

**CITY OF SAN ANTONIO**  
**Office of the Chief of Police**  
**INTERDEPARTMENTAL CORRESPONDENCE**

**TO:** Sheryl Sculley, City Manager  
**FROM:** William P. McManus, Chief of Police  
**COPIES TO:** Mayor & City Council; Erik Walsh, Deputy City Manager; File  
**SUBJECT:** 2016 Racial Profiling Report

**DATE:** February 27, 2017

The San Antonio Police Department (SAPD) collected racial profiling data for 2016 pursuant to the enactment of House Bill 3389. Further, State law requires that the Department report to the “governing body of the agency” all data collected for the 2016 calendar year and electronically submit the racial profiling data to the Texas Commission on Law Enforcement (TCOLE).

In order to ensure the accuracy and integrity of the report, we contracted with Brian L. Withrow, Ph.D., to conduct an independent analysis of the data collected by the San Antonio Police Department during 2016. Dr. Withrow is one of the nation’s leading authorities on racial profiling. He has published two textbooks and a number of scholarly articles on this topic and has conducted racial profiling studies for other police departments as well.

The reporting requirements exclude pedestrian contact data, therefore, our analysis and results are based on data from traffic stops occurring between January 1 and December 31, 2016. By department, these totals are as follows: SAPD – 154,410; Park Police – 2,010; and Airport Police – 1,270.

The percentages, by department, of these stops, according to the race/ethnicity breakdown provided by TCOLE, are as follows:

	<b>Hispanic</b>	<b>White</b>	<b>African-American</b>	<b>Asian/ Pacific Islander</b>	<b>Middle Eastern/ East Indian</b>	<b>Native American</b>
<b>SAPD</b>	59.15	29.19	9.45	0.99	1.22	0.04
<b>Park Police</b>	63.73	29.65	4.78	1.09	0.70	0.05
<b>Airport Police</b>	38.98	42.13	11.02	2.13	5.51	0.24

Based on Dr. Withrow’s independent analysis, there is no evidence that the City of San Antonio’s law enforcement agencies are engaging in a pattern or practice of racial profiling.

I am confident we have complied with the law to the fullest extent possible for calendar year 2016.

Overall, the evidence and documentation in the current report shows that the Airport Police, Park Police and San Antonio Police Departments are in compliance with existing racial profiling laws set forth by the State of Texas.

If you have any questions or require additional information, please contact me at 210-207-7360.

Sincerely,



William McManus  
Chief of Police

# **Table of Contents**

## **I. GENERAL INTRODUCTION**

**Executive Summary and Introduction**

## **II. TEXAS LAWS**

**Texas Law on Racial Profiling (H. B. 3389)**

**TCOLE (formerly TCLEOSE) Requirements (H. B. 3389)**

## **III. DATA ANALYSIS AND RESULTS**

**Traffic Stop Analysis and results Presented in Standard  
Tier 2**

**TCOLE Reporting by Agency: San Antonio Police Department,  
Park Police and Airport Police**

**Comparative Analysis and Racial Profiling Complaints**

**San Antonio Police Department**

**San Antonio Park Police**

**San Antonio Airport Police**

## **IV. DEPARTMENT RESPONSE**

**Procedural Response Forms**

**Citizen Complaint/ Allegations Process (Educating and  
Informing the Public)**

**Training**

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## **I. General Introduction**

# **EXECUTIVE SUMMARY AND INTRODUCTION**

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February 22, 2017

San Antonio City Council  
P.O. Box 839966  
San Antonio, Texas 78283

Dear Distinguished Members of the City Council:

In 2001, the 77<sup>th</sup> Texas Legislature passed S.B. 1074 in an attempt to address racial profiling by law enforcement officers. On June 19, 2009, during the 81<sup>st</sup> Regular Session, H.B. 3389 was signed by the Governor of Texas and became effective on September 1, 2009. House Bill 3389 changed the racial profiling data collection and reporting requirements for Texas law enforcement agencies. Among other changes, H.B. 3389 required law enforcement agencies to: (1) alter their data collection procedures and methods beginning in 2010, and (2) report such data electronically to the Texas Commission on Law Enforcement (TCOLE) using a mandatory format defined by the department's Tier classification. To insure compliance with Texas law, the San Antonio Police Department (SAPD) entered into a contract with Atticus Analytics to analyze its traffic stop data and present a report to city's law enforcement and civilian executives on racial profiling. Atticus Analytics assisted the SAPD in complying with the racial profiling data collection and reporting requirements mandated by H.B. 3386.

The substantive report begins in Section II with the text of H.B. 3389. This is followed by a series of TCOLE documents pertaining to the data collection and reporting requirements, exemptions, and Tier classifications. In the next section (III) 157,690 traffic stops from three agencies were analyzed: San Antonio Police Department (154,410 traffic stops), Park Police Department (2,010 traffic stops), and Airport Police Department (1,270 traffic stops). The data are presented in the format consistent with TCOLE's mandated reporting requirements. Section III concludes with an analysis of racial profiling complaints from the San Antonio Police Department, Park Police Department, and Airport Police Department. In compliance with H.B. 3386, Section IV presents each department's policies and procedures that inform the public on how to file a complaint alleging racial profiling. These are followed by the racial profiling training policies from each department. Here again, these policies are presented in compliance with H.B. 3386.

The San Antonio Police Department, Park Police Department, and Airport Police Department are in compliance with the state laws relating to the collection and reporting of racial profiling data at the Tier 2 level. Based on the independent analysis conducted by Atticus Analytics, there is no evidence suggesting that these departments are engaging in a pattern or practice of racial profiling among city residents or non-residents

Respectfully submitted,

*Brian L. Withrow*

Brian L. Withrow, Ph.D.

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## **II. Texas Laws**

# **TEXAS LAWS ON RACIAL PROFILING (H.B. 3389)**

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AN ACT

relating to the continuation and functions of the Texas Commission on Law Enforcement Officer Standards and Education; providing civil and administrative penalties.

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

SECTION 1. Section 1701.002, Occupations Code, is amended to read as follows:

Sec. 1701.002. APPLICATION OF SUNSET ACT. The Commission on Law Enforcement Officer Standards and Education is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2021 [~~2009~~].

SECTION 2. Section 1701.053, Occupations Code, is amended to read as follows:

Sec. 1701.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[~~7~~] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person [~~An officer, employee, or paid consultant of a Texas trade association in the field of law enforcement~~] may not be a commission member and may not be an employee of the commission

1 employed in a "bona fide executive, administrative, or professional  
2 capacity," as that phrase is used for purposes of establishing an  
3 exemption to the overtime provisions of the federal Fair Labor  
4 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

5 (1) the person is an officer, employee, or paid  
6 consultant of a Texas trade association in the field of law  
7 enforcement or county corrections; or

8 (2) the person's spouse is an officer, manager, or paid  
9 consultant of a Texas trade association in the field of law  
10 enforcement or county corrections [~~who is exempt from the state's~~  
11 ~~position classification plan or is compensated at or above the~~  
12 ~~amount prescribed by the General Appropriations Act for step 1,~~  
13 ~~salary group A17, of the position classification salary schedule].~~

14 ~~(c) [A person who is the spouse of an officer, manager, or~~  
15 ~~paid consultant of a Texas trade association in the field of law~~  
16 ~~enforcement may not be a commission member and may not be an~~  
17 ~~employee of the commission who is exempt from the state's position~~  
18 ~~classification plan or is compensated at or above the amount~~  
19 ~~prescribed by the General Appropriations Act for step 1, salary~~  
20 ~~group A17, of the position classification salary schedule.~~

21 ~~[(d)]~~ A person may not be [~~serve as~~] a member of the  
22 commission or act as the general counsel to the commission or the  
23 agency if the person is required to register as a lobbyist under  
24 Chapter 305, Government Code, because of the person's activities  
25 for compensation on behalf of a profession related to the  
26 commission's operation.

27 SECTION 3. Section 1701.056(a), Occupations Code, is

1 amended to read as follows:

2 (a) It is a ground for removal from the commission that a  
3 member:

4 (1) does not have at the time of taking office  
5 ~~[appointment]~~ the qualifications required by Section 1701.051(a)  
6 or 1701.052;

7 (2) does not maintain during service on the commission  
8 the qualifications required by Section 1701.051(a) or 1701.052;

9 (3) is ineligible for membership under ~~[violates a~~  
10 ~~prohibition established by]~~ Section 1701.053;

11 (4) cannot, because of illness or disability,  
12 discharge the member's duties for a substantial part of the member's  
13 term; or

14 (5) is absent from more than half of the regularly  
15 scheduled commission meetings that the member is eligible to attend  
16 during a calendar year without an excuse approved by a majority vote  
17 of the commission.

