

MURPHY CITY COUNCIL AGENDA  
REGULAR CITY COUNCIL MEETING  
FEBRUARY 17, 2015 AT 6:00 P.M.  
206 NORTH MURPHY ROAD  
MURPHY, TEXAS 75094



Eric Barna  
Mayor

Scott Bradley  
Mayor Pro Tem

Owais Siddiqui  
Deputy Mayor Pro Tem

Ben St. Clair  
Councilmember

Betty Spraggins  
Councilmember

Sarah Fincanon  
Councilmember

Rob Thomas  
Councilmember

James Fisher  
City Manager

Susie Quinn  
City Secretary

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on February 17, 2015 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

**1. CALL TO ORDER**

**2. INVOCATION & PLEDGE OF ALLEGIANCE**

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

**4. PUBLIC COMMENTS**

**5. PRESENTATIONS**

- A. Presentation of the Annual Traffic Contact Report for 2014 for the Murphy Police Department (also known as the Racial Profiling Report).
- B. Presentation of financial report as of January 31, 2014.

**6. INDIVIDUAL CONSIDERATION**

- A. Discussion of the Draft FY 2014 Comprehensive Financial Report.
- B. Discussion of FY 2015 Budget.
- C. Discussion regarding 2015 Spring Events.
- D. Discussion regarding the 2015 Council Planning Session.
- E. Consider and take action, if any, on a Resolution opposing Senate Bill 343.

**7. CITY MANAGER/STAFF REPORTS**

- A. North Murphy Road Construction Update
- B. Collin County Days, March 2-3, 2015
- C. Timbers Nature Preserve

- D. South Maxwell Creek Parallel Trunk Sewer Line
- E. Trout Fishing Round-Up to be held February 21, 2015

#### **8. EXECUTIVE SESSION**

The City Council will hold a closed Executive Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 551.087 Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
- B. § 551.072 To deliberate the purchase, exchange, lease, or value of real property.
- C. § 551.071 Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter in regard to Safe Routes to School.

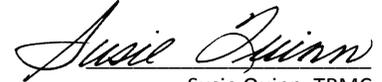
#### **9. RECONVENTE INTO REGULAR SESSION**

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- A. § 551.087 Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
- B. § 551.072 To deliberate the purchase, exchange, lease, or value of real property.
- C. § 551.071 Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter in regard to Safe Routes to School.
- D. Take Action on any Executive Session Items.

#### **10. ADJOURNMENT**

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on February 13, 2015 by 4:30 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

  
Susie Quinn, TRMC  
City Secretary

In compliance with the American with Disabilities Act, the City of Murphy will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 972.468.4011 or [squinn@murphytx.org](mailto:squinn@murphytx.org).

Notice of Possible Quorum: There may be a quorum of the Animal Shelter Advisory Committee, the Board of Adjustment, the Building and Fire Code Appeals Board, the Ethics Review Commission, the Murphy Community Development Corporation, the Murphy Municipal Development District Board, the Park and Recreation Board and/or the Planning and Zoning Commission members who may be present at the meeting, but they will not deliberate on any city or board business.

**City Council Meeting  
February 17, 2015**

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**Issue**

Presentation of the Annual Traffic Contact Report for 2014 for the Murphy Police Department (also known as the Racial Profiling Report).

**Background**

The MPD is required to present the findings of its annual traffic contact (racial profiling) analysis report to the Council before March of each year. The Annual Traffic Contact Report for 2014 was prepared by Dr. Alex del Carmen, Del Carmen Consulting, LLC, who develops the report from data provided from MPD records. The city of Murphy is required to collect certain information on vehicle stops. This information is then tabulated at the end of each year. The data is analyzed and formatted into a report that provides an analytical and numerical picture of the enforcement activities of the police officers of the MPD. Furthermore, state law now requires that a report be filed electronically with the Texas Commission on Law Enforcement (TCOLE) on a form prescribed by them for that purpose.

The City of Murphy utilizes the U. S. Census Fair Roads Standard for comparison and analysis in developing its report. The City of Murphy is exempt from collecting Tier II data (much more information including pedestrian stops) since it has installed audio and video equipment in all police vehicles routinely utilized for traffic law enforcement.

**Financial Considerations**

There should be little or no fiscal impact by the receipt of the report. The city has entered into an agreement with Dr. del Carmen that does include an annual fee and is reflected in the annual budget for the MPD.

**Other Considerations**

The report has been required since 2001 with the passage of SB 1074. This law has since been codified in Articles 2.131 and 2.131 of the Texas Code of Criminal Procedure. In addition, certain standards and requirements have been established by rules of the Texas Commission on Law Enforcement (TCOLE) as well as the Texas Transportation Code.

**Board/Staff Recommendation**

Staff recommends that the Council accept delivery of the report. There is no other action required of City Council.

**Recommended Motion**

That Council accepts the delivery of the Annual Racial Profiling Report for 2014 for the Murphy Police Department.

**Attachments**

- 1) Annual Traffic Contact Report for 2014
- 2) TCOLE RP Report (Filed with TCOLE Electronically)

DEL CARMEN  
CONSULTING, LLC



# Annual Contact Report 2014

The Murphy Police Department

# **(I) Introduction**

# Opening Statement

January 5, 2015

Murphy City Council  
205 North Murphy Road  
Murphy, Texas 75094

Dear Distinguished Members of the City Council,

In 2001, the Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. Since, the Murphy Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements are now in place. These most recent requirements have been incorporated by the Murphy Police Department and are also being addressed in this report.

In this report, you will find three sections that contain information on traffic and motor vehicle- related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Murphy Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074); which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation, which demonstrates compliance by the Murphy Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/14 and 12/31/14. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1<sup>st</sup> of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Murphy Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

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

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# TCOLE GUIDELINES

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

### Background

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

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

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

### Standard 1

Each law enforcement agency has a detailed written directive that:

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

### Commentary

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

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

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

## Standard 2

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

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

## Commentary

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

## Standard 3

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

## Commentary

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

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

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

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

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

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

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

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

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

#### **Standard 4**

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

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

#### **Commentary**

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

**Standard 5**

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

**Commentary**

None

**Standard 6**

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

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

**Commentary**

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

**Standard 7**

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

**Commentary**

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

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

# **The Texas Law on Racial Profiling**

S.B. No. 1074

AN ACT

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

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

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

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

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

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

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President of the Senate

Speaker of the House

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

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Secretary of the Senate

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

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Chief Clerk of the House

Approved:

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Date

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Governor

# **Most Recent Legal Requirements (H.B. 3389)**

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

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

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

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

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

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

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

(a) In this article:

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

(C) whether the peace officer knew the race or

ethnicity of the individual detained before detaining that individual; and

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

(a) In this article:

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

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

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

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

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

(A) evaluate and compare the number of motor

vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities [determine the prevalence of racial profiling by peace officers employed by the agency]; and

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

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

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

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

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

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

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

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

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

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

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

from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

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

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

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

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

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

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

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

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

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered

by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

# **Institutional Policy on Racial Profiling**

 <b>MURPHY POLICE DEPARTMENT DIRECTIVE</b>	
<b>SUBJECT: Racial Profiling</b>	<b>NUMBER: 2.01.1</b>
<b>EFFECTIVE DATE: November 18, 2009</b>	<b>RELATED STANDARDS:</b>
<b>REVIEW DATE: November 18, 2011</b>	<b>APPROVED:</b> _____ <b>Chief G.M. Cox</b> <b>DATED: 11/18/2009</b>

- I. **PURPOSE:** To reaffirm the commitment of the Murphy Police Department’s to unbiased policing in the encounter with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.
- II. **POLICY:** It shall be the policy of the Murphy Police Department to police our community in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, 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. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This Directive is adopted 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.

III. **DEFINITIONS:**

- A. Racial Profiling – a law enforcement initiated action based on an individual’s race, ethnicity, or national origin rather than on the individual’s behavior or on information identifying the individual as having engaged in criminal activity. 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.
- B. Race or Ethnicity – persons of a particular descent
- C. Acts Constituting Racial Profiling – acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual’s race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes, rather than upon the individual’s behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.
- D. Pedestrian Stop – an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.
- E. Traffic Stop – the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulating traffic.

**IV. DELIVERY PROTOCOL:**

**A. PROHIBITION:**

- a. Officers of the Murphy Police Department are strictly prohibited from engaging in racial profiling in any form. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description when used as part of a description of a suspect or witness for whom an officer is searching.

**B. COMPLAINT PROCESS:**

1. No person shall be discouraged, intimidated or coerced from filing a complaint or be discriminated against because they have filed a complaint.
2. Any person who believes that a peace officer employed by the Murphy Police Department has engaged in racial profiling with respect to that person, may file a complaint in accordance with the provisions in Directive 2.04.1 – Internal Investigations.
  - a. An employee who is contacted regarding a complaint against an officer shall follow the procedures set forth in Directive 2.04.1 – Internal Investigations.
  - b. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, “How to File a Complaint” and a compliant form. Brochures are maintained in the Murphy Police Department lobby and at Murphy City Hall.
3. Any supervisor who becomes aware of an alleged or suspected violation of this Directive shall report the alleged violation in accordance with Directive 2.04.1 – Internal Investigations.
4. Complaints of racial profiling shall be classified as a Level 1 complaint, and shall be investigated by the Chief of Police or his designee.

**C. DISCIPLINARY AND CORRECTIVE ACTIONS:**

1. Any department officer who is found, after investigation, to have engaged in racial profiling in violation of this Directive may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

**E. PUBLIC EDUCATION:**

1. The Murphy Police Department shall provide education to the public concerning the racial profiling complaint process. The primary method of public education shall be through the brochure “How to File a Complaint” which are maintained in the lobby of the Murphy Police Department, and at Murphy City Hall. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet and/or public meetings.

