

# Glenn Heights Police Department Annual Contact Report (2011)



# **(I) Introduction**

# Opening Statement



March 1, 2012

City Manager, Mayor, and City Council Members of the City of Glenn Heights  
1938 South Hampton Road  
Glenn Heights, Texas 75154

Dear Distinguished Members of the City Council,

Racial profiling is considered to be one of the most important issues affecting law enforcement agencies in the United States. In 2001, the Texas legislature, in an attempt to address the issue of racial profiling in policing, passed the Texas Racial Profiling Law (S.B. 1074). Since becoming effective, the Glenn Heights Police Department, in accordance with the law, has collected citation-based contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices by police officers.

In this report, you will find three sections that present information on citation-based contact data along with documentation that aims at supporting the fact that the Glenn Heights Police Department has complied with The Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas 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).

Sections 2 and 3 present documentation that demonstrates compliance of the Glenn Heights 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 public contacts, made during the course of traffic stops, between 01/01/2011 and 12/31/2011. This information has been analyzed and compared to data derived from the U.S. Census Bureau and the surrounding communities' public school demographics, and to the citation-based contact data collected in 2010. The final analysis and recommendations are also included.

I am confident that the findings presented in this report support the notion that the Glenn Heights Police Department is committed to the identification and resolution (if necessary) of all issues relevant to racial profiling according to the state law.

Sincerely,

Phillip Mark Prasifka

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# **Texas Racial Profiling Law Requirements**

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

### Background

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

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

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

### Standard 1

Each law enforcement agency has a detailed written directive that:

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

### Commentary

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

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

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

## **Standard 2**

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

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

## **Commentary**

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

## **Standard 3**

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

## **Commentary**

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

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

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

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

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

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

- 1) the detained person’s gender and race or ethnicity;
- 2) if the Officer knew the Race/Ethnicity prior to making the stop;
- 3) 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);
- 4) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 5) facts supporting probable cause;
- 6) the type, if any, of contraband that was collected;
- 7) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 8) location of stop; and
- 9) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the Texas Commission of Law Enforcement Officers Standards and Education(TCLEOSE), 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 TCLEOSE, 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**

Article 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.

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Chief Clerk of the House

Approved:

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Date

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Governor

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

# **Institutional Policy on Racial Profiling**

**Subject: RACIAL PROFILING**

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**Section 1      POLICY**

The Glenn Heights Police Department has established a Racial Profiling Policy in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

**Section 2      DEFINITIONS**

**Racial Profiling:** 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, persons needing assistance, or other citizen contacts.

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

**Acts Constituting Racial Profiling:** Acts initiating law enforcement action, such as a traffic stop, detention, search, citation or arrest based solely upon an individual's race, ethnicity, or national origin or based on racial or ethnic stereotypes, rather than on the individual's behavior, information identifying the individual as having possibly been involved in criminal activity or other lawful reasons for the law enforcement action.

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

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

**Section 3      PROHIBITION**

Peace Officers for the Glenn Heights Police Department are strictly prohibited from engaging in racial profiling. The prohibition against racial profiling does not preclude the use of race, ethnicity, or national origin as factors in a detention decision by a police officer. Race, ethnicity, or national origin may be legitimate factors in such decisions

when used as part of a description of a suspect or witness for whom a peace officer is searching.

