

**The Sealy Police Department
Annual Contact Report
(2012)**



(I) Introduction

Opening Statement

February 06, 2012

Sealy City Council
Sealy, Texas 77474

Dear Distinguished Members of the City Council,

In an attempt to address the issue of racial profiling in policing, the Texas Legislature passed, in 2001 the Texas Racial Profiling Law (S.B. 1074). Since becoming effective, the Sealy Police Department, in accordance with the law, has collected contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices by police officers. In 2009, the Texas Racial Profiling Law was modified and new requirements are now in place.

In this particular report, you will find three sections that contain information on contact data along with documentation, which aims at supporting the fact that the Sealy Police Department has complied with The Texas Racial Profiling Law. You will find, in section 1, the table of contents in addition to the Texas Law on Racial Profiling. Also, in this section, you will have the opportunity to become acquainted with the list of requirements relevant to the Racial Profiling Law as interpreted by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education).

In sections 2 and 3, you will have an opportunity to review documentation, which demonstrates compliance of the Sealy Police Department with the Texas Racial Profiling Law. Specifically, documents relevant to the implementation of an institutional policy banning racial profiling, the implementation of a racial profiling complaint process (including the manner in which it has been disclosed to the public) and the training administered to all law enforcement personnel, are included.

This report also contains statistical data relevant to motor vehicle contacts between 1/1/11 and 12/31/11. This information has been analyzed and compared to data derived from the U.S. Census Bureau in the form of the Fair Roads Standard, and to the citation and arrest-based contact data collected in 2011. The final analysis and recommendations are also included.

The data and supporting documentation presented in this report support the notion that the Sealy Police Department is committed to the identification and resolution (if necessary) of all issues relevant to racial profiling according to the state law.

Sincerely,

John Tollett

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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 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 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

AN ACT

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

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

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

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

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

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

President of the Senate

Speaker of the House

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

Secretary of the Senate

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

Chief Clerk of the House

Approved:

Date

Governor

New Requirements (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

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

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

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

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

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

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

(a) In this article:

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

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

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

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

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

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

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

(a) In this article:

(1) "Motor vehicle [~~, "pedestrian]~~ stop" has the meaning assigned by Article 2.132(a) [~~means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest~~].

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

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

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

appointed, and must include:

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

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities [~~determine the prevalence of racial profiling by peace officers employed by the agency~~]; and

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

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

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

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

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

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

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

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

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

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

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety,

not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate

records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

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

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

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

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

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

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

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

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

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

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

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

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

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

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

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

by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and

(9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; [and]

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

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

(1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or

(3) a commission rule.

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

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

(II) Responding to the Law

Institutional Policy on Racial Profiling

Subject

RACIAL PROFILING

Reference

N/A

Special Instructions

Replaces All Others

Distribution

All

Re-evaluation Date

November 17, 2011

No. Pages

5

Issuing Authority

Chief John P. Tollett

I. PURPOSE

The purpose of the policy is to reaffirm the Sealy Police Department's commitment to prohibit racial profiling in all its encounters between an officer and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion

II. 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 in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers or passengers and pedestrians that are detained.

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 unacceptable.

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.

III. DEFINITIONS

A. 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.

1. 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:

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.

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.

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.

A law enforcement agency can derive at two principles from the adoption of this definition of racial profiling:

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.

Law enforcement officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.

Race or Ethnicity – Of a particular decent, including White, Black, Hispanic, Asian, Native American or Middle Eastern.

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 a violation of a law or ordinance regulating traffic.

IV. TRAINING

A. 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, 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.

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 Chief of Police 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.

COMPLAINT INVESTIGATION

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

Any employee who receives an allegation of racial profiling shall record the person's name, address and telephone number, and forward the complaint through the appropriate channel or direct the individual(s). Any employee contacted shall provide to that person a copy of a complaint form or the Department process for filing a complaint. All employees will report any allegation of racial profiling to their superior before the end of their shift.

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 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.

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.

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.

PUBLIC EDUCATION

This department will inform the public of its policy against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available in English and Spanish.

VII. CITATION DATA COLLECTION & REPORTING

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

the violators race or ethnicity;

whether a search was conducted;

was the search consensual; and

arrest for this cited violation or any other violation.

B. 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:

1. a breakdown of citations by race or ethnicity;

2. number of citations that resulted in a search;

3. number of searches that were consensual; and

4. number of citations that resulted in custodial arrest for this cited violation or any other violation.

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

VIII. USE OF VIDEO AND AUDIO EQUIPMENT

- A. Each motor vehicle regularly used by this Department to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment, and each motorcycle regularly used by this department to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and
 - a. Each traffic and pedestrian stop made by an officer of this Department that is capable of being recorded by video and audio, or audio, as appropriate, is recorded.

This Department shall retain the video and digital recordings, 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 ninety (90) days.

Unless otherwise specified, this policy establishes the parameters of acceptable conduct.

No policy can anticipate all circumstances that may be encountered by officers

Subject	RECORDING DEVICES	
Reference N/A	Special Instructions Replaces All Others	
Distribution All	Re-evaluation Date November 17, 2011	No. Pages 4
Issuing Authority	Chief John P. Tollett	

I. POLICY

It is the policy of the Sealy Police Department to provide its patrol officers with recording instruments, protecting officers and the department from false accusations.

II. PURPOSE

It is the purpose of this directive to establish criteria for officers to record contacts with individuals and to support Department Policy 1-3 regarding the prohibition of profiling.