18 SECTION 4. Section 1701.059, Occupations Code, is amended  
19 to read as follows:

20 Sec. 1701.059. TRAINING. (a) A ~~[To be eligible to take~~  
21 ~~office as a member of the commission, a]~~ person who is appointed to  
22 and qualifies for office as a member of the commission may not vote,  
23 deliberate, or be counted as a member in attendance at a meeting of  
24 the commission until the person completes ~~[must complete at least~~  
25 ~~one course of]~~ a training program that complies with this section.

26 (b) The training program must ~~[shall]~~ provide the person  
27 with information ~~[to a member]~~ regarding:

- 1           (1) the legislation that created the commission;  
2           (2) the programs, functions, rules, and budget of the  
3 commission [~~this chapter~~];  
4           (3) [~~(2)~~] the results of the most recent formal audit  
5 of [~~programs operated by~~] the commission;  
6           (4) [~~(3)~~] the requirements of laws relating to open  
7 meetings, public information, administrative procedure, and  
8 conflicts of interest [~~role and functions of the commission~~]; and  
9           [~~(4) the rules of the commission, with an emphasis on~~  
10 ~~the rules that relate to disciplinary and investigatory authority,~~]  
11           (5) [~~the current budget for the commission,~~  
12 [~~(6) the results of the most recent formal audit of the~~  
13 ~~commission,~~  
14 [~~(7) the requirements of Chapters 551, 552, and 2001,~~  
15 ~~Government Code,~~  
16 [~~(8) the requirements of the conflict of interest laws~~  
17 ~~and other laws relating to public officials, and~~  
18 [~~(9)~~] any applicable ethics policies adopted by the  
19 commission or the Texas Ethics Commission.

20           (c) A person appointed to the commission is entitled to  
21 reimbursement, as provided by the General Appropriations Act, for  
22 travel expenses incurred in attending the training program  
23 regardless of whether the attendance at the program occurs before  
24 or after the person qualifies for office[~~, as provided by the~~  
25 ~~General Appropriations Act, as if the person were a member of the~~  
26 ~~commission~~].

27           SECTION 5. Section 1701.153(b), Occupations Code, is

1 amended to read as follows:

2 (b) The commission shall furnish each agency and licensed  
3 training school with the required reporting forms, including access  
4 to electronic submission forms when the system under Section  
5 1701.1523 is established.

6 SECTION 6. Sections 1701.157(b) and (c), Occupations Code,  
7 are amended to read as follows:

8 (b) To provide the necessary information for an allocation  
9 of money under Subsection (a), a [~~Not later than November 1 of each~~  
10 ~~calendar year, each~~] local law enforcement agency must [~~shall~~]  
11 report to the comptroller not later than November 1 of the preceding  
12 calendar year:

13 (1) the number of agency positions described by  
14 Subsection (a)(2) authorized as of January 1 of the [~~that~~] year the  
15 report is due;

16 (2) the number of agency positions described by  
17 Subsection (a)(2) filled as of January 1 of the year the report is  
18 due;

19 (3) the percentage of the money received by the agency  
20 under Subsection (a) pursuant to the allocation made by the  
21 comptroller on or before March 1 of the year preceding the year in  
22 which the report is due that was used by the agency before the date  
23 of the allocation made by the comptroller under Subsection (a) on or  
24 before March 1 of the year the report is due;

25 (4) the number of training hours received during the  
26 12-month or approximately 12-month period described by Subdivision  
27 (3) that were funded by money received by the agency pursuant to the

1 allocation made by the comptroller on or before March 1 of the year  
2 preceding the year in which the report is due; and

3 (5) that the agency has complied with the requirements  
4 of this section regarding the use of any money received by the  
5 agency pursuant to the allocation made by the comptroller on or  
6 before March 1 of the year preceding the year in which the report is  
7 due.

8 (c) The head of a law enforcement agency shall maintain a  
9 complete and detailed [~~written~~] record of money received and spent  
10 by the agency under this section. Money received under this section  
11 is subject to audit by the comptroller. Money spent under this  
12 section is subject to audit by the state auditor.

13 SECTION 7. Subchapter D, Chapter 1701, Occupations Code, is  
14 amended by adding Sections 1701.1521, 1701.1522, 1701.1523,  
15 1701.1524, 1701.162, and 1701.163 to read as follows:

16 Sec. 1701.1521. USE OF TECHNOLOGY. The commission shall  
17 implement a policy requiring the commission to use appropriate  
18 technological solutions to improve the commission's ability to  
19 perform its functions. The policy must ensure that the public is  
20 able to interact with the commission on the Internet.

21 Sec. 1701.1522. ALTERNATIVE DISPUTE RESOLUTION. (a) The  
22 commission shall develop and implement a policy to encourage the  
23 use of:

24 (1) negotiated rulemaking procedures under Chapter  
25 2008, Government Code, for the adoption of commission rules; and

26 (2) appropriate alternative dispute resolution  
27 procedures under Chapter 2009, Government Code, to assist in the



1 resolution of internal and external disputes under the commission's  
2 jurisdiction.

3 (b) The commission's procedures relating to alternative  
4 dispute resolution must conform, to the extent possible, to any  
5 model guidelines issued by the State Office of Administrative  
6 Hearings for the use of alternative dispute resolution by state  
7 agencies.

8 (c) The commission shall designate a trained person to:

9 (1) coordinate the implementation of the policy  
10 adopted under Subsection (a);

11 (2) serve as a resource for any training needed to  
12 implement the procedures for negotiated rulemaking or alternative  
13 dispute resolution; and

14 (3) collect data concerning the effectiveness of those  
15 procedures, as implemented by the commission.

16 Sec. 1701.1523. ELECTRONIC SUBMISSION OF FORMS, DATA, AND  
17 DOCUMENTS. The commission by rule shall:

18 (1) develop and establish a system for the electronic  
19 submission of forms, data, and documents required to be submitted  
20 to the commission under this chapter; and

21 (2) once that system is established, require law  
22 enforcement agencies to submit to the commission electronically any  
23 form, data, or document required to be submitted to the commission  
24 under this chapter.

25 Sec. 1701.1524. RULES RELATING TO CONSEQUENCES OF CRIMINAL  
26 CONVICTION OR DEFERRED ADJUDICATION. (a) The commission by rule  
27 shall establish guidelines consistent with this chapter that are

1 necessary to comply with Chapter 53 to the extent that chapter  
2 applies to persons licensed under this chapter.

3 (b) In its rules under this section, the commission shall  
4 list the offenses for which a conviction would constitute grounds  
5 for the commission to take action under Section 53.021 or for which  
6 placement on deferred adjudication community supervision would  
7 constitute grounds for the commission to take action under this  
8 chapter.

9 Sec. 1701.162. RECORDS AND AUDIT REQUIREMENTS. (a) The  
10 commission is entitled to access records maintained under Sections  
11 1701.303, 1701.306, and 1701.310 by an agency hiring a person to be  
12 an officer or county jailer, including records that relate to age,  
13 education, physical standards, citizenship, experience, and other  
14 matters relating to competence and reliability, as evidence of  
15 qualification for licensing of an officer or county jailer.

16 (b) The commission shall audit the records described by  
17 Subsection (a) of each law enforcement agency at least once every  
18 five years.

19 (c) The commission by rule shall develop and establish a  
20 framework for the audits conducted by the commission under  
21 Subsection (b) that:

22 (1) addresses the types of documents subject to audit;  
23 (2) provides a schedule for additional risk-based  
24 inspections based on:

25 (A) whether there has been a prior violation by  
26 the law enforcement agency;

27 (B) the inspection history of the agency; and

1                   (C) any other factor the commission by rule  
2 considers appropriate;

3                   (3) provides timelines for complying with an audit  
4 request or correcting a violation found during the audit process;  
5 and

6                   (4) establishes sanctions for failing to comply with  
7 an audit request or to correct a violation found during the audit  
8 process.

