

MURPHY
POLICE DEPARTMENT

2019

RACIAL PROFILING ANALYSIS

PREPARED BY:

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Executive Summary

Article 2.132-2.134 of the Texas Code of Criminal Procedure (CCP) requires the annual reporting to the local governing body of data collected on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to data collection and reporting requirements. Article 2.134 of the CCP directs that “a comparative analysis of the information compiled under 2.133” be conducted, with specific attention to the below areas:

1. 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;
2. examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;
3. evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and
4. information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

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

- **A COMPREHENSIVE REVIEW OF THE MURPHY POLICE DEPARTMENT REGULATIONS, SPECIFICALLY DIRECTIVE 2.01.1 OUTLINING THE DEPARTMENT’S POLICY CONCERNING BIAS-BASED PROFILING, SHOWS THAT THE MURPHY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE MURPHY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE MURPHY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**
- **THE MURPHY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW REGARDING CCP ARTICLES 2.132-2.134.**

Introduction

This report details an analysis of the Murphy Police Department's policies, training, and statistical information on racial profiling for the year 2019. This report has been prepared to specifically comply with Article 2.132, 2.133, and 2.134 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of traffic stop data. Specifically, the analysis will address Articles 2.131 – 2.134 of the CCP and make a determination of the level of compliance with those articles by the Murphy Police Department in 2019. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

This report is divided into six sections: (1) Murphy Police Department's policy on racial profiling; (2) Murphy Police Department's training and education on racial profiling; (3) Murphy Police Department's complaint process and public education on racial profiling; (4) analysis of Murphy Police Department's traffic stop data; (5) additional traffic stop data to be reported to TCOLE; and (6) Murphy Police Department's compliance with applicable laws on racial profiling.

For the purposes of this report and analysis, the following definition of racial profiling is used: racial profiling means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas CCP Article 3.05).

Murphy Police Department Policy on Racial Profiling

A review of Murphy Police Department Directive 2.01.1 "Bias Based Profiling" revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix B). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in Directive 2.01.1. Murphy Police Department regulations provide clear direction that any form of bias-based profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including termination. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race or ethnicity. Appendix C lists the applicable statute and corresponding Murphy Police Department regulation.

A COMPREHENSIVE REVIEW OF MURPHY POLICE DEPARTMENT DIRECTIVE 2.01.1 SHOWS THAT THE MURPHY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Murphy Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas Peace officers. Documentation provided by Murphy Police Department reveals that all officers have received bias-based/racial profiling training.

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

Murphy Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Murphy Police Department Directive 2.01.1 IV(B) and (D) cover this requirement. In addition, Murphy Police Department posts annual racial profiling reports on their website, and they also present the findings to the City Council in an open forum for the public. The department has information regarding how to file a complaint on their website (<https://murphytx.org/112/Police> “Questions and Concerns”). The department has also prepared a brochure on the complaint process and any person wishing to file a complaint is provided with the brochure “How to File a Compliment or Complaint” and a complaint form.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

Murphy Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 and Article 2.133 requires that law enforcement agencies collect statistical information on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to other information noted previously. Murphy Police Department submitted statistical information on all motor vehicle stops in 2019 and accompanying information on the race/ethnicity of the person stopped. Accompanying this data was the relevant information required to be collected and reported by law.