#### **Section 4      COMPLAINT PROCESS**

- A. Any person who believes that a peace officer employed by the Glenn Heights Police Department has engaged in racial profiling with respect to that person may file a complaint in accordance with Glenn Heights Police Department General Orders. No person shall be discouraged, intimidated or coerced from filing such a complaint, or be retaliated against because they have filed such a complaint.
- B. The Police Department shall accept and investigate citizen complaints alleging racial profiling by its peace officers. Complaints should be in writing, or the employee, officer or official receiving the complaint should reduce the complaint to writing and should include the time, place, and details of the alleged racial profiling incident along with the identity or description of the police officer(s) involved, and the identity and manner of contacting the complainant. Complaints should be submitted to the police department within 90 days of the alleged event of racial profiling in order to preserve the evidence reflected in any audio or video recording; however, a complaint shall be accepted at any time submitted.
- C. Any peace officer, City employee, or City official who receives a citizen complaint alleging racial profiling shall forward the complaint to the Chief of Police, or designee, within twelve (12) hours of receipt of the complaint. Receipt of each complaint shall be acknowledged to the complainant in writing. All complaints shall be reviewed and investigated by the Chief of Police or designee within a reasonable period of time and the results of the review and investigation shall be filed with the Police Department and with the complainant.
- D. The investigation of a complaint alleging racial profiling shall seek to determine if the Glenn Heights peace officer that is the subject of the complaint has been engaged in a pattern of racial profiling. This would include multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures. A single act constituting racial profiling may not be considered a pattern of racial profiling, but it may be grounds for corrective action.
- E. In the event a complaint of racial profiling filed by an individual involves an occurrence that was recorded on audio or video, the Glenn Heights Police Department shall, upon commencement of the investigation of the complaint, and upon a written request of the officer, promptly provide a copy of the recording to the peace officer that is the subject of the complaint.

#### **Section 5      PUBLIC EDUCATION**

The Glenn Heights Police Department shall provide education to the public concerning the racial profiling complaint process. A summary of the public education efforts made during the preceding year shall be included with the annual report filed with the City of Glenn Heights Council and City Manager.

**Section 6      CORRECTIVE ACTION**

Any peace officer employed by the Glenn Heights Police Department who is found, after investigation, to have engaged in racial profiling in violation of this policy shall be subject to corrective action in accordance with the Glenn Heights Police Department General Orders Manual.

**Section 7      COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN A CITATION IS ISSUED OR ARREST MADE**

- A. Each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, the peace officer involved in the stop shall collect information identifying the race or ethnicity of the person detained, stating whether a search was conducted, and if a search was conducted, whether the person detained consented to the search. This information shall be collected, compiled and reported irrespective of whether the City has the audio or visual equipment referenced in Section 8 herein.
- B. The information collected shall be compiled in an annual report covering the period of January 1 through December 31 of each year and shall be submitted to the City Council and City Manager no later than March 1 of the following year. The annual report shall not include identifying information about any peace officer involved in a stop or arrest.

**Section 8      AUDIO AND VIDEO EQUIPMENT**

The Glenn Heights Chief of Police shall examine the feasibility of installing and maintaining video camera equipment and transmitter-activated equipment in each Glenn Heights police vehicle regularly used to make traffic stops and transmitter-activated equipment in each police motorcycle regularly used to make traffic stops.

**Section 9      REVIEW OF VIDEO AND AUDIO DOCUMENTATION – STANDARDS**

- A. Each audio and video recording shall be retained for a minimum period of ninety (90) days unless a complaint is filed alleging that a police officer employed for the Glenn Heights Police Department has engaged in racial profiling with respect

to a traffic or pedestrian stop, in which case the recording shall be retained until final disposition of the complaint.

- B. In conjunction with preparation of the annual report required under Part 7 above, the Chief of Police or designee shall periodically conduct reviews of randomly selected sampling of video and audio recordings made recently by peace officers employed by the City of Glenn Heights in order to determine if patterns of racial profiling exist. The review shall be conducted at least once every ninety days. The Chief of Police or designee will document each review.
- C. In reviewing audio and video recordings, the Chief of Police or designee shall seek to determine if the officer who is involved has engaged in a single act of racial profiling in violation of this policy or a pattern of racial profiling that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures. A single act may constitute racial profiling in violation of this policy that may subject an officer to corrective action. A single act, however, does not constitute a pattern or practice of racial profiling.