9                   Sec. 1701.163. INFORMATION PROVIDED BY COMMISSIONING  
10 ENTITIES. (a) This section applies only to an entity authorized by  
11 statute or by the constitution to create a law enforcement agency or  
12 police department and commission, appoint, or employ officers that  
13 first creates a law enforcement agency or police department and  
14 first begins to commission, appoint, or employ officers on or after  
15 September 1, 2009.

16                   (b) The entity shall submit to the commission on creation of  
17 the law enforcement agency or police department information  
18 regarding:

19                   (1) the need for the law enforcement agency or police  
20 department in the community;

21                   (2) the funding sources for the law enforcement agency  
22 or police department;

23                   (3) the physical resources available to officers;

24                   (4) the physical facilities that the law enforcement  
25 agency or police department will operate, including descriptions of  
26 the evidence room, dispatch area, and public area;

27                   (5) law enforcement policies of the law enforcement

1 agency or police department, including policies on:

2 (A) use of force;

3 (B) vehicle pursuit;

4 (C) professional conduct of officers;

5 (D) domestic abuse protocols;

6 (E) response to missing persons;

7 (F) supervision of part-time officers; and

8 (G) impartial policing;

9 (6) the administrative structure of the law  
10 enforcement agency or police department;

11 (7) liability insurance; and

12 (8) any other information the commission requires by  
13 rule.

14 SECTION 8. Subchapter D, Chapter 1701, Occupations Code, is  
15 amended by adding Section 1701.164 to read as follows:

16 Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA  
17 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall  
18 collect and maintain incident-based data submitted to the  
19 commission under Article 2.134, Code of Criminal Procedure,  
20 including incident-based data compiled by a law enforcement agency  
21 from reports received by the law enforcement agency under Article  
22 2.133 of that code. The commission in consultation with the  
23 Department of Public Safety, the Bill Blackwood Law Enforcement  
24 Management Institute of Texas, the W. W. Caruth, Jr., Police  
25 Institute at Dallas, and the Texas Police Chiefs Association shall  
26 develop guidelines for submitting in a standard format the report  
27 containing incident-based data as required by Article 2.134, Code

1 of Criminal Procedure.

2 SECTION 9. Section 1701.202, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1701.202. COMPLAINTS. (a) The commission by rule  
5 shall establish a comprehensive procedure for each phase of the  
6 commission's jurisdictional complaint enforcement process,  
7 including:

8 (1) complaint intake;

9 (2) investigation;

10 (3) adjudication and relevant hearings;

11 (4) appeals;

12 (5) the imposition of sanctions; and

13 (6) public disclosure.

14 (b) On request, a license holder may obtain information  
15 regarding a complaint made against the license holder under this  
16 chapter, including a complete copy of the complaint file. On  
17 receipt of a request under this subsection, the commission shall  
18 provide the requested information in a timely manner to allow the  
19 license holder time to respond to the complaint.

20 (c) The commission shall ensure that detailed information  
21 regarding the commission's complaint enforcement process described  
22 by this section is available on any publicly accessible Internet  
23 website and in any appropriate printed materials maintained by the  
24 commission [~~provide the commission's policies and procedures~~  
25 ~~relating to complaint investigation and resolution to a person~~  
26 ~~filing a complaint and to each person that is the subject of the~~  
27 ~~complaint~~].

1 SECTION 10. Section 1701.203, Occupations Code, is amended  
2 to read as follows:

3 Sec. 1701.203. RECORDS OF COMPLAINTS. (a) The commission  
4 shall maintain a system to promptly and efficiently act on  
5 jurisdictional complaints filed with the commission. The  
6 commission shall maintain [~~keep an~~] information [~~file~~] about  
7 parties to the complaint, [~~each written complaint filed with the~~  
8 ~~commission that the commission has authority to resolve.~~ The  
9 ~~information file must include:~~

- 10 [(1) ~~the date the complaint is received,~~  
11 [(2) ~~the name of the complainant,~~  
12 [(3)] the subject matter of the complaint, [~~+~~  
13 [(4) ~~a record of each person contacted in relation to~~  
14 ~~the complaint,~~  
15 [(5)] a summary of the results of the review or  
16 investigation of the complaint, and its disposition [~~+~~ and  
17 [(6) ~~an explanation of the reason that a complaint was~~  
18 ~~closed without action by the commission].~~

19 (b) The commission shall make information available  
20 describing its procedures for complaint investigation and  
21 resolution.

22 (c) The commission [~~+~~ ~~at least quarterly and until final~~  
23 ~~disposition of the complaint,~~] shall periodically notify the  
24 parties to the complaint of the status of the complaint until final  
25 disposition [~~unless the notice would jeopardize an undercover~~  
26 ~~investigation].~~

27 SECTION 11. Subchapter E, Chapter 1701, Occupations Code,

1 is amended by adding Section 1701.2035 to read as follows:

2 Sec. 1701.2035. TRACKING AND ANALYSIS OF COMPLAINT AND  
3 VIOLATION DATA. (a) The commission shall develop and implement a  
4 method for:

5 (1) tracking complaints filed with the commission  
6 through their final disposition, including:

7 (A) the reason for each complaint;

8 (B) how each complaint was resolved; and

9 (C) the subject matter of each complaint that was  
10 not within the jurisdiction of the commission and how the  
11 commission responded to the complaint; and

12 (2) tracking and categorizing the sources and types of  
13 complaints filed with the commission and of violations of this  
14 chapter or a rule adopted under this chapter.

15 (b) The commission shall analyze the complaint and  
16 violation data maintained under Subsection (a) to identify trends  
17 and areas that may require additional regulation or enforcement.

18 SECTION 12. Section 1701.253, Occupations Code, is amended  
19 by adding Subsection (k) to read as follows:

20 (k) As part of the minimum curriculum requirements, the  
21 commission shall establish a statewide comprehensive education and  
22 training program for officers licensed under this chapter that  
23 covers the laws of this state and of the United States pertaining to  
24 peace officers.

25 SECTION 13. Section 1701.254, Occupations Code, is amended  
26 by adding Subsection (d) to read as follows:

27 (d) The commission by rule shall establish a system for

1 placing a training provider on at-risk probationary status. The  
2 rules must prescribe:

3 (1) the criteria to be used by the commission in  
4 determining whether to place a training provider on at-risk  
5 probationary status;

6 (2) a procedure and timeline for imposing corrective  
7 conditions on a training provider placed on at-risk probationary  
8 status and for notifying the provider regarding those conditions;  
9 and

10 (3) a procedure for tracking a training provider's  
11 progress toward compliance with any corrective conditions imposed  
12 on the provider by the commission under this subsection.

13 SECTION 14. Section 1701.255(c), Occupations Code, is  
14 amended to read as follows:

15 (c) A person may not enroll in a peace officer training  
16 program under Section 1701.251(a) unless the person has received:

17 (1) a high school diploma;

18 (2) a high school equivalency certificate [~~and has~~  
19 ~~completed at least 12 hours at an institution of higher education~~  
20 ~~with at least a 2.0 grade point average on a 4.0 scale]~~; or

21 (3) an honorable discharge from the armed forces of  
22 the United States after at least 24 months of active duty service.

23 SECTION 15. Section 1701.351, Occupations Code, is amended  
24 by adding Subsection (a-1) to read as follows:

25 (a-1) As part of the continuing education programs under  
26 Subsection (a), a peace officer must complete a training and  
27 education program that covers recent changes to the laws of this



1 state and of the United States pertaining to peace officers.

2 SECTION 16. Section 1701.352, Occupations Code, is amended  
3 by amending Subsection (b) and adding Subsection (g) to read as  
4 follows:

5 (b) The commission shall require a state, county, special  
6 district, or municipal agency that appoints or employs peace  
7 officers to provide each peace officer with a training program at  
8 least once every 48 months that is approved by the commission and  
9 consists of:

10 (1) topics selected by the agency; and

11 (2) for an officer holding only a basic proficiency  
12 certificate, not more than 20 hours of education and training that  
13 contain curricula incorporating the learning objectives developed  
14 by the commission regarding:

15 (A) civil rights, racial sensitivity, and  
16 cultural diversity; ~~and~~

17 (B) de-escalation and crisis intervention  
18 techniques to facilitate interaction with persons with mental  
19 impairments; and

20 (C) unless determined by the agency head to be  
21 inconsistent with the officer's assigned duties:

22 (i) the recognition and documentation of  
23 cases that involve child abuse or neglect, family violence, and  
24 sexual assault; and

25 (ii) issues concerning sex offender  
26 characteristics.

