LANCASTER POLICE DEPARTMENT

2011

RACIAL PROFILING ANALYSIS

PREPARED BY:

Eric J. Fritsch, Ph.D.
Chad R. Trulson, Ph.D.

Professional Development Institute
University of North Texas

Executive Summary

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested for traffic violations and whether or not those individuals were searched. Since the law provides no clear instruction to a governing body on how to review such data, the Lancaster Police Department requested this analysis and review to assist the City Council in reviewing the data.

The analysis of material and data from the Lancaster Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE LANCASTER POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**

- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**

- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS.**

- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**

- **THE ANALYSIS OF STATISTICAL INFORMATION FROM LANCASTER POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**

- **THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**

- **THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCLEOSE.**

Introduction

This report details an analysis of the Lancaster Police Department's policies, training, and statistical information on racial profiling for the year 2011. This report has been prepared to specifically comply with Article 2.132 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of racial profiling data. Specifically, the analysis will address Articles 2.131 – 2.135 of the CCP and make a determination of the level of compliance with those articles by the Lancaster Police Department in 2011. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into six analytical sections: Lancaster Police Department's policy on racial profiling; Lancaster Police Department's training and education on racial profiling; Lancaster Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; an analysis of Lancaster Police Department's compliance with applicable laws on racial profiling; and a final section which includes new data reporting requirements to TCLEOSE as required beginning in 2011.

For the purposes of this report and analysis, the following definition of racial profiling is used: 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 (Texas CCP Article 3.05).

Lancaster Police Department Policy on Racial Profiling

A review of Lancaster Police Department's "Racial Profiling Policy" contained in the Operations Directive 2002-2005 revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP. There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in Lancaster's racial profiling policy. Lancaster Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including termination. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix B lists the applicable statute and corresponding Lancaster Police Department regulation.

A COMPREHENSIVE REVIEW OF LANCASTER POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Lancaster Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Documentation provided by Lancaster Police Department reveals that racial profiling training and certification is current for all officers in 2011. Racial profiling training is specifically covered in Lancaster's Racial Profiling Policy Part IV.

A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.

Lancaster Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Lancaster Police Department's Racial Profiling Policy Part V and VI cover this requirement.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS.

Lancaster Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic citations and detentions with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also to be collected. Lancaster Police Department submitted statistical information on all citations in 2011 and accompanying information on the race of the person cited. Accompanying this data was the relevant information on searches.

ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

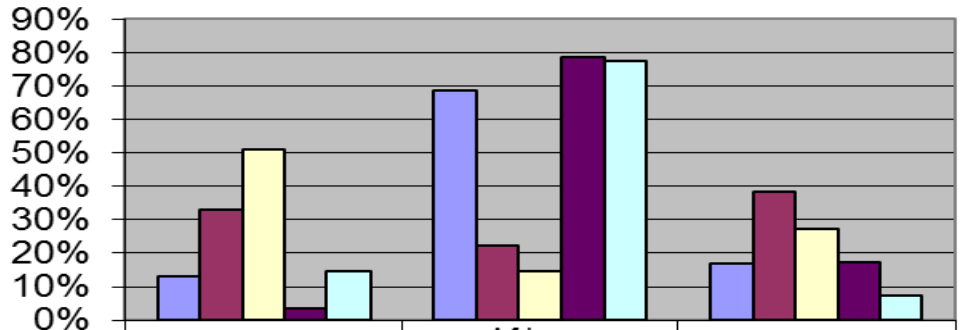
Analysis of the Data

The first chart depicts the percentages of people cited by race including Whites, African-Americans, and Hispanics. White drivers constituted 14.54 percent of all drivers cited, whereas Whites constituted 12.90 percent of the city population, 33.10 percent of the county population, and 50.90 percent of the region population.[1] The chart shows that White drivers are cited at a rate that is higher than the percentage of Whites in the city, but lower than the county and regional population. White drivers were cited at a significantly higher rate than the percentage of White students in the Lancaster Independent School District (3.30%).[2] African-American drivers constituted 77.47 percent of all drivers cited, whereas African-Americans constituted 68.70 percent of the city population, 22.30 percent of the county population, and 14.50 percent of the region population. African-American drivers were cited at a rate that is higher than the percentage of African-Americans found in the city population. African-American citation rates

[1]City, County, and Regional population figures are derived from the 2010 Census of the U.S. Census Bureau. "Regional" population figures are defined as the 16 county North Central Texas Council of Governments Region and is comprised of the following counties: Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

[2] Data on the racial make-up of LISD were obtained from Texas Education Association for the 2009-2011 school year and provided by LPD.

were also higher than the percentage of African-Americans in both the county and regional populations. However, African-Americans were cited at a rate that is slightly lower than the percentage of African-American students in the LISD population (78.60%). Hispanic drivers constituted 7.18 percent of all drivers cited whereas Hispanics constituted 17 percent of the city population, 38.30 percent of the county population, and 27.30 percent of the regional population. Hispanic drivers were cited at a rate that is lower than the percentage of Hispanics in the city, county, regional, and LISD population.