**Section 10**     **COLLECTION, COMPILATION, ANALYSIS, AND REPORTING REQUIREMENTS IN ABSENCE OF EITHER AUDIO AND VIDEO EQUIPMENT OR NON-FUNDING CERTIFICATION BY THE GOVERNING BODY**

- A. In addition to the annual report required when citations are issued and arrests are made, and so long as the City of Glenn Heights has not equipped all motor vehicles and motorcycles regularly used to make traffic and pedestrian stops with audio and video equipment, as applicable, and so long as the City has not or is not able to certify to the Department of Public Safety that it needs funds for such audio and video equipment but has not received such funds, then each peace officer of the City shall make the following report for each traffic and pedestrian stop:
  - 1. Physical description of each person detained as a result of the stop, including:
    - a. gender;
    - b. race or ethnicity, and if known prior to stop, 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 his or her ability;
    - c. the traffic law or ordinance alleged to have been violated or the suspected offense;

- d. whether the officer conducted a search as a result of the stop, and if so, whether the person detained consented to the search;
  - e. whether any contraband was discovered in the course of the search and the type of contraband discovered;
  - f. whether probable cause to search existed and the facts supporting the existence of that probable cause;
  - g. whether the officer made an arrest as a result of the stop or the search including a statement of the offense charged;
  - h. the street address or approximate location of the stop; and
  - i. 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.
2. The information in each report shall be analyzed and compiled in a report that covers the period January 1 through December 31 of each year and shall be submitted to the City Council and City Manager no later than March 1 of the following year. Each report shall include:
- a. Comparative analysis of the information compiled under Section 10(A)(1)(a-i) to:
    - (1) determine the prevalence of racial profiling by peace officers employed by the City; and
    - (2) examine the disposition of traffic and pedestrian stops made by officers employed with the City, including searches resulting from such stops; and
  - b. Information relating to each complaint filed with the City alleging that a peace officer employed by the Glenn Heights Police Department had engaged in racial profiling.
  - c. The report required by this Section 10 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 an officer.
  - d. The compilation of information, analysis and report required by this Section 10 shall not be required for any calendar year during which:

- (1) The City had equipped all motor vehicles and motorcycles regularly used to make traffic and pedestrian stops with audio and video equipment, and each traffic and pedestrian stop made by a peace officer employed by the Glenn Heights Police Department that is capable of being recorded by video and audio or audio equipment, as appropriate, has been so recorded, or
- (2) The City has certified to the Department of Public Safety that it needs funds for such audio and video equipment, as described in Part 8 above, but has not received such funds.

**Section 11    PEACE OFFICER AND POLICE CHIEF TRAINING**

- A. Each peace officer employed by the Glenn Heights Police Department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) not later than the second anniversary of the date the officer was licensed, 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 by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.
- B. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas.

# **Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices**

**Informing the Public on the Process of Filing a Racial Profiling Complaint with the Glenn Heights Police Department**

Since January 1, 2002, the Glenn Heights 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, by posting on the City Web Site, information relevant to filing a complaint on a racial profiling violation by a Glenn Heights Police Officer. That information is found in the Department's policy in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits peace officers from engaging in racial profiling. That entire policy is posted on the City Web Site. It is believed that through these efforts, the community has been properly informed of the policies and the complaint processes relevant to racial profiling.

# **Racial Profiling Training**

## **Racial Profiling Training**

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

It is important to recognize that the Chief of the Glenn Heights 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 Glenn Heights 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 weights 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 1/1/09---12/31/09, based on allegations related to possible violations of the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the Glenn Heights 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 1/1/09 ---- 12/31/09.

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

<b>Complaint No.</b>	<b>Alleged Violation</b>	<b>Disposition of the Case</b>
2011.009	Induced Racial Profiling	Unfounded

**Additional Comments:**

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# **Tables Illustrating Traffic Contact**

## **Tier 1 Data**

## (I) Tier 1 Data

### Traffic-Related Contact Information (1/1/11—12/31/11)

Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
<b>Caucasian</b>	1634	34.9	245	28.7	8	25.8	18	34	197	25.8
<b>African</b>	2095	44.8	481	50.2	11	35.5	27	51	469	60.9
<b>Hispanic</b>	824	17.6	123	20.5	11	35.5	8	15	99	12.9
<b>Asian</b>	14	0.3	1	0.1	1	3.2	0	0	1	0.1
<b>Native American</b>	0	0.0	0	0	0	0.0	0	0	0	0
<b>Mi. Eastern</b>	33	0.7	3	0.3	0	0.0	0	0.0	3	0.3
<b>Other</b>	13	0.3	0	0	0	0.0	0	0.0	0	0
<b>Unknown</b>	63	1.3	0	0	0	0	0	0.0	0	0
	**4676									
<b>Total</b>	**4774	100%	853	100%	31	100%	53	100%	769	100%

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

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

\*\* There is a discrepancy of 98 in the number of Contacts and the number of Contact slips.