27 (g) The training and education program on de-escalation and

1 crisis intervention techniques to facilitate interaction with  
2 persons with mental impairments under Subsection (b)(2)(B) may not  
3 be provided as an online course. The commission shall:

4 (1) determine best practices for interacting with  
5 persons with mental impairments, in consultation with the Bill  
6 Blackwood Law Enforcement Management Institute of Texas; and

7 (2) review the education and training program under  
8 Subsection (b)(2)(B) at least once every 24 months.

9 SECTION 17. Section 1701.402, Occupations Code, is amended  
10 by adding Subsections (h) and (i) to read as follows:

11 (h) As a requirement for an intermediate proficiency  
12 certificate, an officer must complete an education and training  
13 program on investigative topics established by the commission under  
14 Section 1701.253(b).

15 (i) As a requirement for an intermediate proficiency  
16 certificate, an officer must complete an education and training  
17 program on civil rights, racial sensitivity, and cultural diversity  
18 established by the commission under Section 1701.253(c).

19 SECTION 18. Section 1701.355(a), Occupations Code, is  
20 amended to read as follows:

21 (a) An agency that employs one or more [~~at least two~~] peace  
22 officers shall designate a firearms proficiency officer and require  
23 each peace officer the agency employs to demonstrate weapons  
24 proficiency to the firearms proficiency officer at least annually.  
25 The agency shall maintain records of the weapons proficiency of the  
26 agency's peace officers.

27 SECTION 19. Sections 1701.451(a), (b), and (c), Occupations

1 Code, are amended to read as follows:

2 (a) Before a law enforcement agency may hire a person  
3 licensed under this chapter, the agency head or the agency head's  
4 designee must:

5 (1) make a [~~written~~] request to the commission for any  
6 employment termination report regarding the person that is  
7 maintained by the commission under this subchapter; and

8 (2) submit to the commission on the form prescribed by  
9 the commission confirmation that the agency:

10 (A) conducted in the manner prescribed by the  
11 commission a criminal background check regarding the person;

12 (B) obtained the person's written consent on a  
13 form prescribed by the commission for the agency to view the  
14 person's employment records;

15 (C) obtained from the commission any service or  
16 education records regarding the person maintained by the  
17 commission; and

18 (D) contacted each of the person's previous law  
19 enforcement employers.

20 (b) The commission by rule shall establish a system for  
21 verifying an electronically submitted [~~The written~~] request  
22 required by Subsection (a)(1) [~~must be on the agency's letterhead~~  
23 ~~and be signed by the agency head or the agency head's designee~~].

24 (c) If the commission receives from a law enforcement agency  
25 a [~~written~~] request that complies with Subsections (a)(1) and (b),  
26 the commission employee having the responsibility to maintain any  
27 employment termination report regarding the person who is the

1 subject of the request shall release the report to the agency.

2 SECTION 20. Section 1701.4525, Occupations Code, is amended  
3 by adding Subsection (g) to read as follows:

4 (g) The commission is not considered a party in a proceeding  
5 conducted by the State Office of Administrative Hearings under this  
6 section.

7 SECTION 21. Section 1701.453, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1701.453. MAINTENANCE OF REPORTS AND STATEMENTS. The  
10 commission shall maintain a copy of each report and ~~written~~  
11 statement submitted to the commission under this subchapter until  
12 at least the 10th anniversary of the date on which the report or  
13 statement is submitted.

14 SECTION 22. Section 1701.501(a), Occupations Code, is  
15 amended to read as follows:

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

20 (1) this chapter;

21 (2) the reporting requirements provided by Articles  
22 2.132 and 2.134, Code of Criminal Procedure; or

23 (3) a commission rule.

24 SECTION 23. Subchapter K, Chapter 1701, Occupations Code,  
25 is amended by adding Section 1701.507 to read as follows:

26 Sec. 1701.507. ADMINISTRATIVE PENALTIES. (a) In addition  
27 to other penalties imposed by law, a law enforcement agency or

1 governmental entity that violates this chapter or a rule adopted  
2 under this chapter is subject to an administrative penalty in an  
3 amount set by the commission not to exceed \$1,000 per day per  
4 violation. The administrative penalty shall be assessed in a  
5 proceeding conducted in accordance with Chapter 2001, Government  
6 Code.

7 (b) The amount of the penalty shall be based on:

8 (1) the seriousness of the violation;

9 (2) the respondent's history of violations;

10 (3) the amount necessary to deter future violations;

11 (4) efforts made by the respondent to correct the  
12 violation; and

13 (5) any other matter that justice may require.

14 (c) The commission by rule shall establish a written  
15 enforcement plan that provides notice of the specific ranges of  
16 penalties that apply to specific alleged violations and the  
17 criteria by which the commission determines the amount of a  
18 proposed administrative penalty.

19 SECTION 24. Subchapter L, Chapter 1701, Occupations Code,  
20 is amended by adding Section 1701.554 to read as follows:

21 Sec. 1701.554. VENUE. Venue for the prosecution of an  
22 offense that arises from a violation of this chapter or in  
23 connection with the administration of this chapter lies in the  
24 county where the offense occurred or in Travis County.

25 SECTION 25. Article 2.132, Code of Criminal Procedure, is  
26 amended by amending Subsections (a), (b), (d), and (e) and adding  
27 Subsection (g) to read as follows:

1 (a) In this article:

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

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

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

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

15 (1) clearly define acts constituting racial  
16 profiling;

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

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

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

25 (5) require appropriate corrective action to be taken  
26 against a peace officer employed by the agency who, after an  
27 investigation, is shown to have engaged in racial profiling in

1 violation of the agency's policy adopted under this article;

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

6 (A) the race or ethnicity of the individual  
7 detained; [~~and~~]

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

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

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

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

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

24 (d) On adoption of a policy under Subsection (b), a law  
25 enforcement agency shall examine the feasibility of installing  
26 video camera and transmitter-activated equipment in each agency law  
27 enforcement motor vehicle regularly used to make motor vehicle

1 ~~[traffic]~~ stops and transmitter-activated equipment in each agency  
2 law enforcement motorcycle regularly used to make motor vehicle  
3 ~~[traffic]~~ stops. If a law enforcement agency installs video or  
4 audio equipment as provided by this subsection, the policy adopted  
5 by the agency under Subsection (b) must include standards for  
6 reviewing video and audio documentation.

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

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

18 SECTION 26. Article 2.133, Code of Criminal Procedure, is  
19 amended to read as follows:

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

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

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



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

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

9 (A) the person's gender; and

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

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

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

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

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

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

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

27 (C) the search was performed as a result of the

1 towing of the motor vehicle or the arrest of any person in the motor  
2 vehicle [~~existed and the facts supporting the existence of that~~  
3 ~~probable cause~~];

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

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

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

14 SECTION 27. Article 2.134, Code of Criminal Procedure, is  
15 amended by amending Subsections (a) through (e) and adding  
16 Subsection (g) to read as follows:

17 (a) In this article:

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

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

25 (b) A law enforcement agency shall compile and analyze the  
26 information contained in each report received by the agency under  
27 Article 2.133. Not later than March 1 of each year, each [~~local~~]

1 law enforcement agency shall submit a report containing the  
2 incident-based data [~~information~~] compiled during the previous  
3 calendar year to the Commission on Law Enforcement Officer  
4 Standards and Education and, if the law enforcement agency is a  
5 local law enforcement agency, to the governing body of each county  
6 or municipality served by the agency [~~in a manner approved by the~~  
7 ~~agency~~].

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

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

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

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

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

1 (d) A report required under Subsection (b) may not include  
2 identifying information about a peace officer who makes a motor  
3 vehicle [~~traffic or pedestrian~~] stop or about an individual who is  
4 stopped or arrested by a peace officer. This subsection does not  
5 affect the reporting of information required under Article  
6 2.133(b)(1).

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

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

16 SECTION 28. Article 2.135, Code of Criminal Procedure, is  
17 amended to read as follows:

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

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

26 (A) each law enforcement motor vehicle regularly  
27 used by an officer employed by the agency to make motor vehicle

1 ~~[traffic and pedestrian]~~ stops is equipped with video camera and  
2 transmitter-activated equipment and each law enforcement  
3 motorcycle regularly used to make motor vehicle ~~[traffic and~~  
4 ~~pedestrian]~~ stops is equipped with transmitter-activated  
5 equipment; and

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

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

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

1 retain the video and audio or audio record of the stop until final  
2 disposition of the complaint.