III. DEFINITIONS

- A. Mini-video recorder – A mini video recording system that is worn by an individual officer on the outside of uniform.
- B. In-car video – Video systems installed in patrol vehicles of the Sealy Police Department.
- C. Department – The Sealy Police Department

IV. PROCEDURES

A. Equipment

1. The following equipment is issued to the officers of the department. This equipment is property of the department, and shall be surrendered to any supervisory personnel upon their request:
 - a. One mini-digital recording device

2. The following equipment is installed in the marked patrol vehicles of the department:
 - a. In-car video
 - b. Body microphone

3. It is the duty of all officers covered under this policy to ensure that their recording device(s) are in proper working order prior to coming in contact with individuals as stated. Equipment that is not in working order is to be reported immediately to a supervisor. The supervisor is to take the action necessary to enable the officer to comply with this policy.

4. The digital file of any officer who uses recording devices under this directive becomes the property of the Department, regardless of whether the officer purchased the recorder that is used.

B. Required times of recording

1. The following contacts with persons are to be recorded. This recording is to begin prior to the actual contact with the subject:

a. Traffic Stops

- (1) If a patrol car has in-car video, this is required to be used, along with its audio recording.
- (2) If a patrol car has an in-car video recording device, upon activation of the patrol lights the recording device is to be turned on, by either automatic or manual means. After the traffic stop and contact with the citizen/violator, the officer will be responsible for shutting off the recording device.
- (3) If a patrol car does not have an in-car video, the officer's mini-digital recorder is to be used.
- (4) An exception to when an officer may refrain from using their in-car audio transmitter is when he knows that another officer on scene has his/her in-car transmitter on. It should be noted that having a second in-car transmitter activated may possibly cause the recording to be distorted. Normally the primary unit will be responsible for having their in-car audio transmitter on. In this case, secondary officers shall have their mini-digital recorders on while at the scene.

b. Violator contacts

- (1) This includes investigative contacts with persons suspected of criminal activity.
- (2) This does not pertain to detectives or other investigators, whose contact is due to an on-going investigation.

c. Field interviews

d. Suspicious person contacts

e. Accident investigations

f. Disturbances

g. Any other citizen contact that may be adversarial.

2. This policy refers to officers who are working uniformed extra-jobs under the color of their employment with this department.
3. Recordings not requested by a supervisor are to be kept by the officer for a minimum of 90 days from the day of the recording.

C. Digital Video Security and Access

1. All police vehicles that have an in-car video system will have the recording device stored and secured in the vehicle.
2. Digital recordings will be stored in an area designated by the Chief of Police.
3. All digital recordings will be stored in the designated area for a period of no less than 90 days. After this time period, the digital recordings will then be deleted from the specified storage device.

D. Review of Recordings

1. The Lieutenant and Patrol Supervisors will periodically review the digital recording(s) to ensure compliance with this policy. Each officer will have one of his/her digital recordings reviewed once each 90 days.
2. The Lieutenant will review the digital recording(s) along with Patrol Supervisors, as required, when a complaint is registered with the Department.

May 23, 2006
Effective Date

1-7.1
Number

Subject

QUESTIONS ABOUT POLICE OFFICER PERFORMANCE

Reference

N/A

Special Instructions

Replaces All Others

Distribution

All

Re-evaluation Date

November 17, 2011

No. Pages

4

Issuing Authority

Chief John P. Tollett

I. POLICY

Integrity is the basis for community trust. Trust binds officers and citizens in an effective partnership in public safety. We are accountable for our actions in this role. Therefore, all questions or complaints about the conduct of police operations or individual employees shall be taken in for inquiry and a disposition provided. All complainants and employees will be given a full measure of courteous, fair and prompt attention to their concerns.

II. PURPOSE

This general order establishes procedures for taking in for inquiry a question or complaint. It includes the duties and responsibilities of all members in carrying out the procedures, and a minimum standard for accountability and of documentation for a concern raised by either a citizen, a member of another agency or an employee of this agency.

III. DUTIES AND RESPONSIBILITIES

A. All employees, regardless of rank or position, have a duty to facilitate the filing of a question or complaint about a police operation or the conduct of an employee in the Police Department.

1. An employee who is not a supervisor is responsible for referring the individual asking a question or complaining about police action to a supervisor.

2. If no supervisor is on duty or available to respond promptly, the employee first contacted will take the matter to the next step in the chain of command until a police official is found to respond.
 3. If the response time of an official is beyond the time a complainant can or will wait, the employee contacted first will:
 - a. Whenever possible, take the name and telephone number of the individual and get a time the individual will be available for follow up by the next available supervisor; or,
 - b. If no follow up information is obtained, tell the individual when the Office of the Chief of Police will next be open for his or her telephone call. Ensure the office telephone number is known to the individual, (979) 885-2913.
 4. When an employee faces a question or complaint that appears to require immediate attention, the employee is free to call the on-call supervisor for direction on the steps to be taken.
- B. The primary duty of the supervisor or the police official taking a question or complaint is to gather as much information about the circumstances or actions said to be at issue. Even when a likely answer or explanation appears to be available, it should not be offered at the time of intake. At this point, listening, gathering facts and avoiding unnecessary conflict are the keys because:
1. The requirements of regular duties, for first line supervisors particularly, is likely to diminish the time and attention they can give: a fact easily taken by others as disinterest or preparation for giving a canned defense.
 2. Our willingness to listen generally calms an angry complainant and gives an opportunity to vent. The anger makes it very difficult for him or her to hear the most reasonable of answers or explanations about their difficulty.
 3. As solid a factual base as possible is critical to classify the complaint, determine the need for an inquiry and which, if any, of several investigative options can be used to prepare a disposition.

4. The method ensures the complaint process is not a channel for the disruption of proper department operations or retaliation directed at a specific officer(s); at a specific case or enforcement action.

IV. COMPLAINT SOURCES AND INTAKE PROCEDURES

A. Sources of Complaints – Questions about employee conduct or allegations of misconduct will be classified and considered for investigation whether presented in person, by telephone, in writing or anonymously in whatever medium.