**F. COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED OR ARREST MADE**

1. For each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, an officer involved in the stop shall collect the following information on the citation:
  - a. Information identifying the race or ethnicity of the person detained. The following codes will be used to identify the individual’s race:

- B = Black
- H = Hispanic
- A = Asian
- W = White
- I = Native American / American Indian
- M = Middle Eastern
- O = Other

Note: Officers may not ask the individual to identify their race. If the officer is unable to determine the race or ethnicity of the person contacted, then the race shall be entered as “other” on the citation(s) issued.

- b. Whether a search was conducted;
  - c. If a search was conducted, whether the person detained consented to the search;
  - d. Whether contraband was found;
  - e. Whether the person contacted is a resident or non-resident of the City of Murphy. This shall be reflected on each citation issued, using an (R) for residents or a (NR) for non-resident.
  - f. Whether the peace officer knew the race or ethnicity of the individual detained before detaining the individual.
2. 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 governing body of the City of Murphy no later than March 1 of the following year. The report will include:
    - a) A breakdown of citations by race or ethnicity;
    - b) Number of citations that resulted in a search;
    - c) Number of searches that were consensual;
    - d) Number of citations that resulted in custodial arrests;
    - e) Public education efforts concerning the racial profiling complaint process; and.
    - f) The number of complaints received by the department that officers were racially profiling.
  3. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

**G. AUDIO AND VIDEO EQUIPMENT**

1. Each motor vehicle regularly used by this department to make traffic stops is equipped with a mobile video camera system capable of recording video and audio.
2. Each traffic stop made by an officer of this department that is capable of being recorded by video and audio shall be recorded. In units equipped with mobile video camera systems, both video and audio recordings shall be required.
3. Supervisors and officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperable mobile video camera equipment shall not be utilized, under normal circumstances.
4. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile video equipment when situations dictate.

5. All in-car video recording boxes shall be locked at all times.
6. All recordings shall be kept for a minimum of ninety (90) days from the date of the recording. This is in compliance with Article 2.135. (2-b) of the Texas Code of Criminal Procedure.
7. All recordings will be kept in a secure location within the police department to prevent loss or tampering. The location will be designated by the Support Services Manager.
8. All recordings must be kept accessible by supervisory staff for review.

#### H. REVIEW OF VIDEO DOCUMENTATION

1. To ensure the Department meets the standards set forth under the State racial profiling laws, recording reviews shall be conducted. Each video shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a traffic stop. The Field Services Commander shall ensure that all recordings are properly stored and retained in accordance with applicable laws and this Directive.
2. If a complaint is received alleging that an officer has engaged in racial profiling, the tape shall be forwarded to the Chief of Police. The Chief of Police shall retain the recording until final disposition of the complaint has been made.
3. The Field Services Commander or her designee shall review a randomly selected sampling of video and audio recordings, made recently by officers employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted weekly and documented on the appropriate form.
  - a. Written documentation shall include:
    - i. The names of the officers whose contacts were reviewed;
    - ii. The date(s) of the tapes reviewed;
    - iii. The date the actual review was conducted; and
    - iv. The name of the person conducting the review.
  - b. The Field Services Commander or their designee shall view thirty (30) minutes of video on each officer every two weeks.
  - c. The recordings that are reviewed may be chosen at random, unless some event requires the review of specific recorded materials.
  - d. The Field Services Commander shall forward the required documentation to the Office of the Chief of Police.
  - e. The Office of the Chief of Police shall maintain a file of all tape review documentation performed, in compliance with this Directive.
4. In reviewing video recordings, the Field Services Commander or her designee, shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.
  - a. If any material on the recording does not comply with State racial profiling laws or Murphy Police Department Policy, the Field Services Commander or their designee shall insure that appropriate corrective action is taken in compliance with Article 2.132. (b-5) of the Texas Code of Criminal Procedure.

I. TRAINING

1. Each peace officer employed by the 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 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.
2. 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 (LEMIT), not later than September 1, 2003.

IV. ADMINISTRATIVE REVIEW AND REVISION

- A. *Bi-Annually*, the Chief of Police shall review the organizational structure, making any revisions, as needed.
- B. The Chief of Police reserves the right to amend, modify, or change the agency's organizational chart to reflect the agency's authorized structure by adding or deleting any new positions or functions.
- C. A copy of the agency's organizational chart will be posted in the Briefing Room. In addition, all personnel will be provided a copy of the organizational chart, as part of their individual policy manuals.

V. **CLOSING STATEMENT:** Violations of this Directive would serve only as grounds for discipline within the Murphy Police Department.

# **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 Murphy Police Department**

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

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

# Racial Profiling Training

### **Racial Profiling Training**

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

It is important to recognize that the Chief of the Murphy 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 Murphy Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

**Racial Profiling  
Course Number 3256  
Texas Commission on Law Enforcement  
September 2001**

**Racial Profiling 3256**

**Instructor's Note:**

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

**Abstract**

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

**Target Population:** Licensed law enforcement personnel in Texas

**Prerequisites:** Experience as a law enforcement officer

**Length of Course:** A suggested instructional time of 4 hours

**Material Requirements:** Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

**Instructor Qualifications:** Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

**Evaluation Process and Procedures**

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

**Reference Materials**

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

## **Racial Profiling 3256**

### **1.0 RACIAL PROFILING AND THE LAW**

**1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.**

**1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.**

#### **Racial Profiling Requirements:**

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

#### **A. Written departmental policies**

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

#### **B. Not prima facie evidence**

#### **C. Feasibility of use of video equipment**

#### **D. Data does not identify officer**

#### **E. Copy of complaint-related video evidence to officer in question**

#### **F. Vehicle stop report**

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

**1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.**

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

**2.0 RACIAL PROFILING AND THE COMMUNITY**

**2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.**

**2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.**

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

**3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION**

**3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.**

**3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.**

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

**3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.**

- A. Drug courier profile (adapted from a profile developed by the DEA)
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
  2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
  3. Vehicle is rented
  4. Driver is a young male, 20-35
  5. No visible luggage, even though driver is traveling
  6. Driver was over-reckless or over-cautious in driving and responding to signals
  7. Use of air fresheners
- B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

**3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.**

- A. Thinking about the totality of circumstances in a vehicle stop
- B. Vehicle exterior
1. Non-standard repainting (esp. on a new vehicle)
  2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
  3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
  4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)
- C. Pre-stop indicators
1. Not consistent with traffic flow
  2. Driver is overly cautious, or driver/passengers repeatedly look at police car
  3. Driver begins using a car- or cell-phone when signaled to stop
  4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

**Resources**

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

# Report on Complaints

**Report on Complaints**

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/14---12/31/14, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the Murphy Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/14 ---- 12/31/14.

**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>

**Additional Comments:**

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# **Tables Illustrating Traffic and Motor Vehicle-Related Contacts**

## Tier 1 Data

**(I) Tier 1 Data**

Motor Vehicle-Related Contact Information (1/1/14—12/31/14)

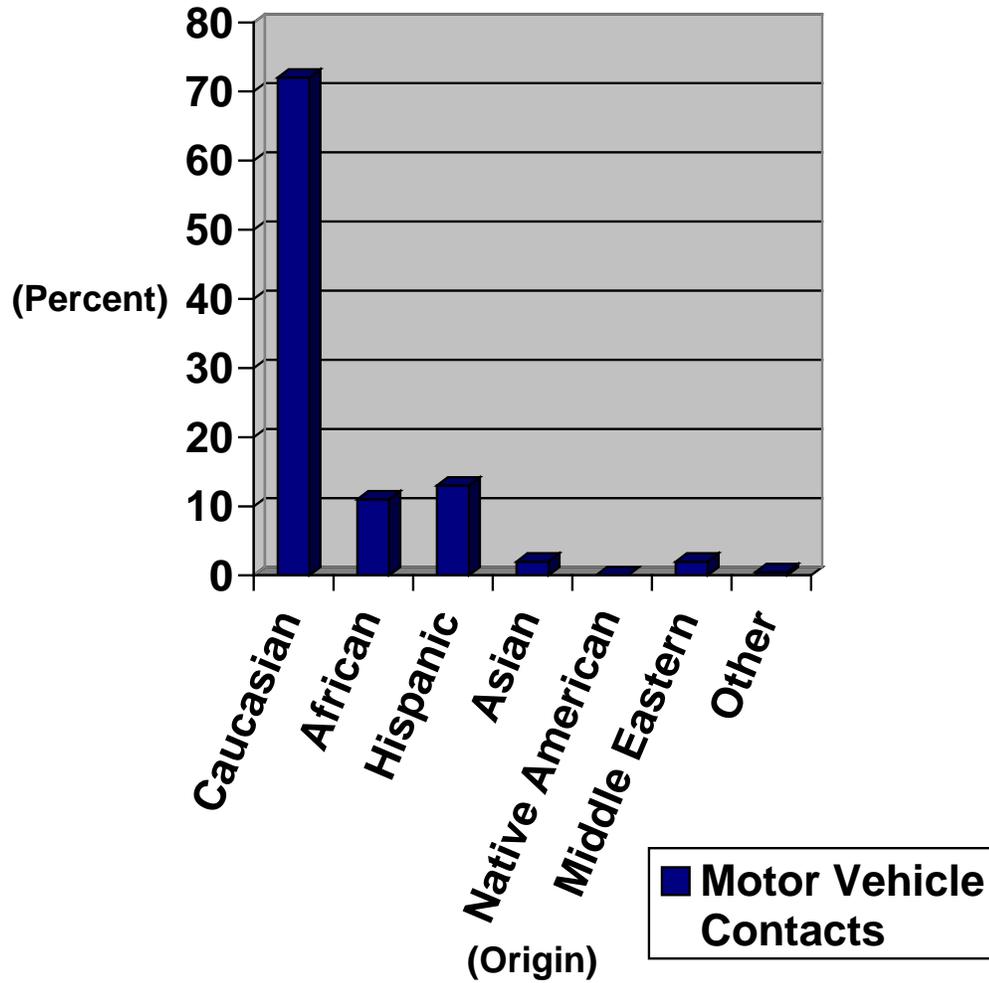
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
<b>Caucasian</b>	3,585	52	50	46	26	54	24	40	12	63
<b>African</b>	1,075	16	19	18	11	23	8	13	2	11
<b>Hispanic</b>	1,015	15	30	28	8	17	22	37	3	16
<b>Asian</b>	636	9	3	3	0	0	3	5	0	0
<b>Native American</b>	3	.04	0	0	0	0	0	0	0	0
<b>Middle Eastern</b>	533	8	5	5	3	6	2	3	1	5
<b>Other</b>	8	.1	1	.9	0	0	1	2	1	5
<b>Total</b>	6,855	100	108	100	48	100	60	100	19	100