## **2010 CENSUS DATA**

### **City of Glenn Heights**

Caucasian	African American	Hispanic	Asian	American Indian	Other
2844	5598	2709	64	53	10
25.2%	49.6%	24%	0.6%	0.5%	0.1

\*This is the most current Census data available for the City of Glenn Heights.

**The following Racial Demographics are provided by the  
2010 Census Bureau.**

**\*Dallas County Racial Demographics**

Total Estimated Population 2,368,139

Caucasian	African American	Hispanic	Asian	American Indian	Other	2 or More Races
784,693	518,732	905,940	117,797	7,330	3,346	* 29,427
33.1%	21.9%	38.4%	5%	0.3%	0.1%	1.2%

\*No 2011 data was located so 2010 data is displayed.

Census data groups individuals that are of two or more races into a single category.

These are also a category for Pacific Islanders that was remitted due to a population of less than 500.

**\*Ellis County Racial Demographics**

Total Estimated Population 149,610

Caucasian	African American	Hispanic	Asian	American Indian	Other	2 or More Races
97,987	13,161	35,161	811	565	155	1,683
65.5%	8.8%	23.6%	0.5%	0.4%	0.1%	1.1%

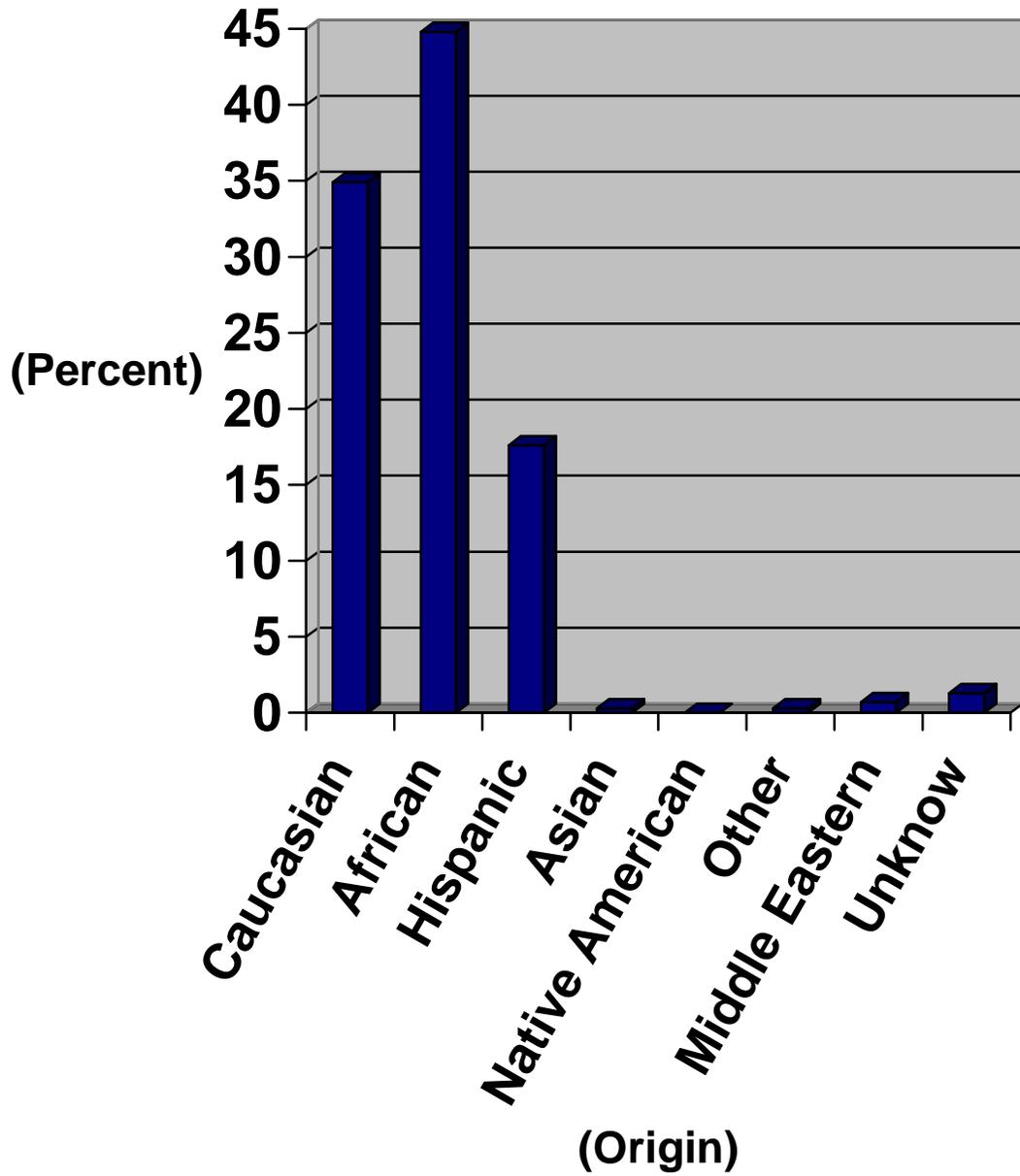
\*No 2011 data was located so 2010 data is displayed.