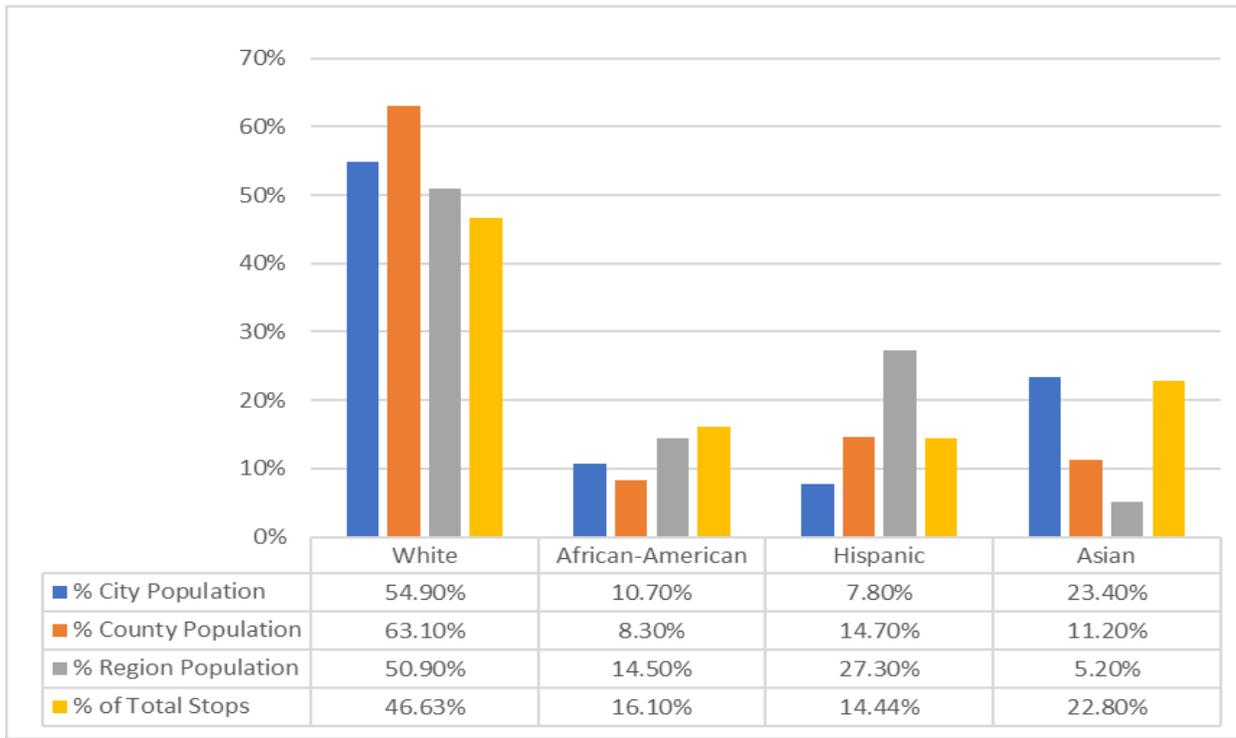
ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

Analysis of the Data

Comparative Analysis #1:

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. Texas Code of Criminal Procedure Article 2.134(c)(1)(A)

The first chart depicts the percentages of people stopped by race/ethnicity among the total 4,313 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2019.¹



White drivers constituted 46.63 percent of all drivers stopped, whereas Whites constitute 54.90 percent of the city population, 63.10 percent of the county population, and 50.90 percent of the region population.²

African-American drivers constituted 16.10 percent of all drivers stopped, whereas African-Americans constitute 10.70 percent of the city population, 8.30 percent of the county population, and 14.50 percent of the region population.

Hispanic drivers constituted 14.44 percent of all drivers stopped, whereas Hispanics constitute 7.80 percent of the city population, 14.70 percent of the county population, and 27.30 percent of the region population.

Asian drivers constituted 22.80 percent of all drivers stopped, whereas Asians constitute 23.40 percent of the city population, 11.20 percent of the county population, and 5.20 percent of the region population.

¹ There were 2 motor vehicle stops of drivers considered Alaska Native/American Indian.

² City and County populations were derived from the 2010 Census of the U.S. Census Bureau. Regional population figures were derived from 2010 Census data compiled and published by the North Central Texas Council of Governments which is defined as the 16 county Dallas-Ft. Worth Area including the following counties: Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

The chart shows that White drivers are stopped at rates lower than the percentage of Whites found in the city, county, and regional population. African-American drivers are stopped at rates higher than the percentage of African-Americans found in the city, county, and regional population. Hispanic drivers are stopped at rates higher than the percentage of Hispanics found in the city population, lower than the percentage of Hispanics in the regional population, and almost identical to the percentage of Hispanics in the county population. Asian drivers are stopped at rates slightly lower than the percentage of Asians found in the city population, but higher than the percentage of Asians in the county and regional populations.

Methodological Issues

Upon examination of the data, it is important to note that differences in overall stop rates of a particular racial or ethnic group, compared to that racial or ethnic group's proportion of the population, cannot be used to make determinations that officers have or have not racially profiled any given individual motorist. Claims asserting racial profiling of an individual motorist from the aggregate data utilized in this report are erroneous.