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

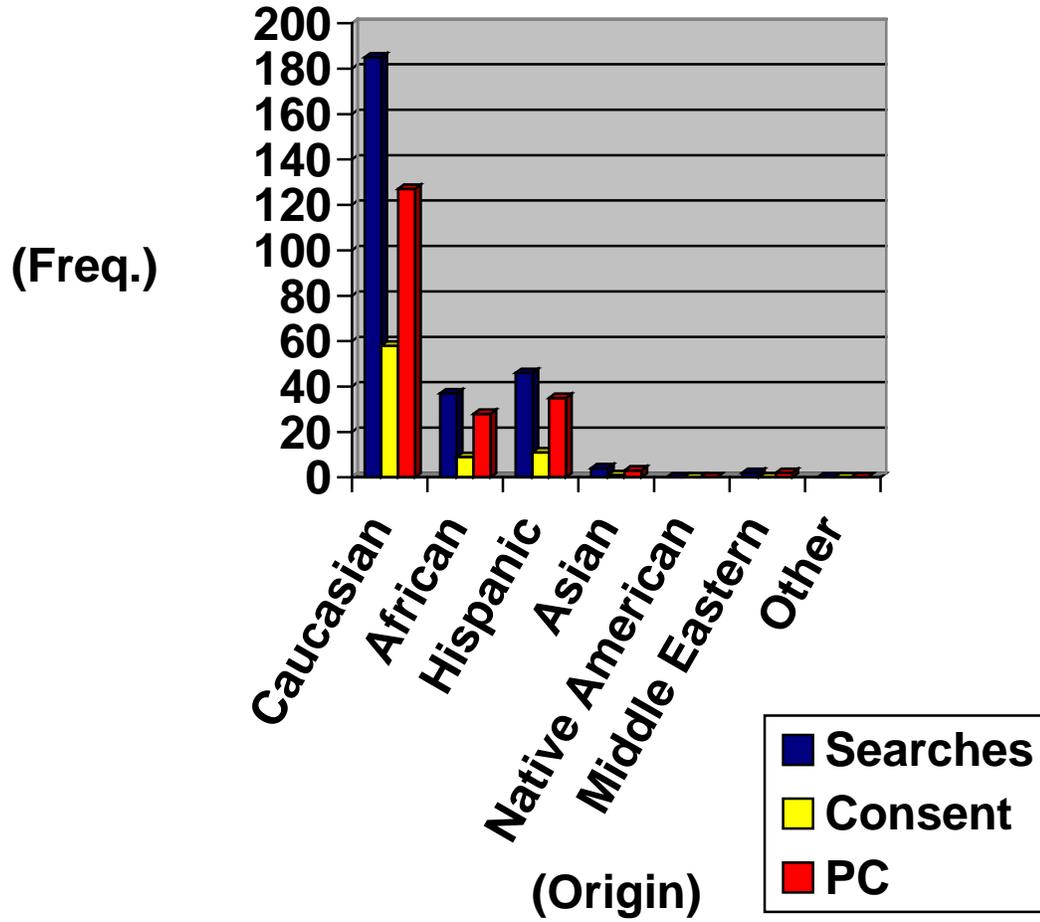
\* Race/Ethnicity is defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern".

\*\*Figure has been rounded

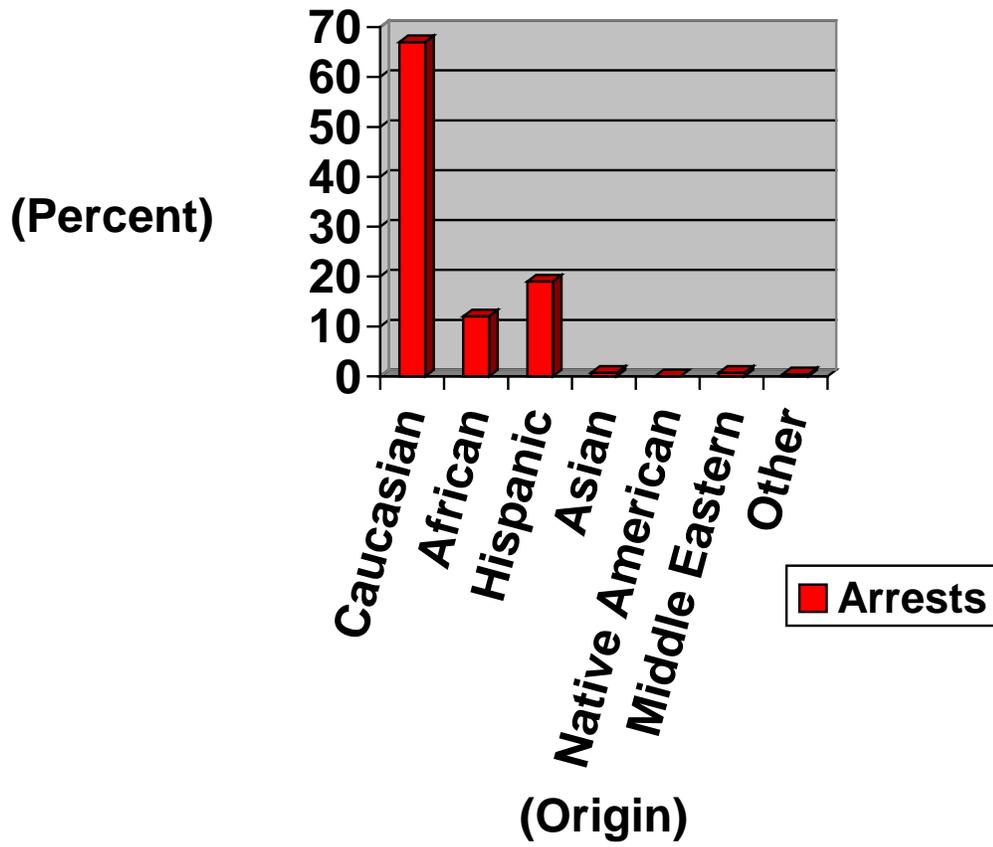
### Tier 1 Data (Motor Vehicle Contacts)



### Tier 1 Data (Searches)



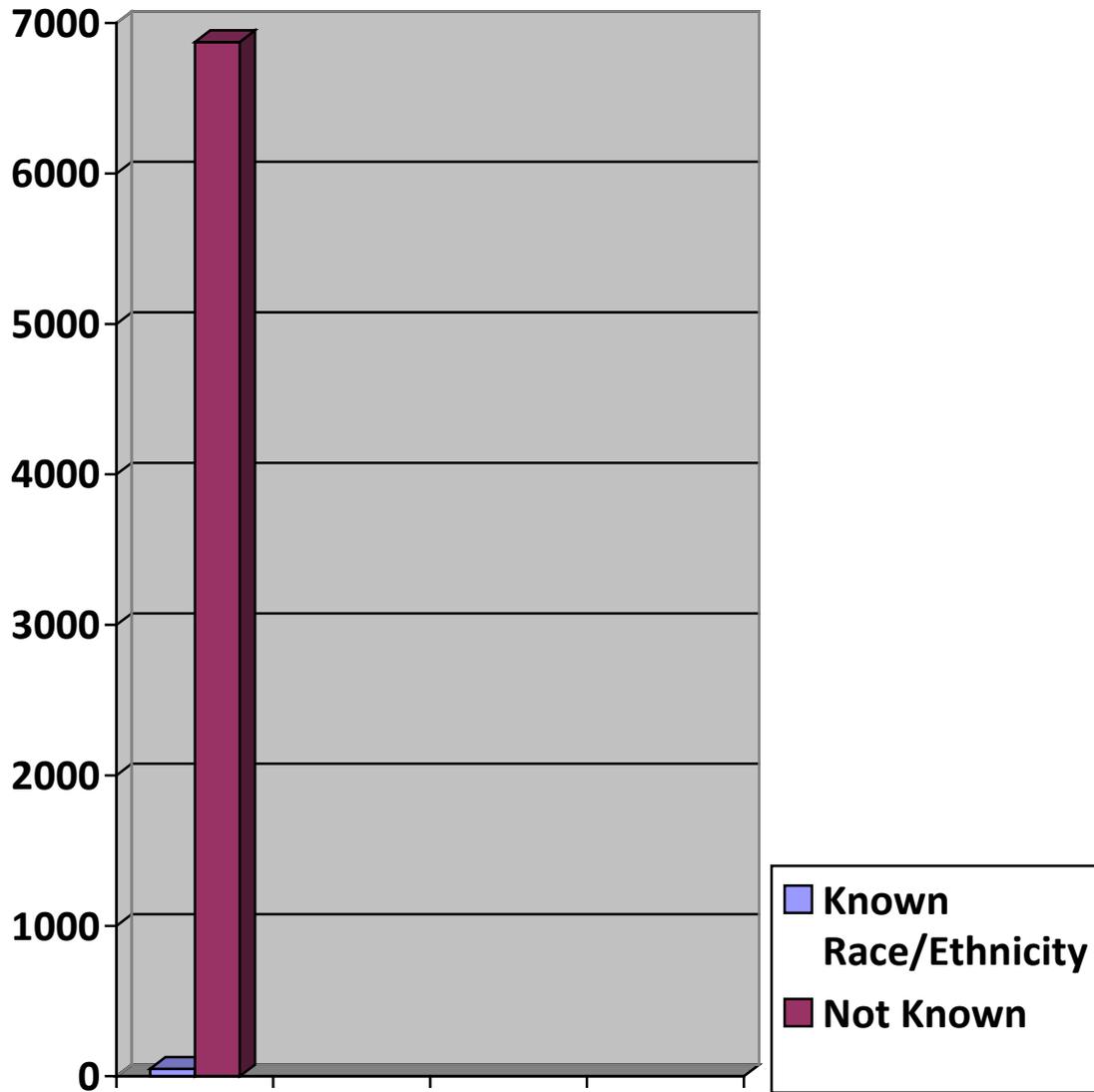
### Tier 1 Data (Arrests)



Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/14--12/31/14)

<b>Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained</b>	<b>Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained</b>
0	6,855

## Known Race/Ethnicity (Frequencies)



## Tier 1 (Partial Exemption TCLEOSE Form)

## **Partial Exemption Racial Profiling Reporting (Tier 1)**

**Department Name** \_\_\_\_\_

**Agency Number** \_\_\_\_\_

**Chief Administrator Name** \_\_\_\_\_

**Reporting Name** \_\_\_\_\_

**Contact Number** \_\_\_\_\_

**E-mail Address** \_\_\_\_\_

### **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

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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 Date

## Partial Exemption Racial Profiling Reporting (Tier 1)

(This is the TCLEOSE recommended form. The form is not mandatory. The information contained in this form, however, is mandatory. You may use your form, but all information must be provided.)

**If you claim a partial exemption you must submit a report that contains the following data or use this format to report the data.**

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

**1. Total on lines 4, 11, 14, and 17 Must be equal**

**2. Total on line 20 Must equal line 15**

### **Number of Motor Vehicle Stops:**

1. \_\_\_\_\_ citation only

2. \_\_\_\_\_ arrest only

3. \_\_\_\_\_ both

4. \_\_\_\_\_ Total

### **Race or Ethnicity:**

5. \_\_\_\_\_ African

6. \_\_\_\_\_ Asian

7. \_\_\_\_\_ Caucasian

8. \_\_\_\_\_ Hispanic

9. \_\_\_\_\_ Middle Eastern

10. \_\_\_\_\_ Native American

11. \_\_\_\_\_ Total

**Race or Ethnicity Known Prior to Stop?**

12. \_\_\_\_\_ Yes

13. \_\_\_\_\_ No

14. \_\_\_\_\_ Total

**Search Conducted:**

15. \_\_\_\_\_ Yes

16. \_\_\_\_\_ No

17. \_\_\_\_\_ Total

**Was Search Consented?**

18. \_\_\_\_\_ Yes

19. \_\_\_\_\_ No

20. \_\_\_\_\_ Total Must Equal # 15

## **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

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Chief Administrator

Date

***Send entire documents electronically to this website***

**[www.tcleose.state.tx.us](http://www.tcleose.state.tx.us)**

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

**(II) Motor Vehicle-Contacts and Fair Roads Standard Comparison**

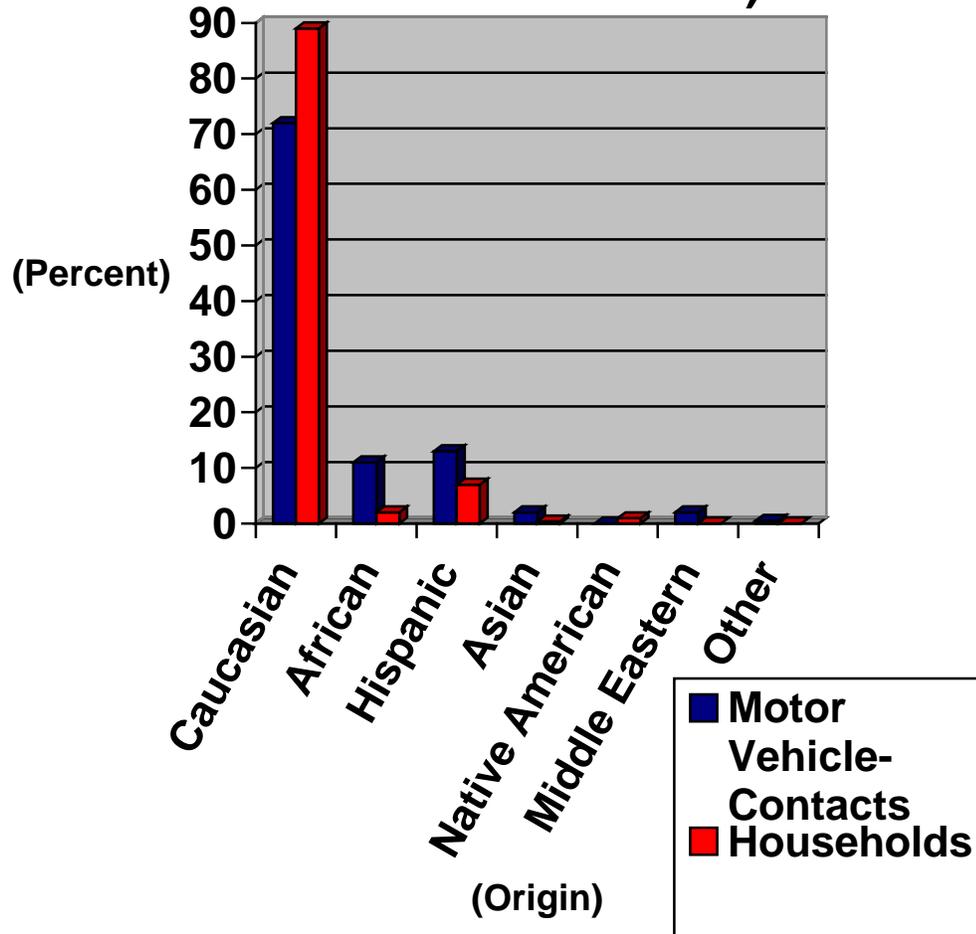
Comparison of motor vehicle-related contacts with households in DFW that have vehicle access (in percentages). (1/1/14—12/31/14)

<b>Race/Ethnicity*</b>	<b>Contacts (in percentages)</b>	<b>Households with vehicle access (in percentages)</b>
<b>Caucasian</b>	52	60
<b>African</b>	16	14
<b>Hispanic</b>	15	19
<b>Asian</b>	9	5
<b>Native American</b>	.04	N/A
<b>Middle Eastern</b>	8	N/A
<b>Other</b>	.1	N/A
<b>Total</b>	100	98**

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

\*\*Represents rounded figure

### Tier 1 (Motor Vehicle-Contacts and Households/10)



**Tier 1 Data  
(Eleven-Year Comparative Analysis)  
(2004—2014)**

**(III) Eleven-Year Tier 1 Data Comparison**

**Comparison of Eleven-Year Traffic and Motor Vehicle-Related Contact Information (1/1/04---12/31/14)**

Race/Ethnicity*	Traffic-Related Contacts (in percentages)							
			(04)	(05)	(06)	(07)	(08)	(09)
<b>Caucasian</b>			60	61	61	64	59	56
<b>African</b>			11	12	13	13	14	15
<b>Hispanic</b>			22	18	16	13	14	15
<b>Asian</b>			6	8	7	8	11	13
<b>Native American</b>			1	.4	.2	.2	.02	.03
<b>Other</b>			0	.4	2	2	2	.7
<b>Total</b>			100	100**	100**	100	100	100**

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

\*\* Figure has been rounded.