1. Whatever the source of the question, the supervisor or police official taking it will document the matter on a Police Personnel Inquiry/Complaint Form.
2. The complaint form shall be completed and available for review by 0800 hours on the calendar day immediately following the day it was begun. It should be accompanied by all documents that would help establish the facts of the case, including when applicable the report or arrest number, citation number, if appropriate, and any audio/video recordings.
3. Anonymous complaints will be documented as all other complaints to the maximum extent possible.
4. The form and process will also be used for complaints lodged by an employee and to document those forwarded to the department from other authorities in or out of the City government.

B. Complaint Taking – The supervisor or police official taking a complaint will make every reasonable effort to gather specific details and present them in a chronological manner.

1. Whenever necessary, the taking of a complaint will include the use of questions and assistance to bring out the details necessary to describe the matter or conduct at issue for the complainant.
2. To the maximum extent feasible, the questions and review of the description by the complaint taker should both develop a clear picture of what happened, the role-attitude of the

complainant in the matter, and the availability of any other person who may have information on the matter.

3. Every effort should be taken to see that the event or action described contains facts illustrating behavior, statements or other acts which may serve to sustain or exonerate the allegation.
4. Sworn statements with notary stamp are required from complainants in situations where a complaint alleges a violation of policy or law.
5. The employee or employees alleged to be involved should not be contacted or interviewed at this stage; unless, the failure to do so, would clearly and fatally hamper investigation of an allegation. This includes avoiding a face-to-face meeting between complainant and officer at this time.

C. Contacts with Employees – Contacts with an employee or employees alleged to have acted improperly will not be undertaken until the complaint against them has been classified, an investigative method and an investigator have been selected.

1. The classification of questions or complaints gathered at intake is found in General Order 1-7.2. It includes an option to unfound a complaint based in facts available without employee contact.
2. The Department has the right to gather facts to determine whether there is reasonable cause to believe an investigation is necessary.
3. Any employee must receive written notice of an investigation. See General Order 1-7.3.

D. Time Frame

1. Complaints alleging violations of law may be processed consistent with the statute of limitations for alleged offenses.
2. Complaints alleging violations of policy will not normally be processed after 90 days following an incident. This practice is consistent with State law and Department policy governing audio and digital recording retention requirements. Each complaint will be reviewed on a case-by-case basis.

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 Sealy Police Department

Since January 1, 2002, the Sealy Police Department, in accordance to The Texas Racial Profiling law, launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, in written form, information relevant to filing a complaint on a racial profiling violation by a Sealy police officer. This information is provided in both English and Spanish.

The Sealy 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.

COMPLAINTS AGAINST EMPLOYEES OF THE SEALY POLICE DEPARTMENT

(To include racial profiling complaints)

This brochure explains what to do if you need to make a complaint against an employee of the Sealy Police Department. It also explains how these complaints are resolved.

How Can I Make a Complaint?

Questions about employee conduct or allegations of misconduct, to include racial profiling, will be classified and processed for investigation, whether initially presented in person, by telephone, or in writing.

Whatever the source of the question, the supervisor or police official taking the complaint, will document the matter on a Police Personnel Inquiry/Complaint Form.

What Should I Say?

Say as much as you can about your complaint.

- ❑ Describe what happened.
- ❑ Give the name or badge number of the officer(s) concerned (if you know them).
- ❑ Say where and when the incident took place.
- ❑ Give the names and addresses of any witnesses (if you have them).

What Happens Then?

Normally a supervisory officer will visit you on an informal basis to tell you about the complaints procedure and to give you the opportunity to discuss your complaint. Whenever possible, the supervisory officer will explain why the officer, subject to the complaint, took a certain course of action. In addition, the supervisory officer will explain what the officer's duties were, what the police powers were, and the context in which the officer acted. Experience has shown

that many people are unaware of the limitations of police authority and that an explanation provided by a supervisory officer may help to clarify the situation`. If you are satisfied with the explanation given by the supervisory officer, your complaint will proceed no further. You may be asked to sign a release confirming that you are satisfied with this disposition. A record will be maintained of what has taken place. Any allegation of criminal conduct or policy violation would not be subject to informal resolution.

Who Will Investigate My Complaint?

Internal Affairs is a staff function of the Office of the Chief of Police. The function is staffed only as there are cases requiring action. The selection of an official to investigate a complaint will be made by the Chief of Police or his designee.

How Will My Complaint Be Investigated?

The investigating officer will talk to:

- you;
- the officer(s) you have filed a complaint against;
- any witnesses.
- Any related information such as citations, offense reports, audiotapes or videotapes.

Criminal Proceedings

On receipt of a report regarding a criminal offense the investigator will:

- Initiate a criminal offense report;
- Collect evidence, if it is available.

This information is necessary for the investigator to assess the validity of the evidence against the officer(s) concerned. You may be asked to go to the District Attorney's office and speak with an investigator.

After looking into the case, the District Attorney will decide whether or not to refer the case to the Grand Jury.

Police Misconduct Proceedings

The employee you have named in your complaint may not have committed a criminal offense but he or she may have behaved in a manner considered inappropriate for an employee. In these circumstances the Chief of Police, in conjunction with the officer's immediate supervisors may order:

- Verbal counseling and/or;
- Training and/or;

- ❑ Written performance advisory or;
- ❑ Written reprimand
- ❑ Demotion or suspension without pay or
- ❑ Dismissal from the Department

What if I am not Satisfied with the Handling of my Complaint?

It is important that you allow the Chief of Police a reasonable opportunity to carry out an investigation into your complaint and respond in writing to you. If at the conclusion of the investigation you are not satisfied with the manner in which the Chief of Police has dealt with your complaint you may address your complaint to the City Manager.

What Happens if I Want to Withdraw my Complaint?

Wherever possible you should speak to the supervisory officer to whom you first made your complaint. As an alternative, you can notify the Chief of Police. If your complaint has led to criminal proceedings against any employee any decision to continue with those proceedings will rest with the District Attorney's Office.

How Do I Complain About a Supervisory Police Officer?