	White	African-American	Hispanic
% City Population	12.90%	68.70%	17.00%
% County Population	33.10%	22.30%	38.30%
% Region Population	50.90%	14.50%	27.30%
% LISD Population	3.30%	78.60%	17.30%
% Cited	14.54%	77.47%	7.18%

As the chart shows, easy determinations regarding whether or not Lancaster police officers have “racially profiled" a given motorist are impossible given the nature of the data that has been collected and presented for this report. The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling" motorists.

This methodological error, commonly referred to as the "ecological fallacy," defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate incident level data. In short, one cannot "prove" that an *individual* officer has “racially profiled” any *individual* motorist based on the rate at which a department stops any given *group* of motorists.

Additional interpretation problems remain in regards to the specific measurement of “racial profiling” as defined by Texas state code. For example, officers are currently forced to make subjective determinations regarding an individual's race based on his or her personal observations because the Texas Department of Public Safety does not provide an objectively-based determination of an individual's race/ethnicity on the Texas driver's license. The absence of any verifiable race/ethnicity data on the driver's license is especially troubling given the racial diversity within the city of Lancaster and the North Texas region as a whole, and the large numbers of citizens who are of Hispanic and/or mixed racial descent. The validity of any

racial/ethnic disparities discovered in the aggregate level data becomes threatened in direct proportion to the number of subjective "guesses" officers are forced to make when trying to determine an individual's racial/ethnic background.

In addition, the data collected for the current report does not allow for an analysis that separates (or disaggregates) the discretionary decisions of officers to stop a motorist from those that are largely non-discretionary. For example, non-discretionary stops of motorists based on the discovery of outstanding warrants should not be analyzed in terms of whether or not "profiling" has occurred simply because the officer who has stopped a motorist as a result of the discovery of an outstanding warrant does not *independently* make the decision to stop, but rather, is required to stop that individual regardless of any determination of race. An officer cannot be determined to be “racially profiling” when organizational rules and state codes compel them to stop regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of stop rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions. In the future, this validity issue could be lessened by the collection of data indicating the initial reason for the traffic stop, whether it be an observed traffic violation, other criminal activity, the existence of an outstanding warrant, or some other reason.

Finally, there has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. As the current analysis shows in regards to the use of city, county, and regional population base-rates, the outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. In addition, population growth and the changing demographic character of the North Texas region and particularly the city of Lancaster has exacerbated problems associated with determining appropriate base-rates because measures derived exclusively from the U.S. Census can become quickly outdated since they are compiled only once per decade. For example, Lancaster has experienced a rate of growth of more than 40 percent since the 2000 Census. In years following the 2000 Census, it was unclear as to how this growth impacted the overall demographic character of the city. However, the 2010 Census has revealed that Lancaster has not only experienced large-scale growth over the course of the last several years, but has also become much more diverse as indicated by the demographic statistics presented in this report. Related, the determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures.

In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are cited in order to determine whether or not racial profiling exists within a given jurisdiction.

The table below reports the summaries for the total number of persons cited and searched subsequent to being stopped by the Lancaster Police Department for traffic offenses (5,434). In addition, the table shows the number of stopped individuals who granted consent to search and those stopped drivers who were arrested at the conclusion of the stop. The chart shows that roughly 11 percent of all drivers searched were White (85/783 total searches), roughly 9 percent (67) were Hispanic, and 80 percent (624) were African-American. It is clear that the vast majority of the total number of drivers cited (including White, African-American, and Hispanic

groups) were not searched, as roughly 85 percent of all drivers who were cited were not searched (783/5,434).