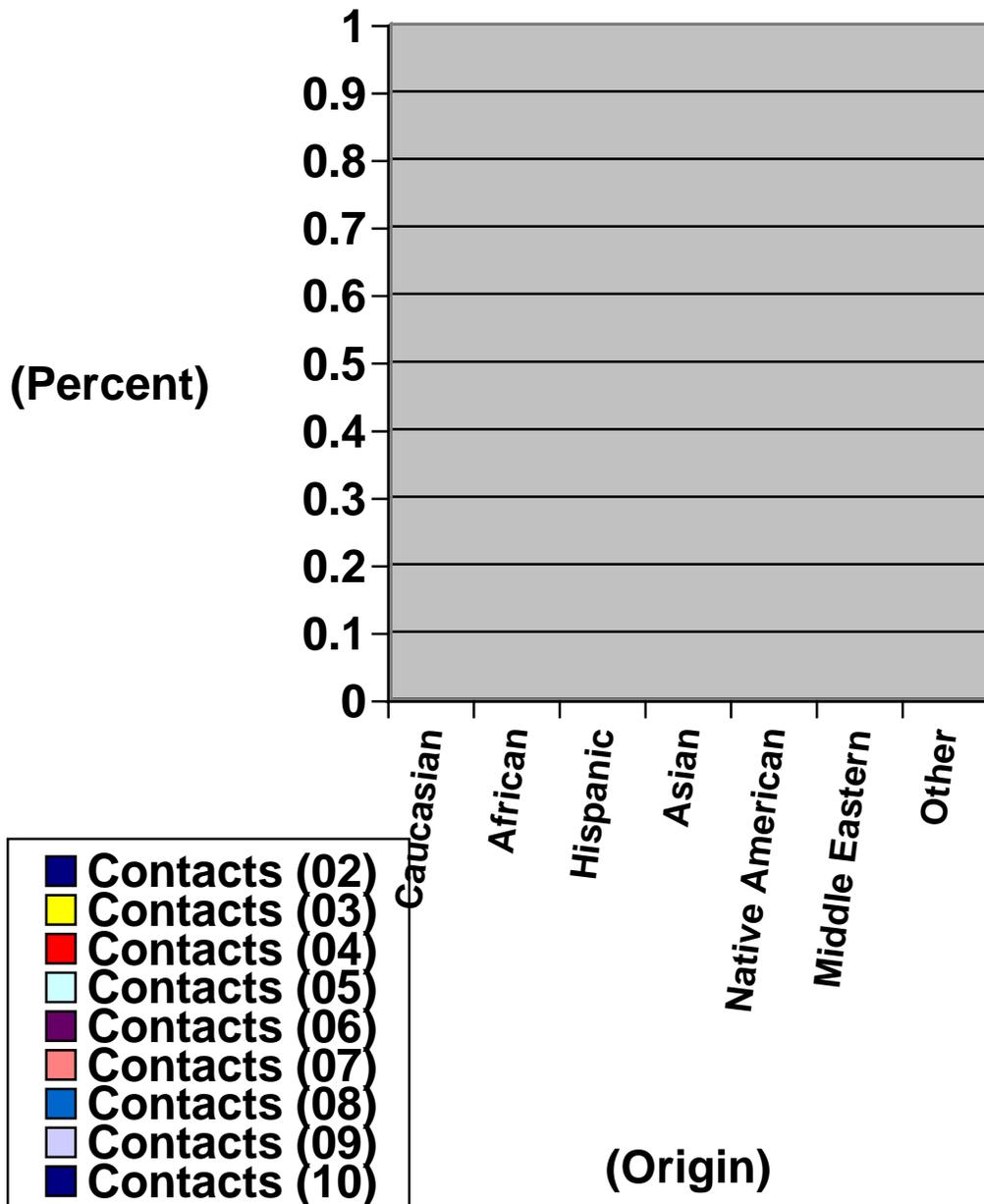
**Comparison of Eleven-Year Traffic and Motor Vehicle-Related Contact Information  
(1/1/04---12/31/14)**

Race/Ethnicity*	Motor Vehicle-Related Contacts (in percentages)				
	(10)	(11)	(12)	(13)	(14)
<b>Caucasian</b>	55	57	53	53	52
<b>African</b>	15	15	15	16	16
<b>Hispanic</b>	14	14	17	14	15
<b>Asian</b>	9	8	10	10	9
<b>Native American</b>	.05	.1	.7	.1	.04
<b>Middle Eastern</b>	7	6	4	7	8
<b>Other</b>	.5	.04	.4	.3	.1
<b>Total</b>	100**	100	100	100	100

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

\*\* Figure has been rounded.

### Tier 1 Data (Contacts 04-14)



# Analysis and Interpretation of Data

## Analysis

In 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. That is, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1<sup>st</sup> of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

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

As stated previously, in 2009, the Texas Legislature passed House Bill 3389, which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These most recent changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the more recent law requires adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year. I am pleased to inform you that these additional requirements have been addressed, since 2009, by the Murphy Police Department as it is demonstrated throughout this report.

In an effort to comply with The Texas Racial Profiling Law, the Murphy Police Department commissioned the analysis of its 2014 motor vehicle contact data. Thus, three different types of data analyses were performed. The first of these involved a careful evaluation of the 2014 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also,

the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2014 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Murphy Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Murphy Police Department in 2014 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Murphy Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort Worth (DFW) Metroplex.

The final analysis was conducted while using the 2004--2009 traffic data and the 2010—2014 motor-vehicle related data. Specifically, all traffic-related contacts made in 2009 were compared to similar figures reported in 2004, 2005, 2006, 2007 and 2008. Similarly, motor vehicle contact data was compared while using data from 2010, 2011, 2012, 2013 and 2014. Although some researchers may not support the notion that in eleven years, a “significant” and “permanent” trend can take effect, when considering this analysis, it was determined that comparing eleven years of traffic/motor vehicle contact data may highlight possible areas of consistency with regards to traffic and motor vehicle-related contacts. That is, the eleven-year comparison has the potential of revealing indicators that a possible trend of traffic and motor vehicle-based contacts with regards to members of a specific minority group, may in fact, develop.

### Tier 1 (2014) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2014, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. With respect to searches, most of them were performed on Caucasian drivers. This was followed by Hispanics and African Americans. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in motor vehicle-related contacts; this was followed by Hispanics and African Americans.

### Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in the DFW who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American and Asian descent that came in contact with the police was higher than the percentage of African American and Asian households in DFW that claimed, in the 2010 census, to have access to vehicles. With respect to Caucasians and Hispanics, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Hispanic drivers that came in contact with the police in 2014 was lower than the percentage of Caucasian and Hispanic households in DFW with access to vehicles.

### Eleven-Year Comparison

The eleven-year comparison (04-14) of traffic and motor vehicle related-contact data showed some similarities. As illustrated in table 3, the percentage of drivers (from different racial/ethnic groups) that came in contact with the Murphy Police in 2014 was similar to the percentage of drivers, from the same racial/ethnic groups that came in contact with the Murphy Police Department from 2004 to 2014. However, a few differences were noted. When comparing 2014 to the previous years, there was an increase in percentage of contacts among Hispanic drivers. A decrease in percentage was detected among Caucasians and Asians.

It should be noted that the 2010, 2011, 2012, 2013 and 2014 data should be analyzed while considering that since January 1<sup>st</sup> of 2010, a contact was re-defined by the law; thus, making it statistically challenging to compare traffic contacts (collected and reported from 2004-2009) with motor vehicle contacts (collected and reported since 2010).

### Summary of Findings

The comparison of motor vehicle contacts showed that the Murphy Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Hispanic drivers than the percentage that resided in DFW and had access to vehicles. Further, the data suggested that the percentage of African American and Asian drivers that came in contact with the police in 2014 was higher than the percentage of African American and Asian households in DFW with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

An examination of the eleven-year traffic and motor vehicle-related contact data suggested that the Murphy Police Department has been, for the most part, consistent in the racial/ethnic composition of motorists it comes in contact with during a given year. The consistency of contacts for the past eleven years is in place despite the fact the city demographics may have changed, thus, increasing the number of subjects likely to come in contact with the police.

While considering the findings made in this analysis, it is recommended that the Murphy Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals; particularly with African Americans and Asians. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public.

As part of this effort, the Murphy Police Department is also encouraged to:

- 1) Perform an independent search analysis on the search data collected in the first quarter of 2015.
- 2) Commission data audits in 2015 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Murphy Police Department complied with recommendations made last year, in a similar report, regarding data audits. Further, the information and analysis provided in this report serves as evidence that the Murphy Police Department has, once again, complied with the Texas Racial Profiling Law.

# **(III) Summary**

# Checklist

**Checklist**

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

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Murphy Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
  - a) Race and ethnicity of individual detained
  - b) Whether a search was conducted
  - c) If there was a search, whether it was a consent search or a probable cause search
  - d) Whether a custody arrest took place
- Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2015.
- 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:

Del Carmen Consulting, LLC  
817.681.7840  
[www.texasracialprofiling.com](http://www.texasracialprofiling.com)  
[www.delcarmenconsulting.com](http://www.delcarmenconsulting.com)