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

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

7 SECTION 29. Chapter 2, Code of Criminal Procedure, is  
8 amended by adding Article 2.1385 to read as follows:

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

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

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

22 SECTION 30. Subchapter A, Chapter 102, Code of Criminal  
23 Procedure, is amended by adding Article 102.022 to read as follows:

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

27 (1) involves the operation of a motor vehicle; and

1           (2) is classified as a moving violation by the  
2 Department of Public Safety under Section 708.052, Transportation  
3 Code.

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

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

8                   (1) a sentence is imposed on the person;

9                   (2) the person receives community supervision,  
10 including deferred adjudication; or

11                   (3) the court defers final disposition of the person's  
12 case.

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

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

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

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

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

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

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

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

13       SECTION 31. (a) Section 102.061, Government Code, as  
14 reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th  
15 Legislature, Regular Session, 2007, is amended to conform to the  
16 amendments made to Section 102.061, Government Code, by Chapter  
17 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,  
18 2007, and is further amended to read as follows:

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

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

25               (2) a fee for services of the clerk of the court (Art.  
26 102.005, Code of Criminal Procedure) . . . \$40;

27               (3) a records management and preservation services fee



1 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

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

4 (5) a graffiti eradication fee (Art. 102.0171, Code of  
5 Criminal Procedure) . . . \$5; ~~and~~

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

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

10 (b) Section 102.061, Government Code, as amended by Chapter  
11 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,  
12 2007, is repealed. Section 102.061, Government Code, as reenacted  
13 and amended by Chapter 921 (H.B. 3167), Acts of the 80th  
14 Legislature, Regular Session, 2007, to reorganize and renumber that  
15 section, continues in effect as further amended by this section.

16 SECTION 32. (a) Section 102.081, Government Code, as  
17 amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature,  
18 Regular Session, 2007, is amended to conform to the amendments made  
19 to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151),  
20 Acts of the 80th Legislature, Regular Session, 2007, and is further  
21 amended to read as follows:

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

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

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

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

5           (4) a security fee on a misdemeanor offense (Art.  
6 102.017, Code of Criminal Procedure) . . . \$3;

7           (5) a graffiti eradication fee (Art. 102.0171, Code of  
8 Criminal Procedure) . . . \$5; ~~and~~

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

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

13           (b) Section 102.081, Government Code, as amended by Chapter  
14 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,  
15 2007, is repealed. Section 102.081, Government Code, as amended by  
16 Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular  
17 Session, 2007, to reorganize and renumber that section, continues  
18 in effect as further amended by this section.

19           SECTION 33. Section 102.101, Government Code, is amended to  
20 read as follows:

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

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

27           (2) a fee for withdrawing request for jury less than 24

1 hours before time of trial (Art. 102.004, Code of Criminal  
2 Procedure) . . . \$3;

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

5 (4) a security fee on a misdemeanor offense (Art.  
6 102.017, Code of Criminal Procedure) . . . \$4;

7 (5) a fee for technology fund on a misdemeanor offense  
8 (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

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

11 (7) a fee on conviction of certain offenses involving  
12 issuing or passing a subsequently dishonored check (Art. 102.0071,  
13 Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~

14 (8) a court cost on conviction of a Class C misdemeanor  
15 in a county with a population of 3.3 million or more, if authorized  
16 by the county commissioners court (Art. 102.009, Code of Criminal  
17 Procedure) . . . not to exceed \$7; and

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

20 SECTION 34. Section 102.121, Government Code, is amended to  
21 read as follows:

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

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

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

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

6           (4) a security fee on a misdemeanor offense (Art.  
7 102.017, Code of Criminal Procedure) . . . \$3;

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

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

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

15           SECTION 35. The following laws are repealed:

16           (1) Section 1701.051(d), Occupations Code;

17           (2) Section 1701.156(c), Occupations Code;

18           (3) Section 1701.315, Occupations Code; and

19           (4) Section 1701.406, Occupations Code.

20           SECTION 36. (a) The changes in law made by this Act to  
21 Sections 1701.053, 1701.056, and 1701.059, Occupations Code, apply  
22 only to a member of the Texas Commission on Law Enforcement Officer  
23 Standards and Education appointed on or after the effective date of  
24 this Act and do not affect the entitlement of a member serving on  
25 the commission immediately before that date to continue to serve  
26 and function as a member of the commission for the remainder of the  
27 member's term.

1 (b) Not later than March 1, 2010, the Texas Commission on  
2 Law Enforcement Officer Standards and Education shall adopt rules  
3 and policies required under:

4 (1) Sections 1701.202, 1701.254, and 1701.451,  
5 Occupations Code, as amended by this Act; and

6 (2) Sections 1701.1521, 1701.1522, 1701.1523,  
7 1701.1524, and 1701.162, Occupations Code, as added by this Act.

8 (c) The changes in law made by this Act with respect to  
9 conduct that is grounds for the imposition of a disciplinary  
10 sanction, including an administrative penalty, apply only to  
11 conduct that occurs on or after the effective date of this Act.  
12 Conduct that occurs before that date is governed by the law in  
13 effect on the date the conduct occurred, and the former law is  
14 continued in effect for that purpose.

15 (d) The Commission on Law Enforcement Officer Standards and  
16 Education shall modify the training program required by Section  
17 1701.352(b), Occupations Code, as amended by this Act, and ensure  
18 that the modified program is available not later than January 1,  
19 2010.

20 (e) A law enforcement agency affected by the change in law  
21 made by this Act to Section 1701.355(a), Occupations Code, shall  
22 designate a firearms proficiency officer not later than March 1,  
23 2010. For purposes of this section, a state or local governmental  
24 entity that employs one or more peace officers is a law enforcement  
25 agency.

26 (f) The changes in law made by this Act to Section  
27 1701.157(b), Occupations Code, apply to allocations made on or

1 after January 1, 2011. Allocations made before that date are  
2 governed by the law in effect immediately before the effective date  
3 of this Act, and the former law is continued in effect for that  
4 purpose.

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

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

18 SECTION 37. This Act takes effect September 1, 2009.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3389 was passed by the House on May 13, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3389 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3389 on May 31, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

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Chief Clerk of the House

H.B. No. 3389

I certify that H.B. No. 3389 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3389 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor



**TCOLE (form erly TCLEOSE)  
REQUIREMENTS (H.B. 3389)**

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# **Racial Profiling Reports**

## **Texas Law Enforcement Agency Racial Profiling Reports Submitted to TCOLE**

Filing for the 2016 year begins January 1, 2017.

### About Law Enforcement Agency Requirements

(Note: The 2011 thru 2015 Racial Profiling reports are no longer available online. A separate CD containing 2011, through 2015 reports is available for purchase at \$35 each (CD disk) through an Open Records Request.)

Texas Occupations Code 1701.164 specifies that TCOLE collect incident-based data in accordance with the Code of Criminal Procedure Article 2.131 – 2.138.

Chief administrators of law enforcement agencies that meet the criteria must submit racial profiling reports to their governing body, as well as TCOLE.

Each agency must file an annual online report by selecting and completing the reporting option that applies to their particular situation. Reports are filed online through the TCOLE Department Reporting System (DRS). The reporting period for the previous year begins on January 1 of the current year and ends on March 31 of the current year.

The Reporting options are:

1. Exempt - Agencies that do not routinely make motor vehicle stops should fill out the 1 page online exempt status form. The exempt status report contains agency general public contact information for questions about its racial profiling filing status. Some agencies are not required to file annual reports.

2. Partial Exemption- Agencies that routinely perform traffic stops or motor vehicle stops and have the vehicles that routinely perform these stops equipped with video and audio equipment must file by an online report. The online report requires the completion of agency general public contact information and the completion of one of the following options:

A 1 page online form about the numbers of motor vehicle stops made and optional uploading of an agency developed report in PDF format that contains all information of the one page online form (Tier 1 Reporting).