Census data groups individuals that are of two or more races into a single category.

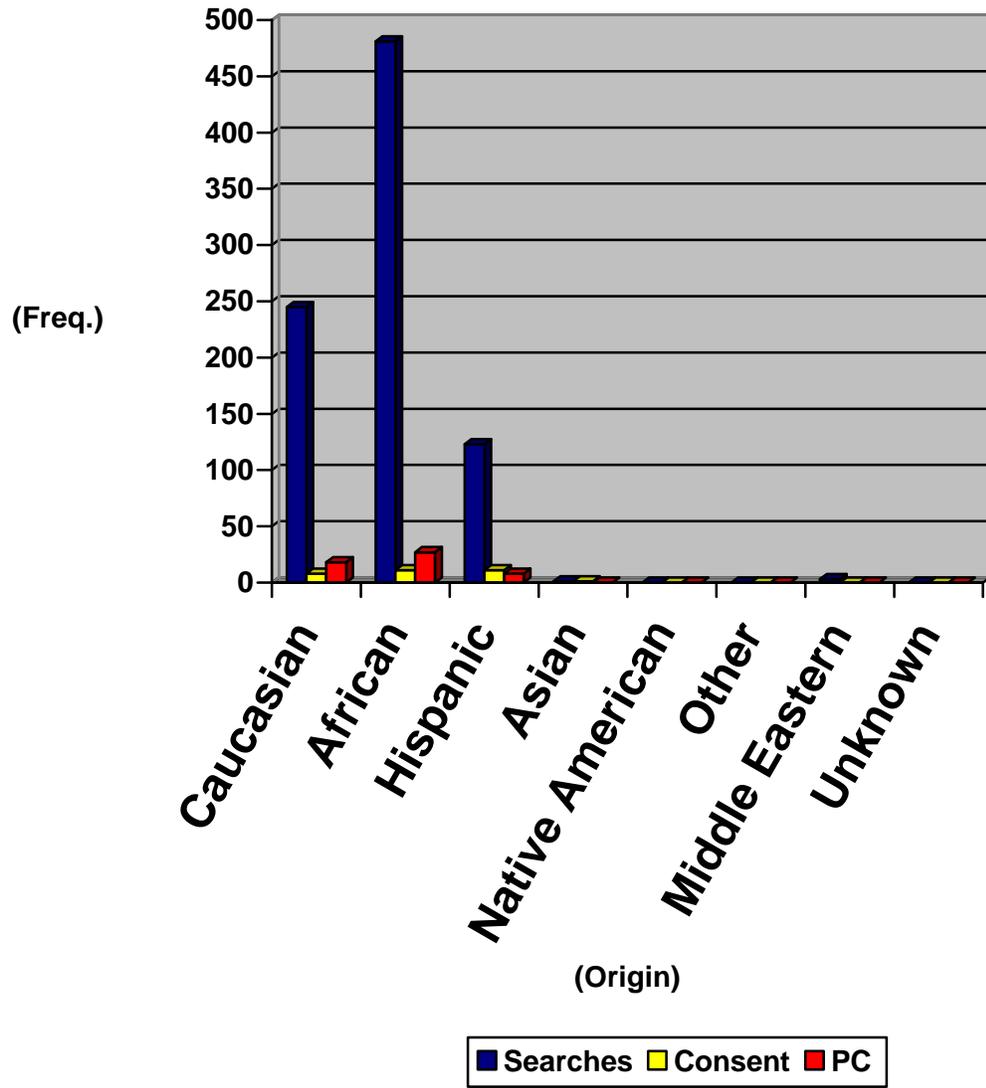
These are also a category for Pacific Islanders that was remitted due to a population of less than 500.