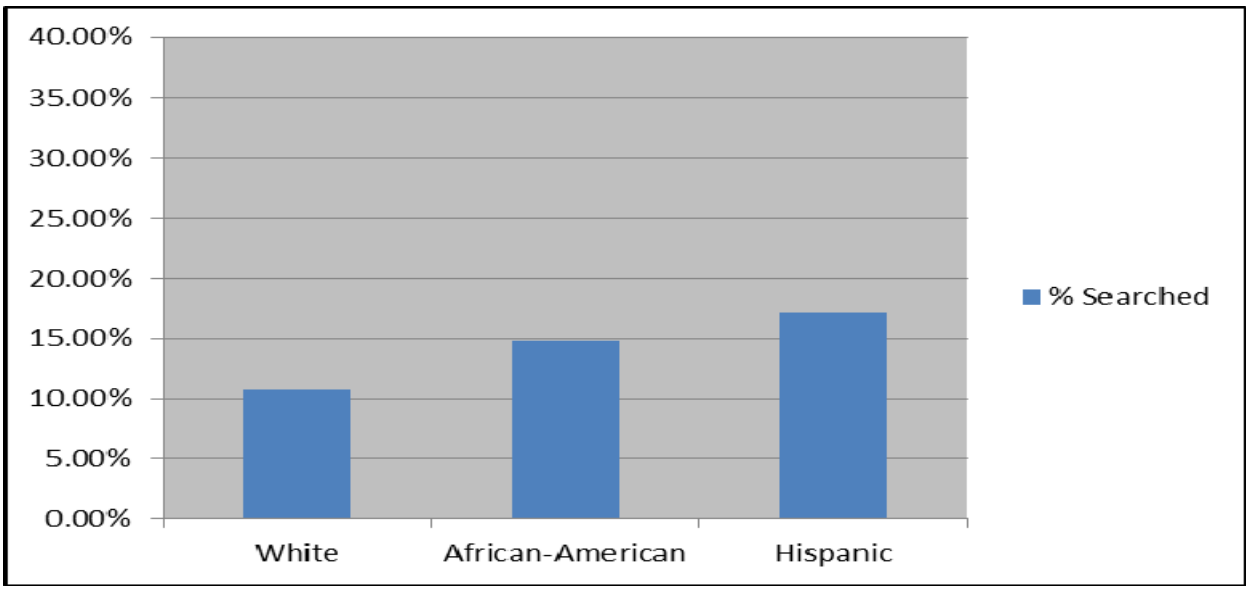
Action	White	Asian	Hispanic	African-American	Other	Total
Stops	790	21	390	4,210	23	5,434
Searches	85	0	67	624	7	783
Consent Searches	6	0	3	35	0	44
Arrests	40	0	18	230	2	290

Note: "Searches" include vehicle and driver searches only

It should be noted that aggregate level comparisons regarding the rates at which drivers are searched by police are subject to some of the same methodological issues as those outlined above regarding analyses of aggregate level stop rates. Of particular concern is the absence of any analyses that separates discretionary searches from non-discretionary searches. For example, searches that are conducted incident to an arrest or as part of a vehicle tow inventory should not be included in analyses designed to examine whether or not racial profiling has occurred because these types of searches are non-discretionary in that the officer is compelled by law or departmental guidelines to conduct the search irrespective of the race of the stopped driver.

Less than 1 percent of the total number of citations resulted in a consensual search (44/5,434). So too, only 5 percent of drivers cited were subject to an arrest. Of those arrested, roughly 14 percent (40/290 total arrests) were White, roughly 79 percent (230) were African-American, and roughly 6 percent (18) were Hispanic. Additional data regarding the reason for the arrest are necessary in order to further examine whether or not these data reflect individual officer decisions to arrest or non-discretionary actions based primarily on legal and/or organizational requirements (e.g., the existence of outstanding arrest warrants or on view criminal activity).

The bar chart below presents the percentage of drivers that were searched within each racial category. The chart indicates that drivers who were cited were rarely searched across the racial categories. For example, roughly 11 percent of all White drivers who were cited were also searched, roughly 15 percent of all African-American drivers who were cited were searched, and approximately 17 percent of all Hispanic drivers who were cited were also searched.



Analysis of Racial Profiling Compliance by Lancaster Police Department

The foregoing analysis shows that the Lancaster Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection of data in compliance with the law. Finally, internal records indicate that the department had no complaints in reference to racial profiling for the year 2011.

In addition to providing summary reports and analysis of the data collected by the Lancaster Police Department in 2011, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Lancaster Police Department as well as police agencies across Texas. The Lancaster Police Department should continue its educational and training efforts within the department on racial profiling. Finally, the department should conduct periodic evaluations to assess patterns of officer decision-making on traffic stops. The final section of this report includes newly required TCLEOSE reporting information by Texas law enforcement organizations.