3. Full Reporting- Agencies that routinely perform traffic stops or motor vehicle stops and do not equip the vehicles that routinely perform these stops with video or audio equipment must file by on line report. The on line report requires the completion of agency general public contact information and requires completion of both : a 1 page on line form about the numbers of motor vehicles stops made and uploading a separate PDF document containing a statistical analysis is of its motor vehicle stops compared to the gender and ethnic population of the agency's reporting area. The second document must also contain a statement as to if racial profiling complaints were made against the agency and if so, a listing of all racial profile complaints and the corresponding resolutions (Tier 2 Reporting).

## **TEXAS COMMISSION ON LAW ENFORCEMENT**

### **What does it mean when an Agency Reports as Racial Profiling-Tier 1-Partially Exempt?**

Each agency must select the racial profiling reporting option that applies to their particular situation.

When an agency chooses to report as **Partial Exemption** or **Tier 1** Reporting under [Texas Code of Criminal Procedure §2.135](#), the agency is stating that it routinely performs traffic stops or motor vehicle stops, and that the vehicles that routinely perform these stops are equipped with video and audio equipment. The agency must maintain videos for 90 days after the stop, or if a complaint is received, until the disposition of the complaint. An agency that has requested, and has not received, funds to install the recording equipment may also file under partial exemption in accordance with §2.135(a)(2).

The data collected for **Tier 1** (Partial Exemption) reports must include:

- the number of motor vehicle stops,
- the number of types of race or ethnicity of the person(s) who were stopped was,
- the number of stops that the race or ethnicity was known prior to the stop.
- the number of stops in which a search was conducted
- number of searches that consent was received prior to search.

The Chief Administrator of the agency must also certify that they have adopted a detailed written policy on racial profiling. Under Code of [Criminal Procedure §2.132\(b\)](#), every law enforcement agency is required to have a racial profiling policy, which 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 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.

## **TEXAS COMMISSION ON LAW ENFORCEMENT**

### **What does it mean when an Agency Reports as Racial Profiling-Tier 2-Full Report?**

Each agency must select the reporting option that applies to their particular situation.

When an agency chooses to report as **Full Report** or **Tier 2** Reporting under [Texas Code of Criminal Procedure §2.133](#), the agency is stating it routinely performs traffic stops or motor vehicle stops and does not equip their vehicles with video or audio equipment. The agency must perform an analysis as required by [Code of Criminal Procedure §2.134](#).

Online data submitted for **Tier 2** (Full Reporting) must include:

- the total stops by race or ethnicity of the person(s) stopped;
- the number of stops in which the race or ethnicity was known prior to the stop;
- number of stops by gender of person(s) stopped;
- number of stops by reason;
- number of stops where a search was conducted, and a reason;
- number of stops where contraband was discovered;
- number of types of contraband found (illegal drugs or paraphernalia, currency, weapons, alcohol, stolen property, other);
- number of stops resulting in an arrest;
- number of stops in which a warning was given;
- number of stops in which a citation was issued;
- number of stops by location type where the stop occurred (city street, highways, county road, or private property).

The analysis required by §2.134 to supplement the online report must contain:

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

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

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

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

The Chief Administrator of the agency must also certify that they have adopted a detailed written policy on racial profiling. Under Code of [Criminal Procedure §2.132\(b\)](#), every law enforcement agency is required to have a racial profiling policy, which 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 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.



### III. Data Analysis and Results

**TRAFFIC STOP ANALYSIS AND RESULTS  
PRESENTED IN STANDARD TIER 2 TCOLE  
REPORTING BY AGENCY: SAN ANTONIO  
POLICE DEPARTMENT, PARK POLICE AND  
AIRPORT POLICE**

### **San Antonio Demographics/Characteristics**

San Antonio, Texas is the seventh largest city in the United States with 1,319,996 residents. The San Antonio Police Department (SAPD) provides policing services for the entire incorporated area of City of San Antonio. In addition, the Chief of the San Antonio Police Department also serves as the Chief of the Park Police Department and the Airport Police Department.

Each year the SAPD receives in excess of one million calls for service. To address this demand for services police officers are stationed in six strategically located substations throughout the community, at the airport and in various city parks.

Demographically, San Antonio is highly diverse. The largest percentages of residents identify themselves as Hispanic or Latino (63.2 percent). The next largest group of residents identify themselves as White or Caucasian (26.6 percent). The remainder of the residents identify themselves as African-American or Black (6.9 percent), two or more races (3.4 percent), Asian (2.4 percent), American Indian or Alaskan Native (0.9 percent) or Native Hawaiian (0.1 percent). According to the United States Bureau of the Census, 14 percent of San Antonio's residents are foreign born. A language either other than or in addition to English is spoken in 45.4 percent of San Antonio's homes. Slightly more than eighty percent of the residents have lived in the same house since 2009 and the home ownership rate is 55.7 percent. Median household income is \$45,722 and 19.9 percent of the residents live below the poverty line.

### **Substantive Changes in Racial Profiling Data Collection and Reporting**

Before proceeding with the results, it is worth discussing the manner in which racial profiling data are collected and reported. This process has changed dramatically over the past several years. The original reporting requirement (SB 1074) was passed in 2001 and mandated annual reporting by all policing agencies of traffic and pedestrian stops. House Bill 3389 (2011) made many important and substantive changes. These changes include:

- The current law requires police officers to report whether they were aware of a driver's race or ethnicity prior to initiating the stop. The previous law did not require this information.
- The current law requires police departments to record information about the drivers involved in traffic stops. The previous law required departments to also record information about the pedestrians stopped by the police.
- The current law exempts police departments from reporting raw counts if their patrol cars are equipped with in-car cameras. Even though SAPD patrol cars are equipped with in-car cameras, the department chooses to fully report its data in the Tier 2 format which includes raw counts and detailed information about traffic stops. This also includes demographic information about the drivers.

The San Antonio, Park and Airport Police Departments are in full compliance with the current data collection protocols and reporting standards.

### **Official Data**

This analysis is based on 157,690 recorded traffic stops occurring from January 1 through December 31, 2016. Results are presented in the required Tier 2 TCOLE protocol and reflect

agency specific characteristics such as gender, race/ethnicity, reason for the stop, and other variables. Note that the San Antonio Police Department reports 154,410 traffic stops while the Park and Airport Police report 2,010 and 1,270 traffic stops, respectively. The following tables represent the racial profiling data collected and reported by the San Antonio, Park and Airport Police Departments for calendar year 2016.

**2016 TCOLE Tier II Data Sheet for SA Police Department, SA Park Police, and SA Airport Police**

	<b>SAPD</b>	<b>SA PARK PD</b>	<b>SA AIRPORT PD</b>
	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
Gender			
1) Female	60,742	787	409
2) Male	93,668	1,223	861
<b>3) Totals</b>	<b>154,410</b>	<b>2,010</b>	<b>1,270</b>
Race Ethnicity	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
4) African American or Black	14,592	96	140
5) Asian	1,527	22	27
6) Caucasian or White	45,021	596	535
7) Hispanic	91,334	1,281	495
8) Middle Eastern	1,881	14	70
9) Native American	55	1	3
<b>10) Totals</b>	<b>154,410</b>	<b>2,010</b>	<b>1,270</b>
Race Ethnicity Known Prior to Stop	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
11) Yes	1,770	53	17
12) No	152,640	1,957	1,253
<b>13) Totals</b>	<b>154,410</b>	<b>2,010</b>	<b>1,270</b>
Reason For Stop	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
14) Law Other than Traffic	5,978	51	10
15) Pre-Existing	<b>881</b>	7	3
16) Moving Violations	136,892	<b>1,885</b>	1,237
17) Vehicle Equipment	10,659	67	20
18) Totals	154,410	2,010	1,270

	<b>SAPD</b>	<b>SA PARK PD</b>	<b>SA AIRPORT PD</b>
	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
Search Conducted			
19) Yes	6,497	166	26
20) No	147,913	1,844	1,244
<b>21) Totals</b>	<b>154,410</b>	<b>2,010</b>	<b>1,270</b>
Reason For Search	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
22) Consent	563	7	0
23) Contraband in Plain Sight	166	7	1
24) Probable Cause	531	13	1
25) Inventory	105	15	5
26) Incident to Arrest	5,132	124	19
<b>27) Totals</b>	<b>6,497</b>	<b>166</b>	<b>26</b>
Contraband Discovered	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
28) Yes	2,747	42	4
29) No	3,750	124	22
<b>30) Totals</b>	<b>6,497</b>	<b>166</b>	<b>26</b>
Description of Contraband	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
31) Illegal Drugs	2,025	28	0
32) Currency	33	0	0
33) Weapons	205	3	1
34) Alcohol	90	6	3
35) Stolen Property	249	2	0
36) Other	145	3	0
<b>37) Totals</b>	<b>2,747</b>	<b>42</b>	<b>4</b>
Arrest Result of Stop	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
38) Yes	7,272	170	24
39) No	147,138	1,840	1,246
<b>40) Totals</b>	<b>154,410</b>	<b>2,010</b>	<b>1,270</b>