If you have a complaint about a supervisory police officer, you should contact the Chief of Police.

Who Makes Sure Complaints are Dealt With Properly?

The Chief of Police is responsible for all internal affairs matters. Except for extraordinary circumstances, he supports the assigned investigator, assuring the investigator has access to any and all resources required, and provides staff review.

False or Malicious Complaints

Anyone who knowingly makes a false statement to a police officer(s) may be subject to criminal charges.

This pamphlet is provided to help you understand the complaint process for an employee of the Sealy Police Department.

Racial Profiling Training

Racial Profiling Training

Since 2002, all Sealy 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 Sealy Police Department have completed the TCLEOSE basic training. The main outline used to train the officers of Sealy has been included in this report.

It is important to recognize that the Chief of the Sealy 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 Sealy 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 Racial Profiling Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/11---12/31/11, based on allegations related to possible violations of the Texas Racial Profiling Law. The final disposition of the case is also included.

X

A “X” above indicates that the Sealy Police Department has not received any complaints, as outlined in the law, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/11 ---- 12/31/11.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law.

Complaint No.	Alleged Violation			Disposition of the Case

Additional Comments:

Tables Illustrating Traffic and Motor Vehicle Contacts

Tier 1 Data

(I) Tier 1 Data

Motor Vehicle-Related Contact Information (1/1/11—12/31/11)

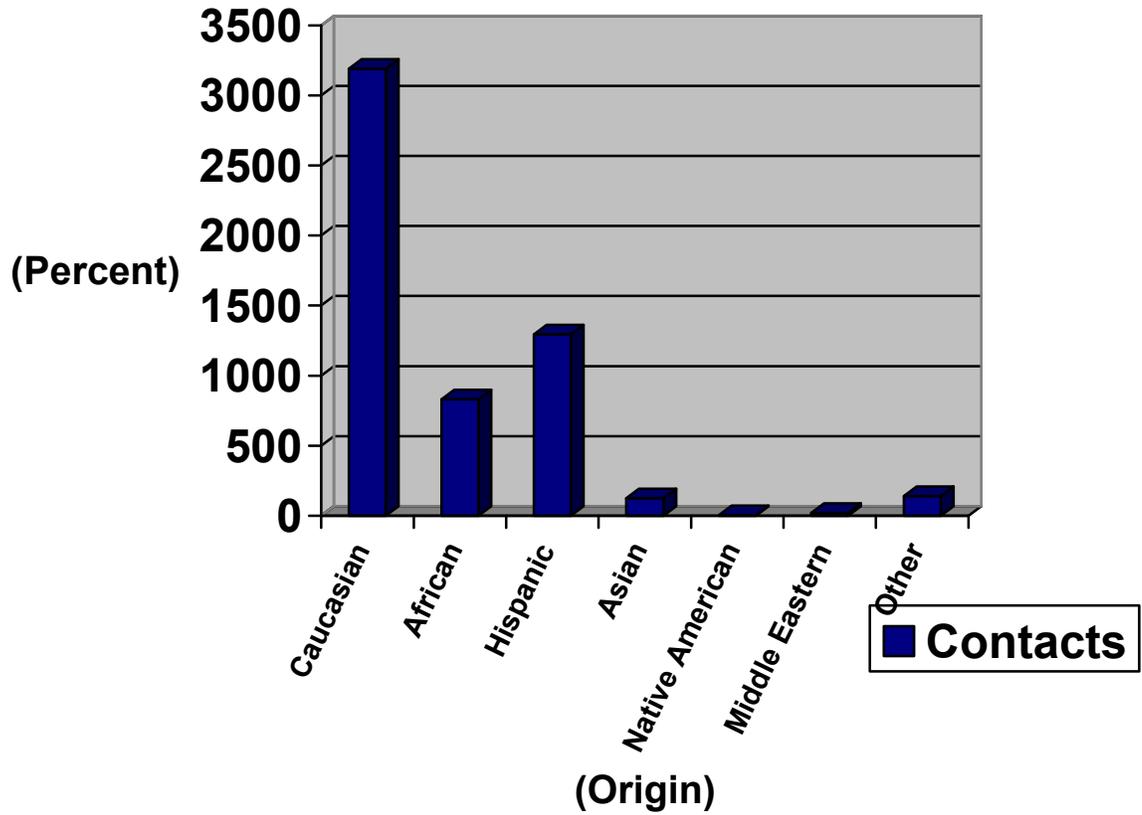
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	3191	57	59	55	42	60	17	45	25	39
African	832	15	21	19	11	16	10	26	14	22
Hispanic	1295	23	25	23	15	21	10	26	24	38
Asian	126	2	0		0		0		0	
Native American	5	.1	0		0		0		0	
Middle Eastern	21	.4	1	1	0		1	3	0	
Other	141	2.5	2	2	2	3	0		1	1
Total	5611	100	108	100	70	100	38	100	64	100