LPD TCLEOSE Reporting Forms

Partial Exemption Racial Profiling Reporting
(Tier 1)

Department Name	LANCASTER TX POLICE DEPT
Agency Number	TX0571700
Chief Administrator Name	LARRY W FIATT
Reporting Name	LARRY W FIATT
Contact Number	972-218-2708
E-mail Addess	lfiatt@lancaster-tx.com

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

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

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

These polices are in effect

1-6-12

Chief Administrator Date

Partial Exemption Racial Profiling Reporting
(Tier 1)

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):

☒ all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

☐ In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

Chief Administrator 1-6-12 Date

PARTIAL EXEMPTION RACIAL PROFILING REPORTING (TIER 1)

INSTRUCTIONS: Please fill out all boxes. If zero, use 0.

1. **Total on lines 4, 11, 14, and 17 <u>must</u> be equal**
2. **Total on line 20 <u>must</u> equal line 15**

AGENCY NAME:

Number of motor vehicle stops (mark only 1 category per vehicle stop):

1. 5144__ Citation only
2. 290___ Arrest only
3. 0_____ Both

4. **5434____ (Total of 1-3)**

Race or Ethnicity (mark only 1 category per vehicle stop):

5. 4210__ African
6. 21____ Asian
7. 790___ Caucasian
8. 390___ Hispanic
9. 5_____ Middle Eastern
10. 0_____ Native American (18 "Other")

11. **5434____ (Total of 5-10, must be the same as #4)**

Race or Ethnicity known prior to stop?

12. 428___ Yes
13. 5006__ No

14. **5434____ (Total of 12-13, must be the same as #4 and #11)**

Search conducted?

15. 783___ Yes
16. 4651__ No

17. **5434____ (Total of 15-16, must be the same as #4, #11, and #14 above)**

Was search consented?

18. 44____ Yes
19. 739___ No

20. **783_____ (Total, must equal #15)**

Partial Exemption Racial Profiling Reporting
(Tier 1)

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

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

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

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

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

This report meets the above requirements

1-6-12

Chief Administrator Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

Appendix A

Racial Profiling Statutes and Laws

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.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 2, eff. Sept. 1, 2001.

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

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

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

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

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

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

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

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

(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 motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle

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 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.

(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.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2011.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

(a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a).

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

(1) a physical description of any 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;

(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 of the contraband or evidence;

(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;

(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.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2011.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

(1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).

(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 law enforcement agency shall submit a report containing the incident-based data 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.

(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; and

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

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

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle 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.

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

(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.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 27, eff. September 1, 2011.

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 stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle 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 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 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).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2011.

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.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

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).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.138. RULES.

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

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

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.

Added by Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 29, eff. September 1, 2011.

Appendix B

Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	LANCASTER POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	Part III
2.132(b)2	Part I & III
2.132(b)3	Part IV
2.132(b)4	Part IV
2.132(b)5	Part V
2.132(b)6	Part VII
2.132(b)7	Part VII

Appendix C

Lancaster Police Department
Racial Profiling Policy

Operations Directive 2002-005

Effective Date: September 23, 2002; Replaces 2001-006
Affects: All Personnel

I. PURPOSE

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

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 strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

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

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

III. DEFINITIONS

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

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

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

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

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

3. 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 two principles from the adoption of this definition of racial profiling:

1. 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.

2. 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 Caucasian, African, Hispanic, Asian, or Native American.

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

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

IV. TRAINING

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

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

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

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

V. COMPLAINT INVESTIGATION

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

2. Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint 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.

3. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be

reduced to writing and any reviewer's comments or conclusions shall be filed with the chief. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.

4. 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.

5. If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation 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.

VI. 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 as appropriate in languages other than English. A copy of the most current departmental racial profiling policy will be included in the City website.

VII. COLLECTION & REPORTING OF INFORMATION

For each traffic stop, pedestrian stop and for each arrest resulting from such traffic and pedestrian stops, the officer who makes the stop is required to record the following data in the Stop Tracker software program:

1. the violator's race or ethnicity;
2. the violator's gender;
3. location of the stop;
4. name, address and identifying information of the violator;
5. violation suspected;
6. whether a search was conducted;
7. was the search consensual;
8. arrest for this cited violation or any other violation;
9. vehicle information such as license plate etc.

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

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

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

Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. A recording of each officer will be reviewed at least once every ninety (90) days.

IX. RESPONSIBILITY

Division Commanders as well as supervisory personnel are responsible for overall compliance with the content and intent of this directive. All members of the Department shall know and comply with all aspects of this directive.

Larry Flatt
Chief of Police