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

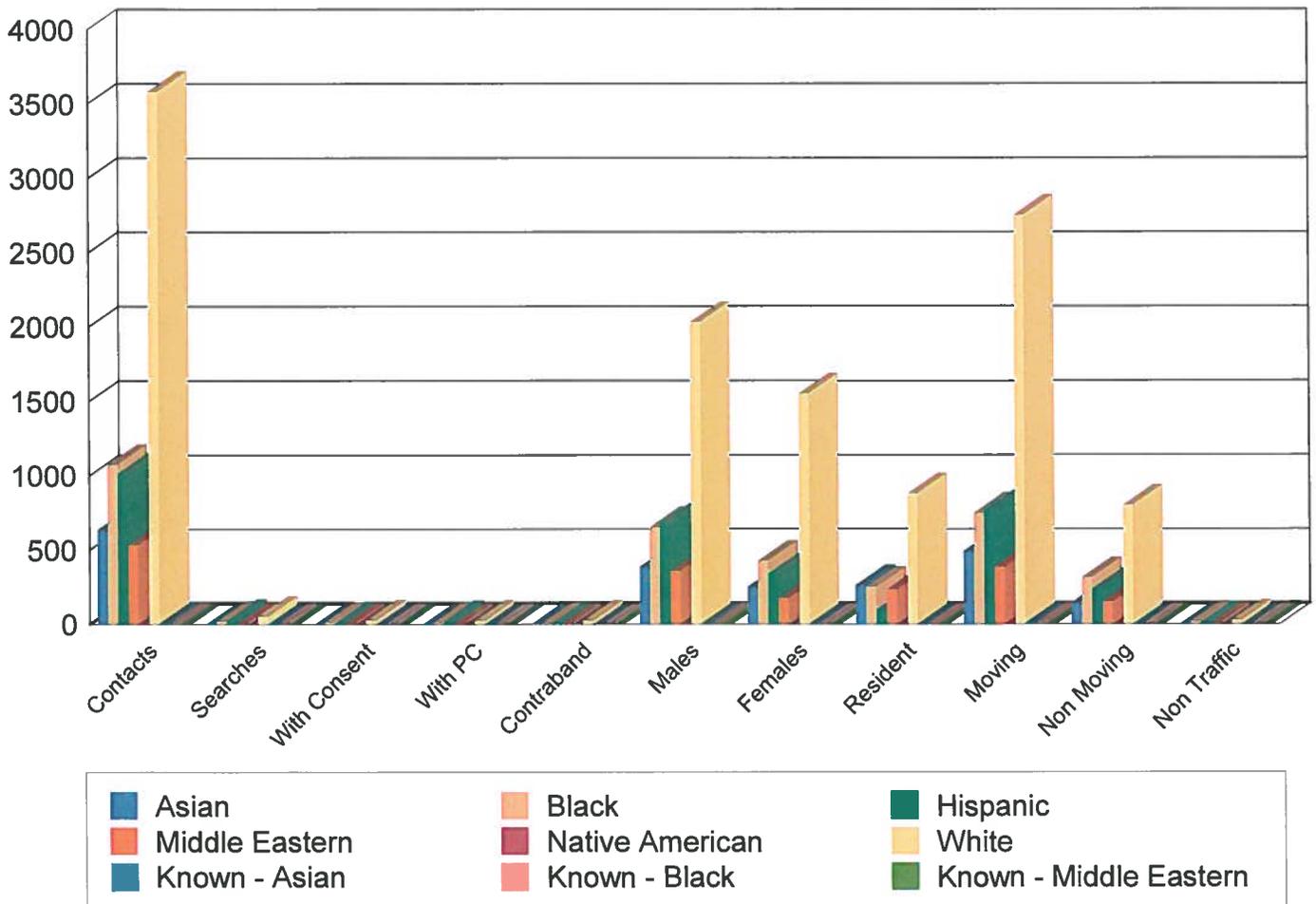


# MURPHY POLICE DEPARTMENT

## Racial Profiling

01/01/2014 - 12/31/2014

	Contacts		Search	Consent	PC	Contraband	Male	Female	Resident	Race Known	Reason For Contact		
	#	Percent									Moving	Non-Moving	Non-Traffic
<b>Asian</b>	636	9.28%	3	0	3	2	385	251	262	0	490	142	3
<b>Black</b>	1075	15.68%	19	11	8	4	651	424	249	0	747	313	14
<b>Hispanic</b>	1015	14.81%	30	8	22	7	677	338	97	1	767	237	11
<b>Middle Eastern</b>	533	7.78%	5	3	2	3	359	174	232	0	382	147	4
<b>Native American</b>	3	0.04%	0	0	0	0	3	0	1	0	1	2	0
<b>White</b>	3585	52.30%	50	26	24	24	2033	1552	878	0	2753	802	26
<b>Others</b>	8	0.12%	1	0	1	0	5	3	2	8	7	1	0
<b>Total</b>	<b>6855</b>		<b>108</b>	<b>48</b>	<b>60</b>	<b>40</b>	<b>4113</b>	<b>2742</b>	<b>1721</b>	<b>9</b>	<b>5147</b>	<b>1644</b>	<b>58</b>



Hispanic is determined by ethnicity, regardless of race  
Hispanics are not included in other races

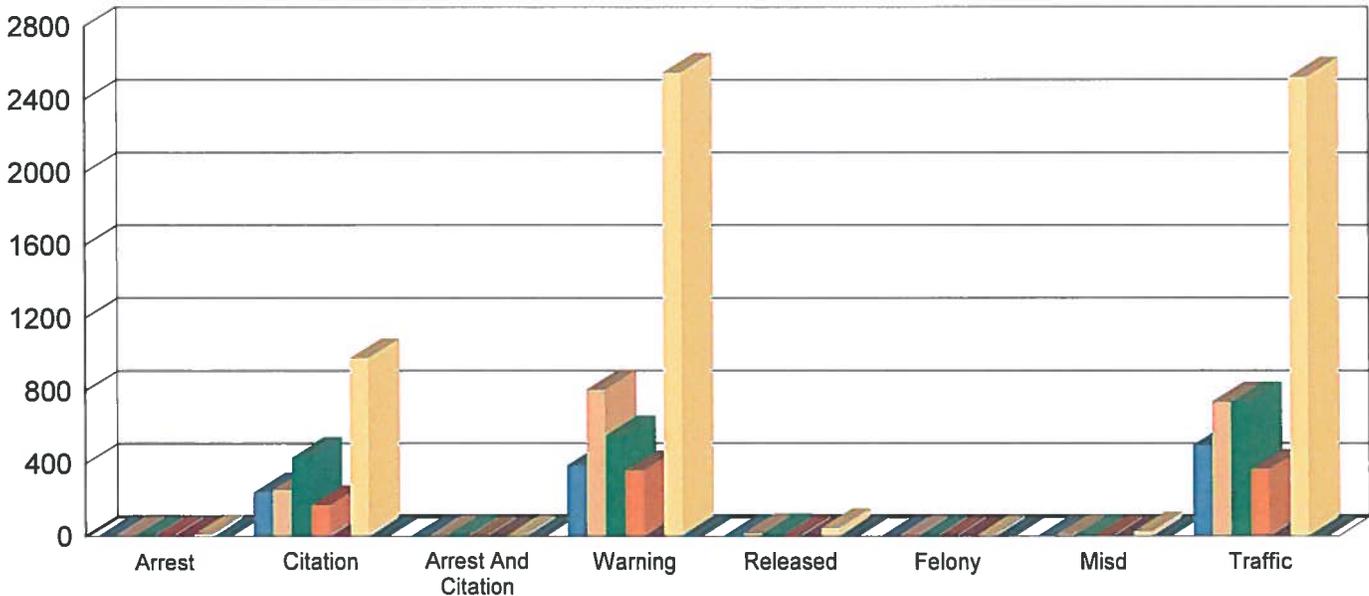


# MURPHY POLICE DEPARTMENT

## Racial Profiling Dispositions

01/01/2014 - 12/31/2014

		Disposition					Charge			
		Arrest	Citation	Arrest/Citation	Warning	Released	Felony	Misd	Traffic	No Charge
<b>Asian</b>	<b>636</b>	0	242	1	387	6	0	1	498	135
<b>Black</b>	<b>1075</b>	2	253	1	805	14	1	7	735	331
<b>Hispanic</b>	<b>1015</b>	3	434	10	553	14	1	8	737	266
<b>Middle Eastern</b>	<b>533</b>	1	169	0	360	3	0	3	366	164
<b>Native American</b>	<b>3</b>	0	1	0	2	0	0	0	1	2
<b>White</b>	<b>3584</b>	12	977	3	2547	44	3	23	2524	1,031
<b>Others</b>	<b>8</b>	1	0	0	6	1	0	0	3	5
<b>Total: 6854</b>		<b>19</b>	<b>2076</b>	<b>15</b>	<b>4660</b>	<b>82</b>	<b>5</b>	<b>42</b>	<b>4864</b>	<b>1934</b>



Hispanic is determined by ethnicity, regardless of race.  
 Hispanic and Native American are other races.

**(I) Tier 1 Data**

Motor Vehicle-Related Contact Information (1/1/14—12/31/14)

Race/Ethnicity*	Contacts	Searches	Consensual Searches	PC Searches	Custody Arrests
	N	N	N	N	N
<b>Caucasian</b>	3585	50	26	24	12
<b>African</b>	1075	19	11	8	2
<b>Hispanic</b>	1015	30	8	22	3
<b>Asian</b>	636	3	0	3	0
<b>Native American</b>	3	0	0	0	0
<b>Middle Eastern</b>	533	5	3	2	1
<b>Other</b>	8	1	0	1	1
<b>Total</b>	<b>6855</b>	<b>108</b>	<b>48</b>	<b>60</b>	<b>19</b>

"N" represents "number" of motor vehicle-related contacts

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

\*\*Figure has been rounded

Number of instances where officers knew/did not know the race/ethnicity of the suspect before being detained:

  0   (Knew)

 6855  (Did not Know)

Number of complaints on alleged racial profiling between 1/1/14 and 12/31/14:

Number: 0

Outcome: 0



# The Texas Commission on Law Enforcement

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Welcome to the TCOLE Department Reporting System!  
**Thank you, your Racial Profile Report has been accepted.**

### Your TCOLE Department Information

Chief Administrator:	G. M. COX	Account Holder:	Kim Parker
Department:	MURPHY POLICE DEPT.	Date Modified:	<b>02/19/2014</b>
TCOLE Agency No:	085216	Account Holder Email:	kparker@murphytx.org
Department Address:	206 NORTH MURPHY ROAD MURPHY, TX 75094	Account Holder Phone:	972-468-4235
Department Phone:	9724684200	TCLEDDS Account Active:	YES
Department Fax:	9734684277	<b>2014 Racial Profile Report on File?</b>	<b>YES</b>
Chief Administrator Email:	gmcox@murphytx.org		

To change your Department Information, choose Account Information. Account Updates from the Menu.



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## TCOLE 2014 RACIAL PROFILING AGENCY REPORT WIZARD FOR TIER 1

Department Name: MURPHY POLICE DEPT.

Agency Number: 085216

**Step 4:** Please fill out all boxes. If zero, use 0. The total on lines 4, 11, 14 and 17 must be equal. The total on line 20 must equal line 15.