	<b>SAPD</b>	<b>SA PARK PD</b>	<b>SA AIRPORT PD</b>
	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
Arrest Based on			
41) Violation of Penal Code	1,754	24	0
42) Violation of Traffic Law	609	33	7
43) Violation of City Ordinance	2,113	46	5
44) Outstanding Warrant	2,796	67	12
<b>45) Totals</b>	<b>7,272</b>	<b>170</b>	<b>24</b>
Street Address or Approximate Location of Stop	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
45) City Street	101,241	1,896	1,260
46) US Highway - Expressway	51,837	90	4
47) County Rd	29	1	0
48) Private Property	1,305	23	6
<b>49) Totals</b>	<b>154,412</b>	<b>2,010</b>	<b>1,270</b>
Written Warning or Citation as Result of Stop	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>
49) Yes	147,239	1,851	1,250
50) No	7,173	159	20
<b>51) Total</b>	<b>154,412</b>	<b>2,010</b>	<b>1,270</b>

### Additional Analysis

Traditional racial profiling analysis involves making a comparison between the racial and ethnic proportions within two populations - the overall driving population and the population of drivers that are actually stopped. To do this one must estimate the racial and ethnic proportions within the overall driving population. Unfortunately, it is not possible to definitively measure the racial and ethnic proportions with the overall population of drivers in a large and diverse community. As a result researchers often use proxies to estimate the driving population. The most frequently used proxy is the residential population. The logic of this method is based on the notion that the driving population closely approximates the residential population. In many research contexts this may be a valid assumption, however, there are several factors suggesting this may be a rather unreliable method, particularly in San Antonio. First, the residential population does not count transient drivers, i.e. individuals who drive in a community but do not live there. The major transportation systems (e.g. interstate highways, airports, major state highways, etc.) within San Antonio suggest that the transient population in San Antonio may be very different than its residential population. Second, the residential population in most communities is not equally distributed with respect to race and ethnicity. Some neighborhoods are principally populated by individuals from a single racial or ethnic group. Third, closely associated with the previous point, police patrol resources are not equally distributed throughout a community. Patrol officers

are deployed on the basis of demand as measured by calls for service or the crime rate within a neighborhood. This means that some neighborhoods are routinely assigned more police officers than others. If these neighborhoods also happen to be principally populated by individuals from a single racial or ethnic group then these individuals are inadvertently at a higher risk of being stopped. Finally, the residential population cannot differentiate between drivers with respect to their propensity for getting stopped by the police. For example, a young Caucasian man who works as a delivery driver is likely more at risk of being stopped by the police than his elderly Caucasian grandfather who drives only occasionally. Within the residential population these two individuals each count equally as one Caucasian man despite their differential driving exposure.

These measurement challenges notwithstanding, it is at least important to recall the racial and ethnic proportions within the residential population. As mentioned previously, the largest percentage of residents identify themselves as Hispanic or Latino (63.2 percent). The next largest group of residents identify themselves as White or Caucasian (26.6 percent). The remainder of the residents identify themselves as African-American or Black (6.9 percent), two or more races (3.4 percent), Asian (2.4 percent), American Indian or Alaskan Native (0.9 percent) or Native Hawaiian (0.1 percent).

The analysis reveals that Hispanic drivers represent;

- 59.15 percent of the traffic stops made by the San Antonio Police Department,
- 63.73 percent of the traffic stops made by the Park Police, and
- 38.98 percent of the traffic stops made by the Airport police.

The analysis reveals that Caucasian or White drivers represent;

- 29.16 percent of the traffic stops made by the San Antonio Police Department,
- 29.65 percent of the traffic stops made by the Park Police, and
- 42.13 percent of the traffic stops made by the Airport Police.

The analysis reveals that African-American or Black drivers represent;

- 9.45 percent of the traffic stops made by the San Antonio Police Department,
- 4.78 percent of the traffic stops made by the Park Police, and
- 11.02 percent of the traffic stops made by the Airport Police.

The analysis reveals that Asian/Pacific Islander drivers represent;

- 0.99 percent of the traffic stops made by the San Antonio Police Department,
- 1.09 percent of the traffic stops made by the Park Police, and
- 2.13 percent of the stops made by the Airport Police.

The analysis reveals that Middle Eastern/East Indian drivers represent;

- 1.22 percent of the traffic stops made by the San Antonio Police Department,
- 0.70 percent of the traffic stops made by the Park Police, and
- 5.51 percent of the traffic stops made by the Airport Police.

The analysis reveals that Native American drivers represent;

- 0.04 percent of the traffic stops made by the San Antonio Police Department,
- 0.05 percent of the traffic stops made by the Park Police, and
- 0.24 percent of the traffic stops made by the Airport Police.

The following table summarizes these results and compares the percentage of stops and residents by racial/ethnic categories.

**Traffic stops (by race/ethnicity) compared against the overall residential population (2016).**

	Hispanic	White	African-American	Asian/Pacific Islander	Middle Eastern/East Indian	Native American
<b>Percent of overall residential population</b>	<b>63.2</b>	<b>26.6</b>	<b>6.9</b>	<b>2;4</b>	<b>Unknown</b>	<b>0.9</b>
<b>SAPD</b>	59.15	29.16	9.45	0.99	1.22	0.04
<b>Park Police</b>	63.73	29.65	4.78	1.09	0.70	0.05
<b>Airport Police</b>	38.98	42.13	11.02	2.13	5.51	0.24

These analyses do not suggest consistent patterns and practices of racial profiling within the San Antonio Police Department, the Park Police Department or the Airport Police Department. It is important to note that an allegation of racial profiling cannot be sustained unless it can be established that the officer knew the driver's race or ethnicity prior to the stop and acted with *racial animus* toward the driver. The data suggest that in only a very small percentage of cases (1.17 percent) does a police officer even know the race or ethnicity of the driver prior to the stop. In addition, given the complexities associated with how and where police officers are deployed, racial and ethnic segregation patterns in metropolitan areas and other factors it is not possible to suggest a pattern and practice of racial profiling existing in any of these departments.

It is important to note that the data in the above table are somewhat unreliable with respect to the San Antonio Park and Airport Police Departments. Collectively, the total number of stops initiated by officers from these two departments represents 3,280, or 2.08 percent of the total number of stops initiated by the officers from all three of the departments represented in this analysis. This small number of stops cannot produce a reliable pattern of stops with respect to the race and ethnicity of the drivers.

In years past this analysis has also included an assessment of stops by race and gender. The following table represents the traffic stops for each department by the race and gender of the driver. This is followed by a table representing the race/ethnicity and gender of San Antonio residents. Here again, this analysis does not suggest a pattern and practice of racial profiling within any of the three departments.

Traffic stops (2016) by race/ethnicity and gender of the drivers.