Contact to Demographic Analysis Table	Caucasian	African American	Hispanic
City of Glenn Heights(2010 Census)	25.2%	49.6%	24%
Dallas County(2010 Census)	33.1%	21.9%	38.4%
Ellis County(2010 Census)	65.5%	8.8%	23.6%
2011 Glenn Heights Contacts %	34.9%	44.8%	17.6%

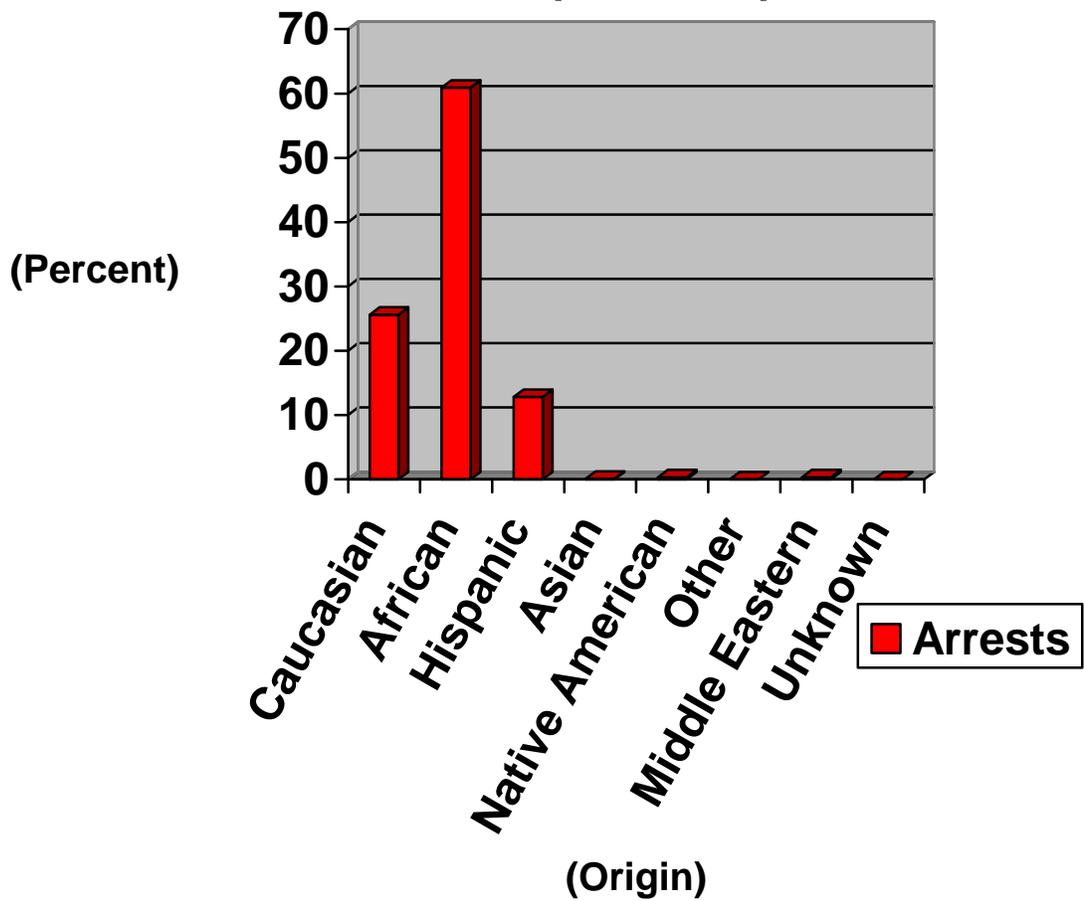
## Tier 1 Data (Contacts)