### MURPHY POLICE DEPT. Motor Vehicle Racial Profiling Information

**Number of motor vehicle stops:**

1.  citation only
2.  arrest only
3.  both
4.  **Total** (lines 4, 11, 14 and 17 must be equal)

**Race or Ethnicity:**

- 5.  African
- 6.  Asian
- 7.  Caucasian
- 8.  Hispanic
- 9.  Middle Eastern
- 10.  Native American

11.  **Total** (lines 4, 11, 14 and 17 must be equal)

**Race or Ethnicity known prior to stop?**

- 12.  Yes
- 13.  No

14.  **Total** (lines 4, 11, 14 and 17 must be equal)

**Search conducted?**

- 15.  Yes
- 16.  No

17.  **Total** (lines 4, 11, 14 and 17 must be equal)

**Was search consented?**

- 18.  Yes
- 19.  No

20.  **Total** (must equal line 15)

[Cancel and Return to Main Menu](#)

**City Council Meeting  
February 17, 2015**

---

**Issue**

Discussion of the Draft FY 2014 Comprehensive Financial Report.

**Staff Resource/Department**

Linda Truitt - Finance

**Financial Considerations**

N/A

**Summary**

Staff is presenting a copy of the draft FY 2014 Comprehensive Financial Report for council review. The final report will be presented to council on March 3, 2015 with John Manning of Pattillo, Brown and Hill L.L.P. in attendance to answer questions.

The draft report will be sent to council under separate cover. Please review and submit any questions/comments to Linda or James.

**Action Requested**

N/A

**Attachments**

N/A

**City Council Meeting  
February 17, 2015**

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**Issue**

Discussion of FY 2015 Budget.

**Staff Resource/Department**

Linda Truitt - Finance

**Financial Considerations**

N/A

**Summary**

Councilmember Rob Thomas requested this agenda item to discuss the FY 2015 budget.

James Fisher, City Manager and Linda Truitt, Finance Director will be presenting an update on the FY 2015 budget at the March 17, 2015 council meeting. We will be reviewing the revenues and the expenditures (budgeted and unbudgeted) of the general and utility funds in conjunction with the audited FY 2014 actuals.

**Action Requested**

N/A

**Attachments**

N/A

**City Council Meeting  
February 17, 2015**

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**Issue**

Discussion regarding 2015 Spring Events.

**Summary**

At the February 9, 2015 Park and Recreation Board meeting the board was asked to hold a discussion with regard to the upcoming spring Special Events in 2015. A PowerPoint was presented by Caitlyn Mullins, Manager of Recreation Services covering the Rainbow Trout Roundup (February 21, 2015), Experience Murphy (April 11, 2015), Keep Murphy Beautiful Trash Off and Recycling Event (April 18, 2015), Moonlight Movies (Fridays in May) and Sounds at Sundown Summer Concert Series (Fridays in June).

The board gave positive and enthusiastic feedback regarding the Rainbow Trout Roundup, Moonlight Movies, and Sounds at Sundown. They also stated they are excited for the Farmer's Market and are interested to see how it will go. A more lengthy, critical and evaluative discussion was had regarding Experience Murphy. Comments from the Park Board included:

- It was very cold and rainy last year
- Is this the right name for the event?
  - If it is an international festival the name does not reflect that.
  - If it is supposed to be a festival that reflects murphy demographics, cultures were not represented well.
- The cultural/international aspect was appealing
- Add cultural performances "born" in America such as Hip Hop and Square Dancing
- Like the shorter time planned for 2015 (3-8 pm).
- Is April the best month to the hold the event?

**Recommendation/Action**

Staff is recommending that City Council review and discuss spring events, specifically Experience Murphy to help determine how to move forward with planning for the event on April 11, 2015.

**Attachment**

Attachment 1.1 – Spring Event Update PowerPoint

# Parks and Recreation Board Meeting

## Special Event Update

February 9, 2015

Caitlyn Mullins, CFEA

**SATURDAY FEBRUARY 21, 2015**

Return to Agenda

# Murphy's 2<sup>nd</sup> Annual RAINBOW TROUT ROUNDUP

Sponsored by MCDC (4B)



## Age Categories:

0-6 years

7-11 years

12-17 years

## PRIZES AWARDED IN EACH AGE GROUP\*:

Longest

Shortest

Heaviest Stringer  
of 5

\*Rainbow Trout Only.

Saturday February 21, 2015

9-11:30 a.m.

(on-site registration begins at 8:30 a.m.)

Murphy City Complex Pond

206 N. Murphy Rd. • Murphy, Texas

(Rain or Shine)

Parking is on-site at the Murphy City Complex

Please bring your own pole.

Limited bait and supplies  
will be available.

5 fish per person  
catch and keep.

972-468-4444

[events@murphytx.org](mailto:events@murphytx.org)

Preregistration encouraged!

[www.murphytx.org](http://www.murphytx.org)

# FREE!



\*Texas Parks and Wildlife has issued exemption for anglers 18 and older for the fishing tournament times only. Fishing before and after the event will require a Fishing License that can be obtained at your local Walmart. Fishing without a license before or immediately after the event could result in a ticket from the Game Warden.

**SATURDAY APRIL 11, 2015**



Agenda Item 6.C.

# Experience Murphy

Saturday, April 11, 2015

Murphy Central Park

550 N. Murphy Road



**3 - 8 p.m.**  
Sponsored by  
MCDC (4B)



**Live Entertainment!**

**Kid Zone (inflatables and fun activities)**

**Food Vendors**

**Finale Concert 6 - 8 p.m. at the Amphitheater**



Over Flow Parking at City Hall and Tom Kimbrough Stadium

**SATURDAY APRIL 18, 2015**

Agenda Item 6.C.



**KEEP AMERICA  
BEAUTIFUL**  
**GREAT AMERICAN  
CLEANUP**



# FRIDAY NIGHTS IN MAY



## Moonlight Movies in May

May 1: Finding Nemo – 8:10 p.m. (107 Minutes)  
May 8: The Lego Movie – 8:15 p.m. (101 Minutes)  
May 15: Hook – 8:20 p.m. (144 minutes)  
May 22: Big Hero 6 – 8:25 p.m. (108 Minutes)



**Murphy Central Park Amphitheater**  
550 N Murphy Road (Behind PSA)  
Movies begin at sundown!  
Enjoy FUN & FREE activities and crafts starting at 7:15pm  
Enjoy a Free Popcorn  
Bring your lawn chairs and blankets.  
**Sponsored by MCDC (4B)**  
Overflow parking is located at City Hall and Tom Kimbrough Stadium.

# FRIDAY NIGHTS IN JUNE



## FREE JUNE CONCERT SERIES

**Murphy Central Park Amphitheater**  
550 N. Murphy Road

Come early for FREE activities and giveaways  
one hour before the band takes the stage.

Bring a lawn chair or blanket. Food vendors on-site.

Agenda Item 6.C.

Parking at PSA and Over Flow  
Parking in the back parking lot of the  
Murphy City Complex

**Friday June 12**



**Petty Theft**

8 p.m.

Tom Petty Tribute Band

**Friday June 19**



**Northern**

**National**

6 p.m.



**Warehouse**

8 p.m.

Dave Matthews  
Tribute Band

**Friday June 26**



**Emerald City Band**

8 p.m.



**City Council Meeting  
February 17, 2015**

---

**Issue**

Discussion regarding the 2015 Council Planning Session.

**Staff Resource/Department**

James Fisher, City Manager

**Summary**

The City Council is scheduled to meet on Thursday, March 19th at 6:30 pm for dinner to begin the 2015 City Council Planning Session. We will resume on Friday, March 20th at 3 pm in the Activity Center, recess at 7 pm and continue Saturday, March 21st from 9 am until 2 pm. These sessions will give us the opportunity to develop a solid plan for the City to follow the next three to five years. As Lewis Carroll wrote in Alice in Wonderland, "If you don't know where you are going, any road will get you there." The City staff has been working off Roadmaps to Greatness for the last five years, with an annual review prior to budget preparation. In order to ensure we are on the same road as the City Council, it is imperative that a new Roadmap is implemented. I would like to challenge City Council to come up with one to three critical questions that can be discussed at the Planning Sessions. These questions will serve as the road foundation as we look forward to determine what type of city we want to be, what it will take to get there, how we will get there, what we will look like and what are the costs involved to develop and maintain this roadmap.

**Action Requested**

Discussion only at this time

**Issue**

Consider and take action, if any, on a Resolution opposing Senate Bill 343.

**Staff Resource/Department**

James Fisher, City Manager  
Andy Messer, City Attorney  
Susie Quinn, City Secretary

**Summary**

Regarding the current legislative session, Senator Don Huffines (Dallas area) filed Senate Bill 343. Senate Bill 343 would have the effect of turning home rule cities into general law cities.

This bill absolutely erodes the powers of a home rule municipality to adopt ordinances affecting the City's ability to govern its citizens. Under the bill, city voters and locally-elected officials would have to get the state legislature's permission to enact any local ordinance, rule, or regulation.

The Texas Municipal League has written to Senator Huffines and also published a white paper regarding this bill. Both are attached for review.

Should Council adopt this Resolution, a copy will be sent to all elected representatives for the City and to Senator Huffines.

**Action Requested**

Approve Resolution Number 14-R-811 opposing Senate Bill 343.

**Attachments**

Language of Senate Bill 343  
TML's White Paper on Senate Bill 343  
TML's Letter to Senator Don Huffines  
Resolution Number 14-R-811

## By: Huffines S.B. No. 343

A BILL TO BE ENTITLED

AN ACT relating to the conformity of local law with state law.