For example, concluding that a particular driver of a specific race/ethnicity was racially profiled simply because members of that particular racial/ethnic group as a whole were stopped at a higher rate than their proportion of the population—are as erroneous as claims that a particular driver of a specific race/ethnicity could NOT have been racially profiled simply because the percentage of stops among members of a particular racial/ethnic group as a whole were stopped at a lower frequency than that group's proportion of the particular population base (e.g., city or county population). In short, aggregate data as required by law and presented in this report cannot be used to prove or disprove that a member of a particular racial/ethnic group was racially profiled. Next, we discuss the reasons why using aggregate data—as currently required by the state racial profiling law—are inappropriate to use in making claims that any individual motorist was racially profiled.

Issue #1: Using Group-Level Data to Explain Individual Officer Decisions

The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling” motorists. This methodological error, commonly referred to as the “ecological fallacy,” defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate stop data. **In short, one cannot prove that an individual officer has racially profiled any individual motorist based on the rate at which a department stops any given group of motorists.** In sum, aggregate level data cannot be used to assess individual officer decisions, but the state racial profiling law requires this assessment.

Issue #2: Problems Associated with Population Base-Rates

There has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. The base-rate serves as the benchmark for comparison purposes. The outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. While this report utilized the most recent 2010 Census as a population base-rate, this population measure can become quickly

outdated and may not keep pace with changes experienced in city and county and regional population measures.

In addition, the validity of the benchmark base-rate becomes even more problematic if analyses fail to distinguish between residents and non-residents who are stopped. This is because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures. **In sum, a valid measure of the driving population does not exist. As a proxy, census data is used which is problematic as an indicator of the driving population.** In addition, stopped motorists who are not residents of the city, county, or region where the motor vehicle stop occurred are not included in the benchmark base-rate.

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

Table 1 reports the summaries for the total number of motor vehicle stops in which a ticket, citation, or warning was issued, and to arrests made as a result of those stops, by the Murphy Police Department in 2019. Table 1 and associated analyses are utilized to satisfy the comparative analyses as required by Texas law, and in specific, Article 2.134 of the CCP.

Comparative Analysis #2:

Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction. Texas Code of Criminal Procedure Article 2.134(c)(1)(B)

Table 1: Traffic Stops and Outcomes by Race/Ethnicity

Stop Outcomes by Race/Ethnicity	White	African-American	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	2011	694	623	983	2	4313
Result of Stop						
Verbal Warning	1030	390	259	343	0	2022
Written Warning	53	18	15	22	0	108
Citation	912	275	339	615	2	2143
Written Warning and Arrest	3	2	0	0	0	5
Citation and Arrest	2	1	3	1	0	7
Arrest	11	8	7	2	0	28
Search Conducted						
Yes	23	15	19	7	0	64
No	1988	679	604	976	2	4249

As shown in Table 1, there were a total of 4,313 motor vehicle stops in 2019 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 47 percent of stops resulted in a verbal warning and roughly 50 percent resulted in a citation. These actions accounted for roughly 97 percent of all stop actions and will be the focus of the below discussion.

Specific to **verbal warnings**, White motorists received a verbal warning in roughly 51 percent of stops involving White motorists (1030/2011), African-American motorists received a verbal warning in roughly 56 percent of stops of African-American motorists, Hispanic motorists received a verbal warning in roughly 42 percent of stops of Hispanic motorists, and Asian motorists received a verbal warning in roughly 35 percent of stops of Asian motorists.

White motorists received a **citation** in roughly 45 percent of stops involving White motorists (912/2011), African-American motorists received a citation in roughly 40 percent of stops of African-American motorists, Hispanic motorists received a citation in roughly 54 percent of stops of Hispanic motorists, and Asian motorists received a citation in roughly 63 percent of stops of Asian motorists.

Finally, arrests were rare in 2019. Of the 4,313 total stops, only 40 arrests [written warning and arrest (5), citation and arrest (7) and sole arrests (28)] were made in 2019.

Comparative Analysis #3:

Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches. Texas Code of Criminal Procedure Article 2.134(c)(1)(C)

In 2019, a total of 64 **searches** of motorists were conducted, or roughly 1 percent of all stops resulted in a search. Among searches within each racial/ethnic group, White motorists were searched in roughly 1 percent of all stops of White motorists (23/2011), African-American motorists were searched in roughly 2 percent of all stops of African-American motorists, Hispanic motorists were searched in roughly 3 percent of all stops of Hispanic motorists, and Asian motorists were searched in less than 1 percent of all stops of Asian motorists.