Tier 1 Data (Searches)



## Tier 1 Data (Arrests)



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

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

#### Comparison of Nine-Year Traffic-Related Contact Information (1/1/02---12/31/11)

Race / Ethnicity*	Traffic-Related Contacts (in percentages)									(11)
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)	** (10)	
<b>Caucasian</b>	57.32%	53.10%	54.65%	46%	43.4%	37.7%	37.3%	33.9%	31.7%	34.9%
<b>African</b>	30.28%	29.49%	28.42%	35%	34.5%	42.6%	43%	44.9%	50.1%	44.8%
<b>Hispanic</b>	11.80%	16.99%	16.41%	18%	20.8%	19.3%	17.5%	15.4%	17.3%	17.6%
<b>Asian</b>	0.55%	0.39%	0.38%	0.8%	1.0%	0.0%	0.5%	0.4%	0.4%	0.3%
<b>Native American</b>	.05%	0.3%	0.14%	0.1%	0.1%	0.0%	0.0%	0.0%	0.2%	
<b>Middle Eastern</b>									0.1%	0.7%
<b>Other</b>	0.0%	0.0%	0.0%	0.1%	0.2%	0.0%	1.8%	5.4%	0.2%	0.3%
<b>Unknown</b>									0.2%	1.3%
<b>Total</b>	2533	3107	1590	1973	1697	3331	4037	4797	4770	4774

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

\*\*Law Change – Data now pertains to traffic stops only. Previous years included all officer initiated contacts.

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

Race / Ethnicity*	Traffic-Related Searches (in percentages)									
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)	** (10)	(11)
<b>Caucasian</b>	38%	27%	38.8%	37%	20.9%	33.5%	41.1%	39.8%	36.3%	28.7%
<b>African</b>	44%	37%	36.4%	38%	30.2%	43.3%	33.1%	33.3%	41.7%	50.2%
<b>Hispanic</b>	18%	36%	24.8%	24%	48.8%	21.4%	18.5%	17.9%	21.2%	20.5%
<b>Asian</b>	0.0%	0.0%	0.0%	0.0%	0.0%	1.4%	0.7%	0.0%	0.2%	0.1%
<b>Native American</b>	0.0%	0.0%	0.0%	0.1%	0.0%	0.4%	0.3%	0.3%	0.2%	0
<b>Other</b>	0.0%	0.0%	00.0%	0.0%	0.0%	0.0%	6.3%	8.7%	0.2	0.3%
<b>Total Searches</b>	86	146	165	131	69	215	287	274	274	84

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

\*\*Law Change – Data now pertains to traffic stops only. Previous years included all officer initiated contacts.

**Comparison of Nine-Year Traffic-Related Arrest Information  
(1/1/02---12/31/11)**

Race / Ethnicity*	Traffic-Related Arrests (in percentages)									(11)
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)	** (10)	
<b>Caucasian</b>	51%	27%	37.3%	29.0%	34.6%	32.5%	44.7%	35.1%	35.8%	25.8%
<b>African</b>	34%	42%	26.3%	37.0%	15.4%	43.7%	36.3%	33.9%	42.8%	60.9%
<b>Hispanic</b>	15%	31%	36.4%	33.0%	50.0%	21.8%	11.9%	15.6%	20.2%	12.9%
<b>Asian</b>	0.0%	0.0%	0.0%	0.0%	0.0%	1.5%	0.8%	0%	0.3%	0.1%
<b>Native American</b>	0.0%	0.0%	0.0%	1.0%	0.0%	.5%	0.4%	0.8%	0.3%	0
<b>Middle Eastern</b>									0.0%	0.3%
<b>Other</b>	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	5.9%	14.6%	0.3	0
<b>Unknown</b>									0.3	0
<b>Total Arrests From Contacts</b>	186	96	129	86	43	206	253	336	352	769

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

\*\*Law Change – Data now pertains to traffic stops only. Previous years included all officer initiated contacts.