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

SECTION 1. Chapter 1, Local Government Code, is amended by adding Section 1.006 to read as follows:

Sec.1.006. CONFORMITY WITH STATE LAW. (a) Where the state has passed a general statute or rule regulating a subject, a local government shall restrict its jurisdiction and the passage of its ordinances, rules, and regulations to and in conformity with the state statute or rule on the same subject, unless the local government is otherwise expressly authorized by statute.

(b) Unless expressly authorized by state statute, a local government shall not implement an ordinance, rule, or regulation that conflicts with or is more stringent than a state statute or rule regardless of when the state statute or rule takes effect.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

# **S.B. 343**

## **Abolish Local Control. Centralize Power in Austin.**

### **Just like New York.**

**S.B. 343 would totally upend the relationship between Texas cities and state government, making Texas like the State of New York. City voters and locally-elected officials would have to get the state legislature's permission to enact any local ordinance.**

- In 1868, a federal judge named Dillon issued a ruling that cities can do only what their state government expressly authorizes them to do. The State of New York follows Dillon's Rule, and what's good for New York definitely isn't good for Texas.
- Shortly after that federal court decision, the people of Texas decided centralized government isn't the way to go and in 1912 adopted a constitutional amendment affirming Texas' commitment to local decision making. Cities, the government closest to the people, embody the idea that "We the People" should be in control.
- The Texas Constitution (in Article XI, Section 5) authorizes cities over 5,000 population to adopt – by election – a home rule charter. The charter grants the citizens of that city the power of self-government. Over 350 Texas cities have done so.
- S.B. 343 would make Texas revert to the rule created in Dillon's 1868 federal court decision and provide that a city may not enact an ordinance relating to anything governed by state law, unless expressly authorized to do so.
- The bill, effectively a "super-preemption bill" that adopts Dillon's Rule for Texas, would be another step in the centralization and consolidation of government power.

City councils often step up to the plate to protect the property values, the quality of life, and even save the lives, of Texans. In many cases, cities have to make decisions at the neighborhood level and not every neighborhood in a state of 26 million people is the same. That is why Texans recognize there is a proper role for state government and a role for local government.

### **S.B. 343 would abolish Home Rule cities and end local control**

**If you like the way New York operates, this is the bill for you**



## TEXAS MUNICIPAL LEAGUE

President **Nelda Martinez**, Mayor, Corpus Christi  
Executive Director **Bennett Sandlin**

February 29, 2015

The Honorable Don Huffines  
Texas Senate  
P.O. Box 12068  
Austin, Texas 78711-2068

Dear Senator Huffines:

I am writing on behalf of the Texas Municipal League to express our concerns with Senate Bill 343, which would upend the relationship between Texas cities and state government. Under the bill, city voters and locally-elected officials would have to get the state legislature's permission to enact any local ordinance, rule, or regulation.

Rather than pursue this legislation, we ask that you recognize that cities have to make decisions at the neighborhood level and not every neighborhood in a state of 26 million people is the same. That is why Texans recognize that there is a role for state government and a role for local government. Current law balances city authority to enact reasonable regulations to protect health and safety and property values with ensuring that the will of the local voters is heard and that our state's economy remains vibrant.

Many refer to current law by stating that "cities are creatures of the state." That's a true statement, but it's not entirely accurate. Without boring you with too many historical details, you should know that there are two types of cities in Texas: (1) general law; and (2) home rule. General law cities are purely creatures of the state legislature, but home rule cities are creatures of the Texas Constitution.

The approximately 800 general law cities might not be affected by your bill. These are cities under 5,000 inhabitants that can do only what the state legislature expressly authorizes them to do. In other words, your bill isn't needed to limit these cities because they already are limited.

The approximately 350 home rule cities would clearly be affected by your bill. Keep in mind that over 18 million Texans, which is approximately 75 percent of the state's population, live in these cities. The Texas Constitution (Article XI, Section 5) authorizes cities over 5,000 population to adopt – by election – a home rule charter. The charter grants the citizens of that city the power of self-government. These "home rule" cities can regulate however they choose, so long as not preempted by state or federal law from doing so. By approving the home rule amendment to the

Constitution in 1912, the voters of Texas approved the idea that larger cities don't need the state's "permission" to act.

Your bill would undo 100 years of home rule in Texas, and it is probably unconstitutional. That may indeed be the goal of your legislation, but please allow us to explain why eliminating home rule authority is bad public policy. Some might argue that home rule in Texas is a ruse because the state legislature so frequently preempts what home rule cities do. The status of home rule authority is academically debatable, but we posit a more practical need for it. That need relates to the checks and balances, the "process," that eventually leads to reasonable regulations. Rather than a blanket policy change, like S.B. 343 would enact, the home rule process leads to compromise.

Here are some examples of that compromise:

- In the 1960s, home rule cities could annex unilaterally, and some in the legislature believed that some cities were acting unreasonably. The Municipal Annexation Act was passed to limit how, when, and where home rule cities can annex. The authority wasn't simply taken away. It wasn't taken away because most legislators recognize that municipal annexation is crucial to the state's economy.
- In the 1980s, one home rule city adopted an ordinance prohibiting pit bulls in its city limits in response to a number of brutal incidents. The city was sued by dog owners, and the Texas Supreme Court upheld its home rule authority to prohibit specific breeds. The following legislative session, a law was passed to stop any city from banning specific breeds. However, the law also contains language expressly authorizing cities to regulate dogs that are actually a danger. That authority was granted because most legislators recognized the need to control dangerous animals in populated areas.
- In the 2000s, two home rule cities implemented red light photo enforcement systems. Over the next decade, several bills to preempt this authority were filed. As more cities expressed interest in the systems, the legislature compromised in 2007 and passed a law governing the how, when, and where of the systems, and filled state coffers with half of the civil penalty revenue from each violation. The authority was retained because most state legislators saw a way to fund state trauma care programs by revenue-sharing with cities.

The passage of S.B. 343 would also affect some *current* home rule regulations. In many cases, cities regulate when the Texas Legislature doesn't. City councils often step up to the plate to protect the quality of life, and even save the lives, of Texans. Here are just a few examples of cities moving ahead when the state won't:

- Sex offender residency restrictions
- Synthetic drug regulations
- Texting while driving limitations
- Payday lender regulations

- Oil and gas well ordinances
- Panhandling regulations

All of these would be wiped out by your bill. For example, the state has taken no action related to where child sex predators can live. If your bill passes, a sex offender in Lewisville will then be able to live right next door to an elementary school.

Preemption may indeed be your goal for some of the current regulations, like a fracking ban perhaps. But legislation has already been filed to deal with that specific example (and many others that legislators consider wrong). And we believe that it will result in a compromise that balances quality of life and the state's economy. One home rule city in Texas has adopted a resolution (rule) prohibiting the use of its staff or resources to house undocumented immigrants. Your bill would preempt that resolution as well.

You should also consider that S.B. 343 would also ban future regulations a city might pass. We obviously can't predict the future. We can't predict which political party will hold the majority, and we can't predict what cities may need to regulate to protect their citizens. That is why S.B. 343 – a blanket preemption that would completely alter the system of local decision making that's been in place for over 100 years – isn't needed. The unintended consequences and the uncertainty it would bring to the law are simply too great.

The League's position is that your bill is unnecessary. The bill, effectively a "super-preemption bill," would be another step in the centralization and consolidation of government power, which would seem contrary to your political ideals. Its passage would be akin to abolishing cities and centralizing government in Austin.

We hope you will instead consider working alongside us as we seek to protect city authority to enact reasonable regulations to protect health and safety and property values, while ensuring that the state's economy remains vibrant.

Thank you for your consideration and please do not hesitate to contact me if I can be of any assistance to you.

Sincerely,



Shanna Igo  
*Deputy Executive Director*

**RESOLUTION NO. 15-R-812**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, OPPOSING SENATE BILL 343 AND ANY OTHER LEGISLATION WHICH WOULD ERODE THE AUTHORITY OF A HOME RULE MUNICIPALITY; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.**

**WHEREAS**, in 1868 a federal judge named Dillon issued a ruling that cities can do only what their state government expressly authorizes them to do; and

**WHEREAS**, after that federal court decision, the people of Texas decided centralized government is not the way to go and, in 1912, adopted a constitutional amendment affirming Texas' commitment to local decision making; and

**WHEREAS**, the Texas Constitution, in Article XI, Section 5, authorizes cities over 5,000 population to adopt by election a home rule charter, which charter grants the citizens of that city the power of self-government; and

**WHEREAS**, the City of Murphy adopted its Home Rule Charter in February 2004; and

**WHEREAS**, Senate Bill 343, filed by Senator Don Huffines during this the 84<sup>th</sup> Texas Legislative Session, would totally upend the relationship between Texas cities and state government by causing Texas to revert to the rule created in Dillon's 1868 federal court decision and would require City of Murphy voters and local elected officials to get the Texas state legislature's permission to enact any local ordinance.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, THAT:**

**Section 1.** The City Council of the City of Murphy strongly opposes Senate Bill 343 and any legislation that would erode the authority of a home rule municipality.

**Section 2.** The City Manager, City Attorney and City Secretary are available to testify in Austin opposing Senate Bill 343 and any other legislation which would erode the authority of a Home Rule Municipality.

**Section 3.** The City Council of the City of Murphy officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council is posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 4.** This Resolution shall be effective upon its passage and approval.

**DULY PASSED AND APPROVED** by the City Council of the City of Murphy, Texas on this the 17<sup>th</sup> day of February, 2015.

**CITY OF MURPHY**

By: \_\_\_\_\_  
Eric Barna  
Mayor

**ATTEST:**

\_\_\_\_\_  
Susie Quinn  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Andy Messer  
City Attorney