Regarding searches, it should be further noted that only 16 searches (see Table 3) were based on consent, which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (4,313), discretionary consent searches occurred in 0.37 percent of stops.

Of the searches that occurred in 2019, and as shown in Table 3, contraband was discovered in 26 or roughly 41 percent of all searches (26/64 total searches).

Comparative Analysis #4:

Information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. Texas Code of Criminal Procedure Article 2.134(c)(2)

In 2019, internal records indicate that the Murphy Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling.

Additional Information Required to be Reported to TCOLE

Tables 2-4 provide additional information relative to motor vehicle stops in 2019 by the Murphy Police Department. The data are required to be collected by the Murphy Police Department under the Texas Code of Criminal Procedure Article 2.133.

Table 2: Data on Traffic Stops and Arrests

Stop Table	Frequency
Number of Stops	4313
Reason for Stop	
Violation of Law	112
Preexisting Knowledge	9
Moving Traffic Violation	3476
Vehicle Traffic Violation	716
Result of Stop	
Verbal Warning	2022
Written Warning	108
Citation	2143
Written Warning and Arrest	5
Citation and Arrest	7
Arrest	28
Arrest Based On	
Violation of Penal Code	10
Violation of Traffic Law	9
Violation of City Ordinance	2
Outstanding Warrant	19

Table 3: Data on Searches Pursuant to Traffic Stops

Search Table	Frequency
Search Conducted	
Yes	64
No	4249
Reason for Search	
Consent	16
Contraband in Plain View	4
Probable Cause	26
Inventory	8
Incident to Arrest	10
Was Contraband Discovered	
Yes	26
No	38
Description of Contraband	
Drugs	14
Currency	1
Weapons	0
Alcohol	2
Stolen Property	3
Other	6

Table 4: Additional Data on Traffic Stops

Additional Information	Frequency
Gender	
Male	2655
Female	1658
Race/Ethnicity Known Prior to Stop	
Yes	19
No	4294
Was Physical Force Resulting in Bodily Injury Used During Stop	
Yes	0
No	4313
Approximate Location of Stop	
City Street	4142
US Highway	61
County Road	56
State Highway	25
Private Property/Other	29

Analysis of Racial Profiling Compliance by Murphy Police Department

The foregoing analysis shows that the Murphy Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection and reporting of data in compliance with the law.

In addition to providing summary reports and analysis of the data collected by the Murphy Police Department in 2019, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Murphy Police Department as well as police agencies across Texas.

TCOLE Reporting Forms

Racial Profiling Report

Agency Name:

**Murphy Police
Department**

Reporting

Date:01/13/20

TCOLE Agency Number:

85216

Chief

Administrator:Arthur

Cotten

Agency Contact Information:

Phone:972-468-4200

Email:acotten@murphytx.org

Mailing Address:206 N Murphy Rd, Murphy, TX 75094

By submitting, the chief administrator affirms that the agency has a policy in place in accordance with Texas Code of Criminal Procedure §2.132, and that the policy:

- (1) clearly defines acts constituting racial profiling;
- (2) strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- (3) implements 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) provides public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and email address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;
- (5) requires 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) requires collection of information relating to motor vehicle stops in which a ticket, citation, or warning 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;
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
 - (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
 - (E) the location of the stop; and
 - (F) the reason for the stop; and

(7) requires 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 Texas Commission on Law Enforcement; 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.

Executed by:

Date:

Agency Racial Profiling Information

Total stops:

1. Gender

CCP 2.133(b)(1)(a)

1.1 Female: 1658

1.2 Male: 2655

2. Race or ethnicity

CCP 2.132(a)(3), 2.132(b)(6)(A), 2.133(b)(1)(B)

2.1 Black: 694

2.2 Asian/Pacific Islander: 983

2.3 White: 2011

2.4 Hispanic/Latino: 623

2.5 Alaska Native/American Indian: 2

3. Was race or ethnicity known prior to stop?

CCP 2.132(b)(6)(C)

3.1 Yes: 19

3.2 No: 4294

4. Reason for stop?

CCP 2.132(b)(6)(F), 2.133(b)(2)

4.1 Violation of law: 112

4.2 Preexisting knowledge: 9

4.3 Moving traffic violation: 3476

4.4 Vehicle traffic violation: 716

5. Street address or approximate location of the stop

CCP 2.132(b)(6)(E), 2.133(b)(7)

