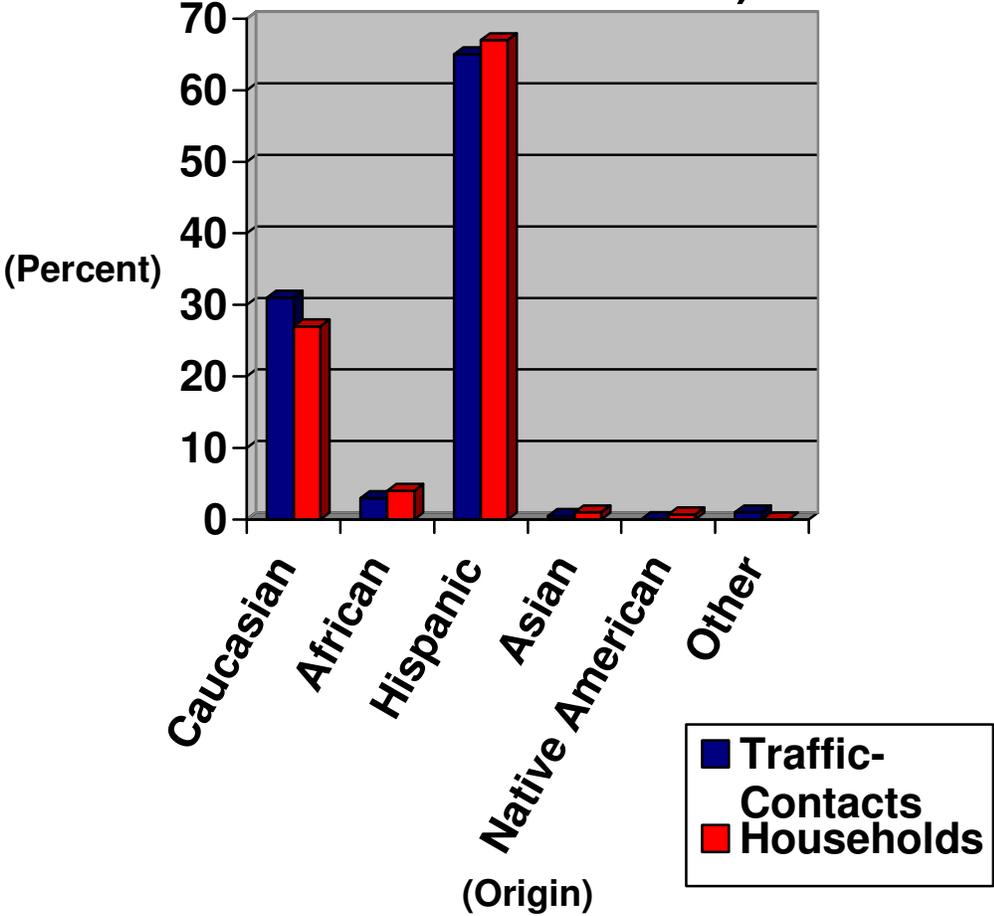
Race/Ethnicity*	Traffic-Contacts (in percentages)	Households with Vehicle Access (in percentages)
Caucasian	31	27
African	3	4
Hispanic	65	67
Asian	.5	1
Native American	.04	.7
Other	1	n/a
Total	100	99.7**

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

**Represents rounded figure

***Amount does not total 100% since Census data does provide value of “other” category.

Tier 1 (Traffic-Contacts and Households/08)



Analysis and Interpretation of Data

Analysis

In 2001, the Texas Legislature passed Senate Bill 1074 which later became the Texas Racial Profiling Law. The law came into effect on January 1, 2002 and requires that all police departments in Texas collect traffic-related data and report this information to their local governing authority by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of profiling minority motorists.

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

The El Paso Police Department, in an effort to comply with The Texas Racial Profiling Law (S.B. 1074), commissioned the analysis of its 2008 traffic contact data. Thus, three different types of data analyses were performed. The first of these involved a careful evaluation of the 2008 traffic stop data. This particular analysis measured, as required by the law, 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 in the course of a traffic-related stop, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a traffic-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2008 traffic-contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing traffic-related contact information. Of the baseline measures available, the El Paso Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the El Paso Police Department

in 2008 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all traffic-related contacts made in a given year.

In previous years, several civil rights groups in Texas have expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the El Paso Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to El Paso.

Tier 1 (2008) Traffic-Related Contact Analysis

When analyzing the Tier 1 data collected in 2008, it was evident that most traffic-related contacts were made with Hispanic drivers. This was followed by Caucasian and African American drivers. With respect to searches, most of them were performed on Hispanic drivers. This was also followed by Caucasians and African Americans. It is important to note that the arrest data revealed that Hispanic drivers were arrested the most in traffic-related contacts; this was followed by Caucasians and African Americans, in that order.

Fair Roads Standard Analysis

The data analysis of traffic contacts to the census data relevant to the number of “households” in El Paso who indicated, in the 2000 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American, Hispanic, Asian and Native American descent that came in contact with the police was lower than the percentage of African American, Hispanic, Asian and Native American households in El Paso that claimed, in the 2000 census, to have access to vehicles. With respect to Caucasian drivers, a higher percentage of contacts were detected. That is, the percentage of Caucasian drivers that came in contact with the police in 2008 was higher than the percentage of Caucasian households in El Paso with access to vehicles.

Summary of Findings

The comparison of traffic contacts showed that the El Paso Police Department came in contact (in traffic-related incidents) with a smaller percentage of African American, Hispanic, Asian and Native American drivers than the percentage that resided in El Paso and had access to vehicles. Further, the data suggested that the percentage of

Caucasian drivers that came in contact with the police in 2008 was higher than the percentage of Caucasian El Paso households with access to vehicles.

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

- 1) Perform an independent search analysis on the search data collected in 2008.
- 2) Commission data audits in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported

The information and analysis provided in this report serves as evidence that the El Paso Police Department has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements **were** met by the El Paso Police Department in accordance with The Texas Racial Profiling Law:

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the El Paso 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, 2009.
- 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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