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

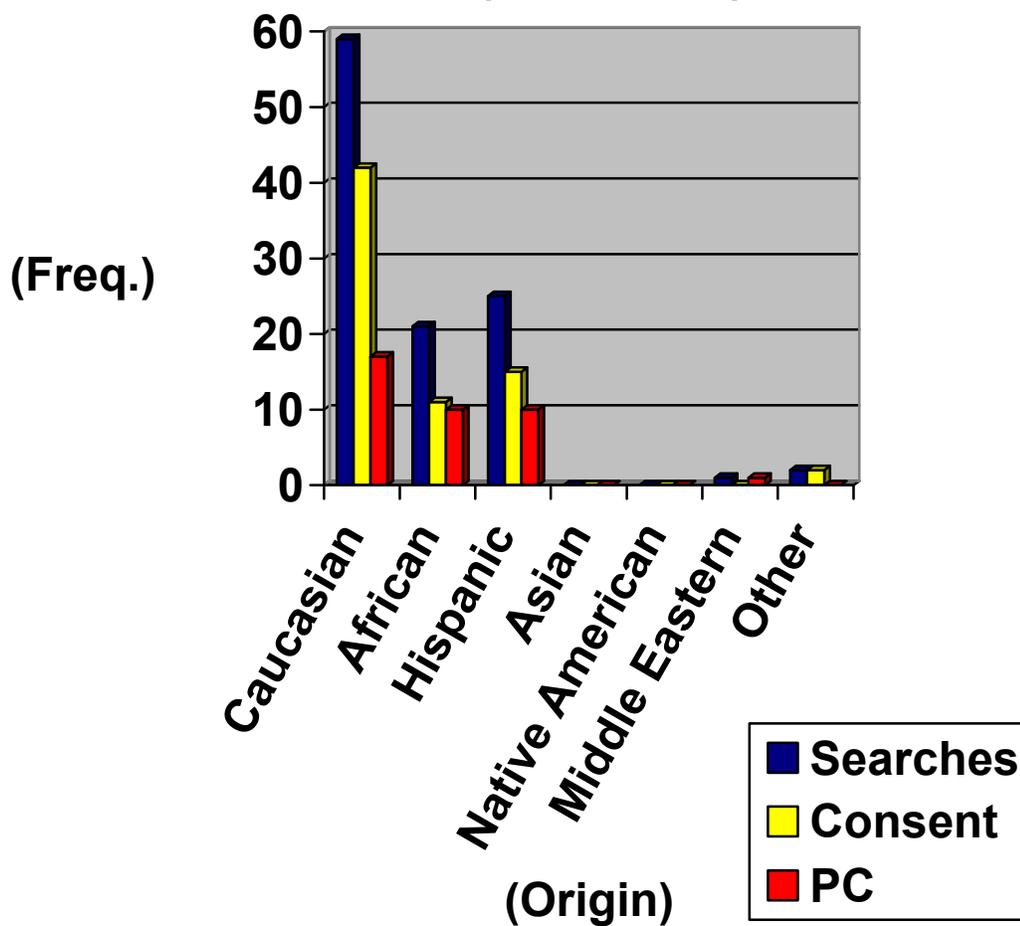
* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern”.

**Figure has been rounded

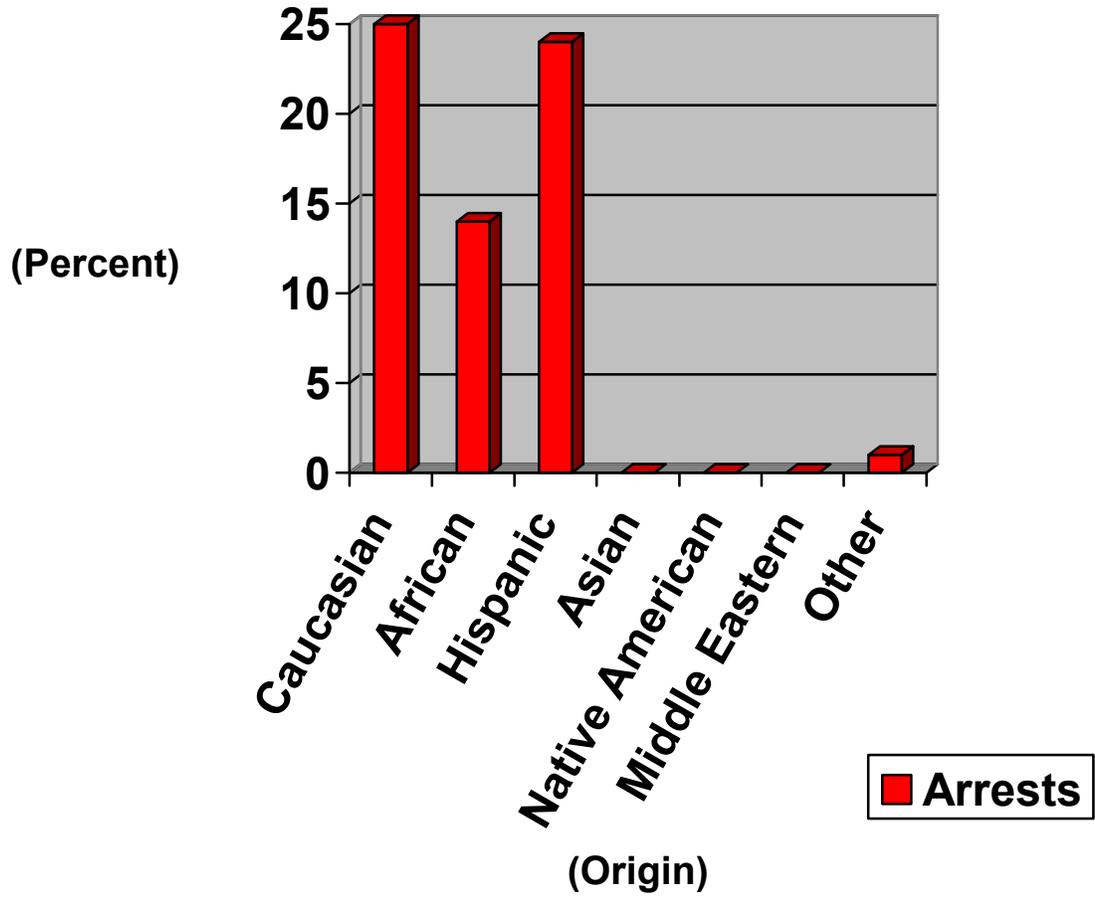
Tier 1 Data (Contacts)



Tier 1 Data (Searches)



Tier 1 Data (Arrests)



Total Number of Officers Knowing/not Knowing Race/Ethnicity of Individuals Before Being Detained (1/1/11--12/31/11)