5.1 City street: 4142

5.2 US highway: 61

5.3 County road: 56

5.4 State highway: 25

5.5 Private property or other: 29

6. Was a search conducted?

CCP 2.132(b)(6)(B), 2.133(b)(3)

6.1 Yes: 64

6.2 No: 4249

7. Reason for Search?

7.1 Consent: 16

CCP 2.132(b)(6)(B), 2.133(b)(3)

7.2 Contraband in plain view: 4

CCP 2.133(b)(5)(A)

7.3 Probable cause: 26

CCP 2.133(b)(5)(B)

7.4 Inventory: 8

CCP 2.133(b)(5)(C)

7.5 Incident to arrest: 10

CCP 2.133(b)(5)(C)

8. Was Contraband discovered?

CCP 2.133(b)(4)

8.1 Yes: 26

8.2 No: 38

9. Description of contraband

CCP 2.133(b)(4)

9.1 Drugs: 14

9.2 Currency: 1

9.3 Weapons: 0

9.4 Alcohol: 2

9.5 Stolen property: 3

9.6 Other: 6

10. Result of the stop

10.1 Verbal warning: 2022	CCP 2.133(b)(8)
10.2 Written warning: 108	CCP 2.133(b)(8)
10.3 Citation: 2143	CCP 2.133(b)(8)
10.4 Written warning and arrest: 5	
10.5 Citation and arrest: 7	
10.6 Arrest: 28	CCP 2.133(b)(6)

Arrest Total (10.4, 10.5, and 10.6) = 40

11. Arrest based on

CCP 2.133(b)(6)

- 11.1 Violation of Penal Code: 10**
- 11.2 Violation of Traffic Law: 9**
- 11.3 Violation of City Ordinance: 2**
- 11.4 Outstanding Warrant: 19**

12. Was physical force resulting in bodily injury used during stop?

CCP 2.132(b)(6)(D), 2.133(b)(9)

- 12.1 Yes: 0**
- 12.2 No: 4313**

Appendix A: Racial Profiling Statutes and Laws

Texas Racial Profiling Statutes

Art. 3.05. RACIAL PROFILING.

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

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

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

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

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

- (1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.
- (2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.
- (3) "Race or ethnicity" means the following categories:
 - (A) Alaska native or American Indian;
 - (B) Asian or Pacific Islander;
 - (C) black;
 - (D) white; and
 - (E) Hispanic or Latino.

(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 compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(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 ticket, citation, or warning 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;

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

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for the stop; 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 Texas Commission on Law Enforcement; and

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

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

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

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

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

(g) On a finding by the Texas Commission on Law Enforcement 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.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 25, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.05, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 173 (H.B. 3051), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.01, eff. September 1, 2017.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

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

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

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

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

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

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

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

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

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

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

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 26, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.02, eff. September 1, 2017.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

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

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

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

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

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

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;

(B) examine the disposition of motor vehicle stops made by officers employed by the agency,

categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

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

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

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

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

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

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 27, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.06, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.03, eff. September 1, 2017.

Art. 2.136. LIABILITY.

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, 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 in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras. 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 in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, 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 in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, 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 taken the necessary actions to use and is using video and audio equipment and body worn cameras for those purposes.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.04, eff. September 1, 2017.

Art. 2.138. RULES.

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

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

Art. 2.1385. CIVIL PENALTY.

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an amount not to exceed \$5,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

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

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 29, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.05, eff. September 1, 2017.

Appendix B: Agency Policy



MURPHY POLICE DEPARTMENT
DIRECTIVE

SUBJECT: Bias Based Profiling

NUMBER: 2.01.1

EFFECTIVE DATE: November 18, 2009

RELATED STANDARDS: 7.35.1

REVIEW DATE: March 25, 2019

APPROVED: _____

Chief Arthur Cotten

DATED: 03/25/19

- 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 bias based profiling as defined in this policy. Bias based 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 bias based profiling.

III. DEFINITIONS:

- A. Bias Based Profiling – The selection of an individual based solely on a trait common to a group for enforcement action. This includes, but not limited to: race, ethnic background, gender, sexual orientation, religion, economic status, cultural group, or any other identifiable group.
- B. Race or Ethnicity – persons of a particular descent
- C. Acts Constituting Bias Based Profiling – acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation or warning, 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 indentifying 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:

1. Officers of the Murphy Police Department are strictly prohibited from engaging in bias based profiling in any form. The prohibition against bias based 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 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 bias based 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 Compliment or Complaint” and a complaint form. Brochures are maintained in the Murphy Police Department lobby, Murphy City Hall, and on the city website.
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.