# **Analysis and Interpretation of Data**

## Analysis

The Law regarding the collection and reporting of the Annual Contact information for the State of Texas changed for this year. In the past, since the law went into effect in 2001, all Officer initiated contacts with the public were figured into the data. This included pedestrian stops, parking complaints, bicycle stops and suspicious person stops, if they were officer initiated. Starting January 1, 2010 the Law is that only Motor Vehicle Traffic Stops would be utilized. The Texas Racial Profiling Law requires that all police departments in Texas collect data when a traffic-related citation is issued or an arrest is made. In addition, the law requires that agencies report this information to their local governing authority once a year by March 1. 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 if police departments are engaging in racial profiling, from the review of aggregate data. 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.

Despite this, the Glenn Heights Police Department, in response to the requirements of The Texas Racial Profiling Law (S.B. 1074), reported and analyzed its 2011 traffic contact data. Thus, three different types of analyses were conducted. The first of these involved a careful evaluation of the 2011 traffic-stop 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 Eastern and individuals belonging to the “other” category, that came in contact with the police and were issued a traffic-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.

The second type of analysis included in this report, related to the comparison of the 2011 traffic contact data with an appropriate baseline. It should be noted that there is also a great deal of disagreement, in the academic literature, over the type/form of baseline to be used when analyzing traffic-related contact information. Of all the baseline measures available, the Glenn Heights Police Department decided to use for comparative purposes the U.S. Census Bureau (2010) data, surrounding Dallas County population data, and surrounding Ellis County population data. It should be noted that any data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. For example, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population.

The Glenn Heights Police Department opted to use these forms of comparison in an attempt to demonstrate its “transparency” before the community. The comparative data obtained is relevant to the city of Glenn Heights.

Finally, a third type of analysis was conducted while using the 2002--2011 traffic contact data. Specifically, all traffic-related contacts made in 2011 were compared to similar figures reported from 2002 to 2010. When considering this analysis, it was determined that comparing eight years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. In other words, the eight-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 no obvious trend of police-related contacts with regards to members of a specific minority groups exists.

#### Tier 1 (2011) Traffic-Related Contact Analysis

The Tier 1 data collected in 2011 showed that African Americans were contacted at a higher percentage than Caucasians and Hispanics, but the percentages were consistent with the previous year's data. There were 84 searches during the year that were classified as either consensual or probable cause searches. In those searches, Caucasians were searched at a 31% rate, African Americans at a 44% rate and Hispanics at a 23% rate. For custodial arrests and subsequent searches, African American accounted for the highest percentage. It should be noted that a majority of those arrests were for municipal warrants.

#### Nine-Year Comparison

The eight-year comparison (02-11) showed similarities with respect to the traffic-related contacts. No specific trends are identified with this comparison.

## **(III) Summary**

**Conclusion:**

The Glenn Heights Police Department will continue to devote attention to traffic related contacts with all individuals, evaluating data, and identifying any possible patterns, that could be an indicator of racial profiling. The Department will continue to address the issue of racial profiling in a serious manner. It is evident, from its approach to the collection and analysis of traffic related data, that staff is committed to identifying and addressing areas of concern. Staff has reviewed this report and is confident that the Glenn Heights Police Department is in compliance with Article 2.132 (7) of the Texas Code of Criminal Procedure.

# Checklist

The following requirements **were** met by the Glenn Heights 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 Glenn Heights Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
  - a) Race and ethnicity of individual detained
  - b) Whether a search was conducted
  - c) If there was a search, whether it was a consent search or a probable cause search
  - d) Whether a custody arrest took place
- Produce an annual report on police contacts (Tier 1) and present this to local governing body by March 1, 2011.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

## Contact Information

### Contact Information

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

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