Total Number of Officers Who <u>Knew</u> Race and Ethnicity of Individual Before Being Detained	Total Number of Officers Who <u>Did Not Know</u> the Race and Ethnicity of Individual Before Being Detained
0	5611

Tier 1 Data Comparison

Tier 1 Data
(Ten-Year Comparative Analysis)
(2002—2011)

(III) Ten-Year Tier 1 Data Comparison

**Comparison of Ten-Year Traffic and Motor Vehicle-Related Contact Information
(1/1/02---12/31/11)**

Race/Ethnicity*	Traffic-Related Contacts							
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)
Caucasian	2150	2888	2727	2170	1581	2794	2469	2301
African	676	839	713	484	422	767	662	690
Hispanic	1020	1440	1198	906	879	1437	1229	1128
Asian	106	96	84	59	26	84	77	91
Native American	1	2	0	0	0	0	0	6
Other	109	108	107	78	79	158	137	218
Total	4062	5373	4829	3697	2987	5240	4574	4434

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

** Figure has been rounded.

**Comparison of Ten-Year Traffic and Motor Vehicle-Related Contact Information
(1/1/02---12/31/11)**

	(10)	(11)
Caucasian	2368	3191
African	670	832
Hispanic	1028	1295
Asian	104	126
Native American	7	5
Middle Eastern	7	21
Other	230	141
Total	4414	5611

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

** Figure has been rounded.

**Comparison of Ten-Year Traffic and Motor-Vehicle Related Search Information
(1/1/02---12/31/11)**

Race/Ethnicity*	Search-Related Contacts							
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)
Caucasian	7	17	13	47	31	38	38	51
African	5	7	7	22	16	24	11	32
Hispanic	10	29	25	28	35	29	41	19
Asian	0	0	0	1	0	0	0	0
Native American	0	0	0	0	0	0	0	1
Other	1	0	0	0	1	0	2	8
Total	23	53	45	98	83	91	92	111

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

** Figure has been rounded.

**Comparison of Ten-Year Traffic and Motor Vehicle-Related Search Information
(1/1/02---12/31/11)**

	(10)	(11)
Caucasian	77	59
African	25	21
Hispanic	33	25
Asian	2	0
Native American	0	0
Middle Eastern	1	1
Other	16	2
Total	154	108

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

** Figure has been rounded.

**Comparison of Ten-Year Traffic and Motor Vehicle-Related Arrest Information
(1/1/02---12/31/11)**

Race/Ethnicity*	Arrest-Related Contacts							
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)
Caucasian	0	0	22	5	17	11	17	22
African	0	0	8	1	2	3	2	8
Hispanic	0	0	36	2	4	8	16	15
Asian	0	0	0	0	0	0	0	0
Native American	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	1
Total	0	0	67	8	23	22	35	46

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

** Figure has been rounded.

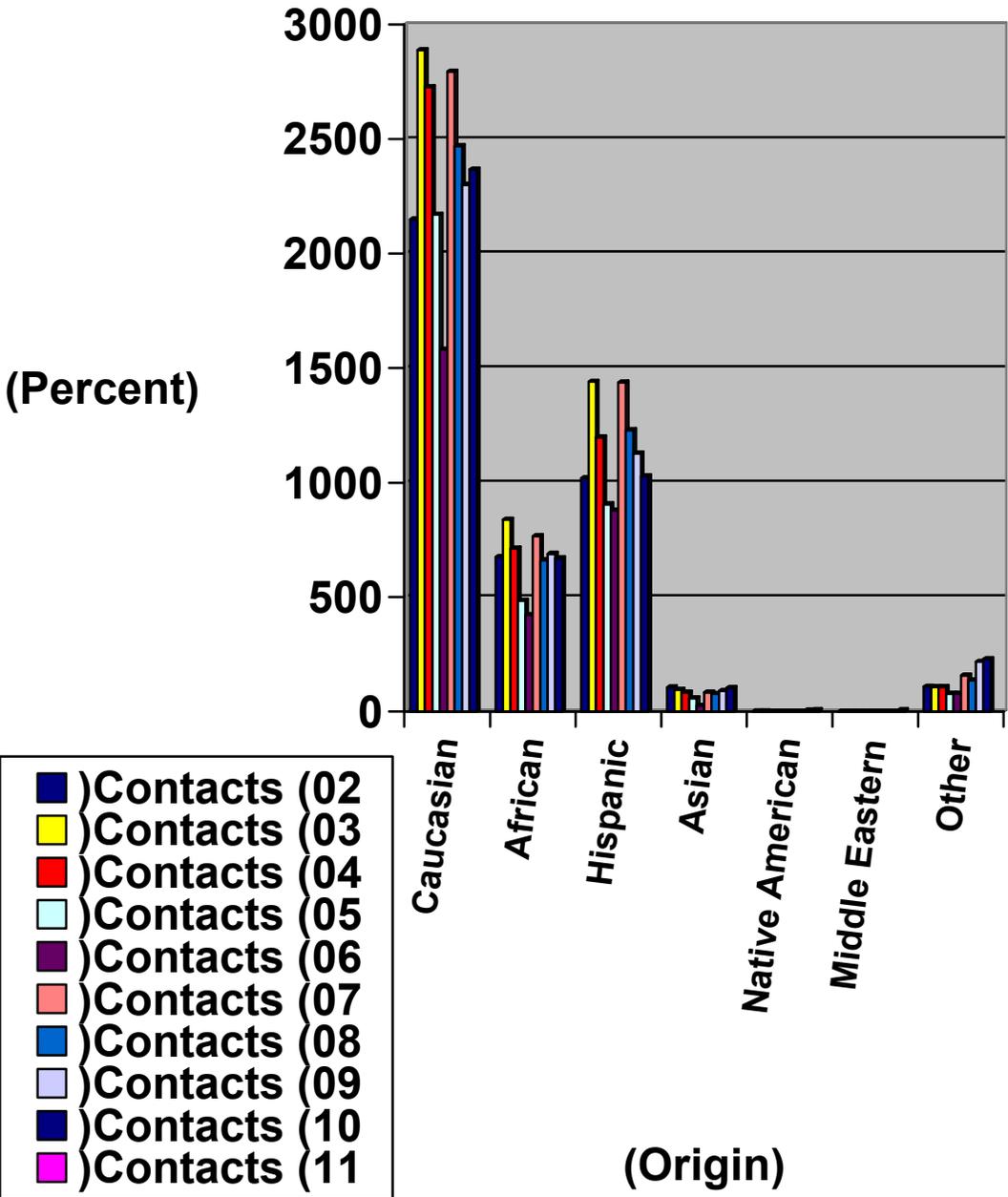
**Comparison of Ten-Year Traffic and Motor Vehicle-Related Arrest Information
(1/1/02---12/31/10)**