D. PUBLIC EDUCATION:

1. The Murphy Police Department shall provide education to the public concerning the bias based profiling complaint process. The primary method of public education shall be through the brochure “How to File a Compliment or Complaint” which are maintained in the lobby of the Murphy Police Department, Murphy City Hall and the city website. The brochure will include the telephone number(s), email address(s), and mailing address of who to contact and where to make the complaint. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet and/or public meetings.

E. COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED, WARNING IS GIVEN OR ARREST MADE

1. For each motor vehicle stop made by a police officer for an alleged violation of the law or ordinance, the following information shall be collected:

- a. Gender;
- b. Race or Ethnicity (as stated by the person or as determined by the officer to the best of the officer's ability). The following codes will be used:
 - W = White
 - B = Black
 - H = Hispanic or Latino
 - A = Asian or Pacific Islander
 - I = Alaska Native or American Indian
- c. Initial reason for the stop:
 - i. Violation of the law;
 - ii. Pre-existing knowledge (i.e., warrant)
 - iii. Moving traffic violation
 - iv. Vehicle traffic violation (equipment, inspection, or registration)
- d. If a search was conducted as a result of the stop;
 - i. If so, did the person detained consent to the search?
- e. Was contraband or other evidence discovered as a result of the search;
- f. Description of the contraband or evidence found:
 - i. Illegal drugs / drug paraphernalia
 - ii. Currency
 - iii. Weapons
 - iv. Alcohol
 - v. Stolen property
 - vi. Other
- g. Reason for Search
 - i. Consent
 - ii. Contraband / Evidence
 - iii. Probable Cause or Reasonable Suspicion
 - iv. Inventory search performed as a result of vehicle impound
 - v. Incident to arrest / Warrant
- h. Information on Arrests
 - i. Did officer make an arrest as a result of the stop or search;
 - ii. Reason for arrest
 - a) Violation of Penal Code
 - b) Violation of Traffic Law
 - c) Violation of City Ordinance
 - d) Outstanding Warrant
- i. Street address or approximate location of the stop
 - i. City Street
 - ii. US Highway
 - iii. County Road
 - iv. Private Property or other

- j. Verbal warning or written ticket/citation or warning as a result of the stop;
 - k. Whether the peace officer used physical force that resulted in bodily injury as defined by section 1.07 in the Penal Code (Means physical pain, illness or any impairment of physical condition) during the stop.
 - i. Location of the stop; and
 - ii. The reason for the stop.
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 indentifying information about any peace officer involved in a stop or arrest.
 4. Annually, data audits and search analysis will be performed.

F. 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 officer of the department is equipped with a body worn camera capable of recording video and audio. Reference to policy 7.35.1.
3. 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.
4. 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.
5. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile video equipment when situations dictate.
6. 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.
7. All recordings must be kept accessible by supervisory staff for review.

G. 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 recording 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 Patrol Supervisor or their designee shall review a randomly selected sampling of video and audio recordings, made recently by their 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. See Appendix A.
 - 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 fifteen (15) minutes of video on each officer every week.
 - 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 video 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.

H. 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 (TCOLE) 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 TCOLE intermediate proficiency certificate, or who had held a peace officer license issued by TCOLE for at least two years, shall complete a TCOLE 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 (LEMITE), not later than September 1, 2003.

IV. ADMINISTRATIVE REVIEW AND REVISION

A. *Annually*, the Chief of Police shall review the Directive, making any revisions, as needed.

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

Appendix C: Racial Profiling Laws and Corresponding Standard Operating Procedures

Texas CCP Article	MURPHY POLICE DEPARTMENT Directive 2.01.1 Bias Based Profiling
2.132(b)1	Definitions Section
2.132(b)2	Policy Section
2.132(b)3	Complaint Process Section
2.132(b)4	Public Education Section
2.132(b)5	Disciplinary and Corrective Action Section
2.132(b)6	Collection of Information and Annual Report When Citation Issued, Warning is Given or Arrest Made Section
2.132(b)7	Collection of Information and Annual Report When Citation Issued, Warning is Given or Arrest Made Section