	(10)	(11)
Caucasian	9	25
African	5	14
Hispanic	10	24
Asian	2	0
Native American	0	0
Middle Eastern	0	0
Other	5	1
Total	31	64

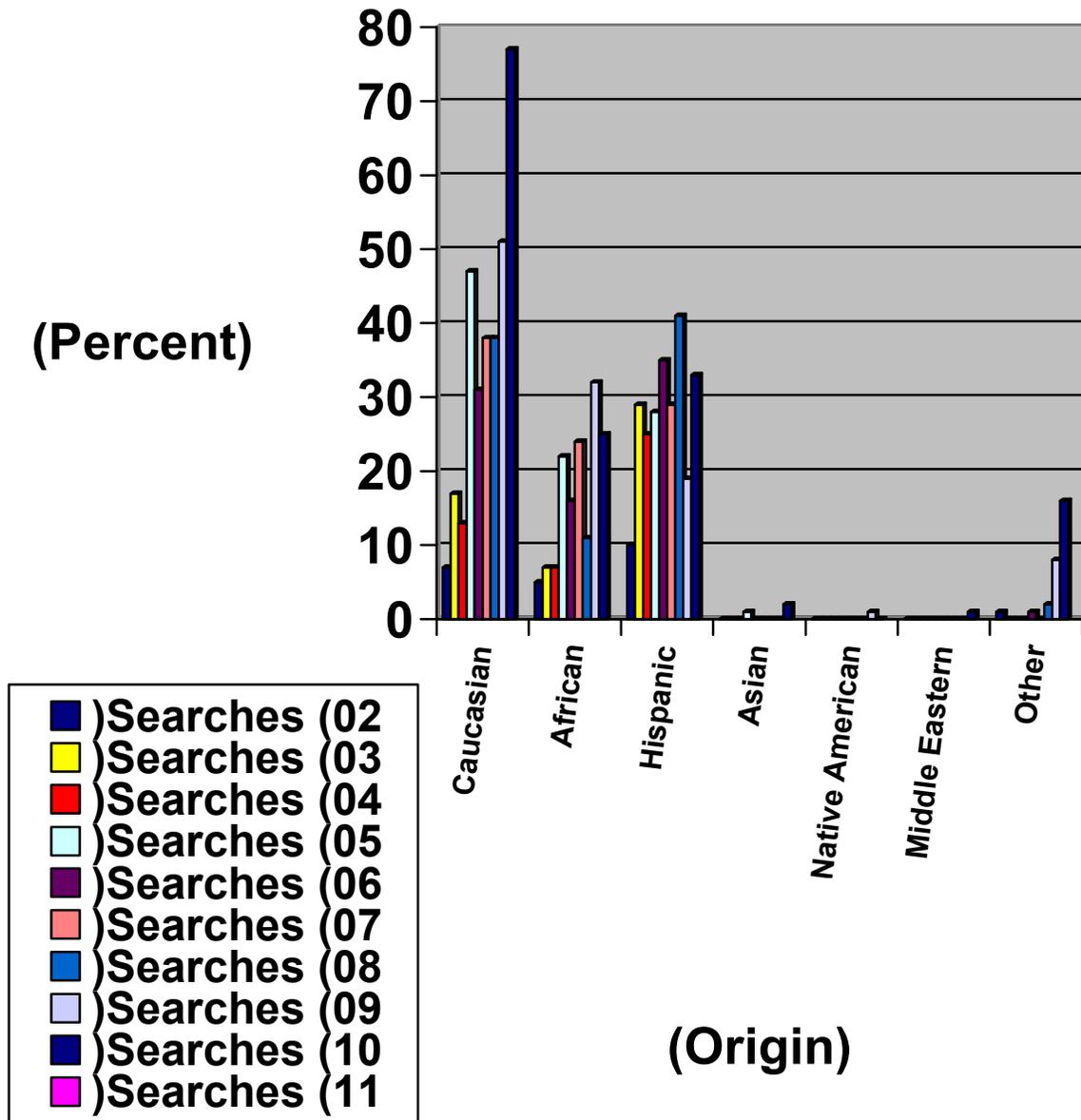
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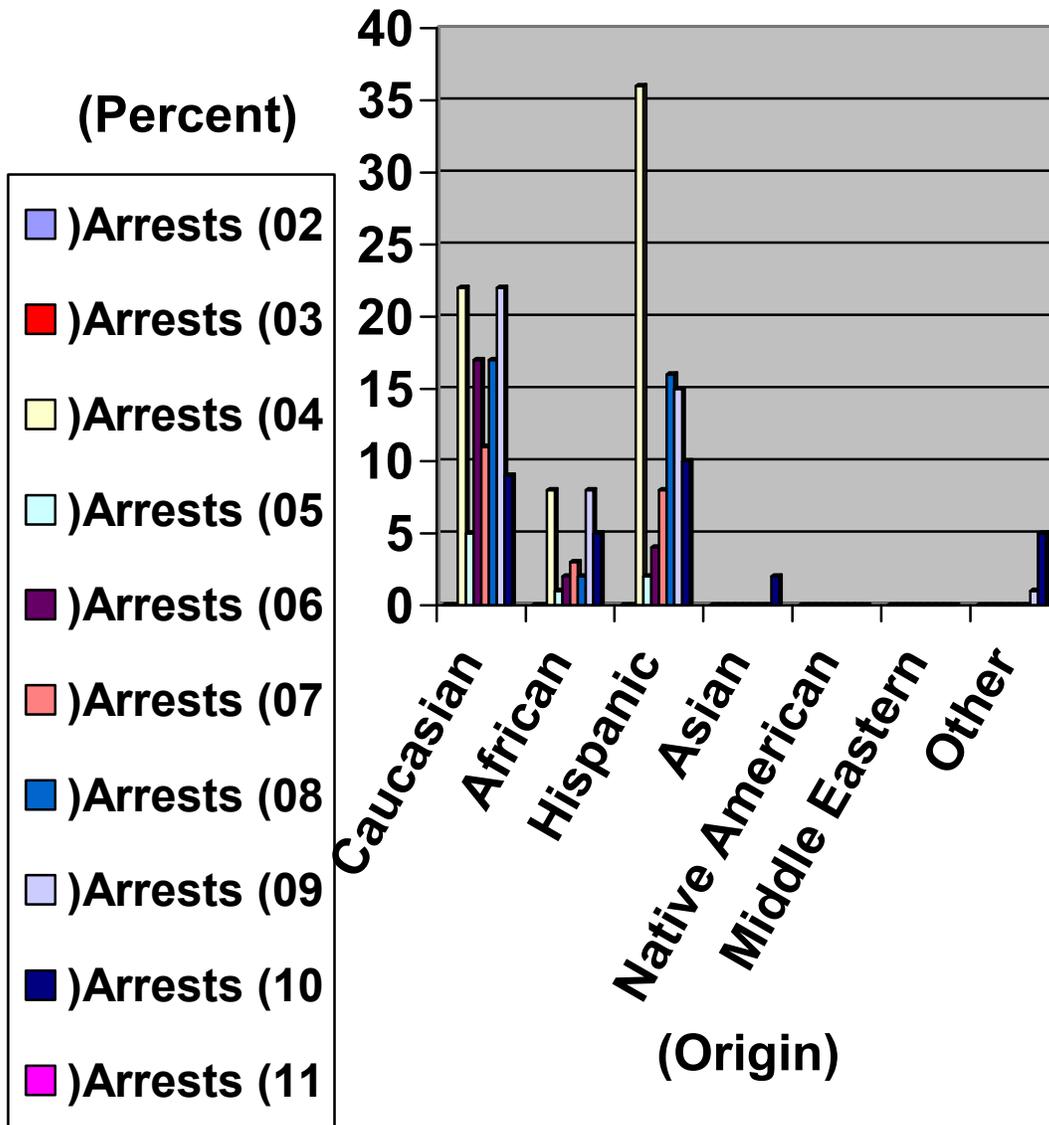
Tier 1 Data (Contacts 02-11)



Tier 1 Data (Searches 02-11)



Tier 1 Data (Arrests 02-11)



Analysis and Interpretation of Data

Analysis

In accordance to the Texas Racial Profiling Law, all police departments in the state have been required to collect data when a traffic-related citation is issued or an arrest is made. In 2009, this was changed to include all motor vehicle related contacts where a citation was issued or arrest made. In addition, the law requires that agencies report this information to their local governing authority and (recently) TCLEOSE, by March 1st of each year. The purpose in collecting and presenting this information is to determine if a particular police officer is engaging in the practice of profiling minority motorists. Despite the fact most agree that it is good practice for police departments to be accountable to their community, it is very difficult to determine, from the review of aggregate data, if police departments are engaging in racial profiling. That is, it is challenging to detect specific “individual” racist behavior from the study and analysis of aggregate-level “institutional” data on traffic-related contacts.

It should be noted that the Sealy Police Department, in response to the requirements of The Texas Racial Profiling Law (S.B. 1074), reported and analyzed its 2011 motor vehicle-related contact data. Thus, two different types of analyses were conducted. The first of these involved a careful evaluation of the 2011 contact data. This particular analysis measured, as required by the Texas Racial Profiling Law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners, and individuals belonging to the “other” category, that came in contact with the police and were issued a motor vehicle-related citation or arrested in 2011. 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 subsequently arrested. Further, it included the total number of officers that knew and did not know the race or ethnicity of an individual prior to being detained.

The second type of analysis was conducted while using the 2002--2011 traffic and motor vehicle contact data. Specifically, all contacts made in 2011 were compared to similar figures reported from 2002 to 2010. When considering this analysis, it was determined that comparing ten years of contact data may highlight possible areas of consistency with regards to overall police contacts. In other words, the ten-year comparison has the potential of revealing indicators that a trend of police-initiated contacts with regards to members of a specific minority group, is in fact, developing. The overall analysis of data indicates that the Sealy Police Department was consistent in traffic contacts over the reporting periods from 2002 to 2010. No particular race or gender was specifically targeted during the reporting periods.

Tier 1 (2011) Motor Vehicle-Related Contact Analysis

The Tier 1 data collected in 2011 showed that the Sealy Police Department was consistent in traffic contacts over the reporting periods from 2002 to 2010. No particular race or gender was specifically targeted during the reporting periods.

(III) Summary

The overall analysis of data indicates that the Sealy Police Department was consistent in traffic contacts over the reporting periods from 2002 to 2011. No particular race or gender was specifically targeted during the reporting periods.

Checklist

Checklist

The following requirements **were** met by the Sealy Police Department in accordance with Senate Bill 1074:

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Sealy Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCLEOSE by March 1, 2012.
- 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:

Sealy Police Department
Chief John P. Tollett
201 2nd Street
Sealy, Texas ZIP 77474

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