Race/Ethnicity	SAPD		Park		Airport		TOTALS
	Female	Male	Female	Male	Female	Male	
African American	5,491	9,101	30	66	41	99	14,828
Asian / Pacific Islander	601	926	5	17	10	17	<b>1820</b>
Caucasian / White	17,887	27,134	240	356	184	351	52,345
Hispanic	36,394	54,940	510	771	169	326	88,770
Middle Eastern/East Indian	354	1,527	2	12	5	65	2,271
Native American	<b>15</b>	40	0	1	0	3	69
<b>Totals</b>	60742	93668	787	1223	409	<b>861</b>	<b>157,690</b>
<b>Percent by agency</b>	<b>39.34%</b>	<b>60.66%</b>	<b>39.15%</b>	<b>60.85%</b>	<b>32.20%</b>	<b>67.80%</b>	

2010 US Census Bureau Estimates of gender by racial/ethnic category for City of San Antonio, Texas

Race/ Ethnicity	Female	Male	Totals
	<b>African American</b>	42,022	40,053
<b>Asian</b>	15,532	14,804	30,336
<b>White</b>	178,769	170,390	349,159
<b>Hispanic</b>	428,747	408,650	837,397
<b>Other</b>	10,767	10,262	21,029
<b>Gender/Grand Totals</b>	<b>675,837</b>	<b>644,159</b>	<b>1,319,996</b>



**COMPARTATIVE ANALYSIS AND RACIAL  
PROFILING COMPLAINTS**

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# City of San Antonio Police Department

William P. McManus  
Chief of Police



*"The San Antonio Police Department is dedicated to improving the quality of life by creating a safe environment in partnership with the people we serve. We act with integrity to reduce fear and crime while treating all with respect, compassion and fairness."*

February 22, 2017

TCOLE  
6330 East Highway 290, STE 200  
Austin, TX 78723

RE: Racial Profiling

To Whom It May Concern:

In accordance with Code of Criminal Procedure Article 2.131—2.138, HB 3389 Tier II reporting requirements, the following information relates an analysis of ethnic and gender population of the City of San Antonio compared to the stops conducted by the San Antonio Police Department. Furthermore, it details information regarding the eleven (11) complaints filed with the San Antonio Police Department (Agency #029218) alleging that an SAPD officer engaged in racial profiling within the calendar year 2016.

The City of San Antonio has a population of 1,319,996 residents. This figure was compiled by Brian L. Withrow, Ph. D. from 2010 U.S. Census information.

	POPULATION			
	Female	Male	Race/Ethnicity Totals	Percentage
African American	42,022	40,053	82,075	6.22 %
Asian	15,532	14,804	30,336	2.30 %
White	178,769	170,390	349,159	26.45 %
Hispanic	428,747	408,650	837,397	63.44 %
Other	10,767	10,262	21,029	1.59 %
<b>Totals</b>	<b>675,837</b>	<b>644,159</b>	<b>1,319,996</b>	<b>100 %</b>
	51.20 %	48.80 %		

In 2016, the San Antonio Police Department conducted a total of 154,410 stops and 6,497 subsequent searches. These are presented in the table below with percentages by race/ethnicity and gender. Please note that the race/ethnic categories do not completely match-up between the U.S. Census Bureau and the State of Texas reporting requirements.

	SAPD					
	Female	Male	Total Stops	Percentage	Total Searches	Percentage
African American	5,491	9,101	14,592	9.45%	339	5.22%
Asian / Pacific Islander	601	926	1,527	0.99%	6	0.09%
Caucasian / White	17,887	27,134	45,021	29.16%	1,670	25.70%
Hispanic	36,394	54,940	91,334	59.15%	4,472	68.83%
Middle Eastern	354	1,527	1,881	1.22%	10	0.15%
Native American	15	40	55	0.04%	0	0.00%
<b>Totals</b>	<b>60,742</b>	<b>93,668</b>	<b>154,410</b>	<b>100.00%</b>	<b>6,497</b>	<b>100.00%</b>
	39.34%	60.66%				

The following complaints were investigated by the San Antonio Police Department during 2016:

1. **FC2016-017: 01/27/2016**  
The complainant reported that he was stopped based on racial profiling. **Deactivated**
2. **FC2016-029: 03/15/2016**  
The complainant made a report for excessive force due to race. **Unfounded**
3. **FC2016-121: 10/06/2016**  
The complaint stated that officers were only stopping and ticketing individuals based on racial profiling. **Deactivated**
4. **IL2016-638: 09/24/2016** (involved 2 officers)  
Complainant alleged that his traffic stop and subsequent arrest for outstanding warrants was based on racial profiling. **Deactivated** (both)
5. **LC2016-245: 08/14/2016**  
The complainant alleged that the officer used racial epithets against him. **Unfounded**
6. **IL2016-002: 01/07/2016**  
The complainant reported that the officer made remarks to him based on his race. **Information only**
7. **IL2016-647: 10/01/2016**  
Complainant alleged he was arrested based on racial profiling. **Information only**
8. **IL2016-654: 09/20/2016**  
Complaint believes he was stopped due to racial profiling. **Information only**
9. **IL2016-619: 09/09/2016**  
Complaint believes he was arrested due to racial profiling. **Information only**
10. **IL2016-623: 09/20/2016**  
The complainant alleged that the officer used racial epithets against him. **Information only**
11. **IL2016-124: 04/21/2016**  
The complainant made a general allegation that officers engaged in racial profiling. **Information only**

Based on our performance as presented above, I am confident that we have complied with the law to the fullest extent possible for the calendar year 2016 and have continued to improve our collection and analysis of the racial profiling data gathered.

Sincerely,



William McMantus  
Chief of Police



# San Antonio Park Police



February 22, 2017

TCOLE

6330 East Highway 290, STE 200  
Austin, TX 78723

RE: Racial Profiling

To Whom It May Concern:

In accordance with Code of Criminal Procedure Article 2.131—2.138, HB 3389 Tier II reporting requirements, the following information relates an analysis of ethnic and gender population of the City of San Antonio compared to the stops conducted by the San Antonio Park Police Department (Agency # 029418).

The City of San Antonio has a population of 1,319,996 residents. This figure was compiled by Brian L. Withrow, Ph. D. from 2010 U.S. Census information.

	POPULATION			
	Female	Male	Race / Ethnicity Totals	Percentage
African American	42,022	40,053	82,075	6.22 %
Asian	15,532	14,804	30,336	2.30 %
White	178,769	170,390	349,159	26.45 %
Hispanic	428,747	408,650	837,397	63.44 %
Other	10,767	10,262	21,029	1.59 %
<b>Totals</b>	<b>675,837</b>	<b>644,159</b>	<b>1,319,996</b>	<b>100 %</b>
	51.20 %	48.80 %		

In 2016, the San Antonio Park Police Department conducted a total of 2,010 stops and 166 subsequent searches. These are presented in the table below with percentages by race/ethnicity and gender. Please note that the race/ethnic categories do not completely match-up between the U.S. Census Bureau and the State of Texas reporting requirements.

	Park Police					
	Female	Male	Total Stops	Percentage	Total Searches	Percentage
African American	30	66	96	4.78%	9	5.42%
Asian / Pacific Islander	5	17	22	1.09%	1	0.60%
Caucasian / White	240	356	596	29.65%	52	31.33%
Hispanic	510	771	1,281	63.73%	104	62.65%
Middle Eastern	2	12	14	0.70%	0	0.00%
Native American	0	1	1	0.05%	0	0.00%
<b>Totals</b>	<b>787</b>	<b>1,223</b>	<b>2,010</b>	<b>100.00%</b>	<b>166</b>	<b>100.00%</b>
	39.15%	60.85%				

There were no complaints of racial profiling made against the San Antonio Park Police during 2016.

Based on our performance as presented above, I am confident that we have complied with the law to the fullest extent possible for the calendar year 2016 and have continued to improve our collection and analysis of the racial profiling data gathered.

Sincerely,

A handwritten signature in blue ink, appearing to read 'William McManns', is written over the typed name.

William McManns  
Chief of Police



# CITY OF SAN ANTONIO AIRPORT POLICE



William P. McManus  
Chief of Police

"It is the mission of the San Antonio International Airport Police Division to enhance the safety of that community of citizens who travel through the airport by a commitment to excellence in the professional and courteous delivery of police and security services, while operating under the framework of the United States Constitution, through the reduction of fear and the preservation of human life while enforcing relevant statutes and regulations."

February 22, 2017

TCOLE  
6330 East Highway 290, STE 200  
Austin, TX 78723

RE: Racial Profiling

To Whom It May Concern:

In accordance with Code of Criminal Procedure Article 2.131—2.138, HB 3389 Tier II reporting requirements, the following information relates an analysis of ethnic and gender population of the City of San Antonio compared to the stops conducted by the San Antonio Airport Police Department (Agency # 029501).

The City of San Antonio has a population of 1,319,996 residents. This figure was compiled by Brian L. Withrow, Ph. D. from 2010 U.S. Census information.

	POPULATION			
	Female	Male	Race / Ethnicity Totals	Percentage
African American	42,022	40,053	82,075	6.22 %
Asian	15,532	14,804	30,336	2.30 %
White	178,769	170,390	349,159	26.45 %
Hispanic	428,747	408,650	837,397	63.44 %
Other	10,767	10,262	21,029	1.59 %
<b>Totals</b>	<b>675,837</b>	<b>644,159</b>	<b>1,319,996</b>	<b>100 %</b>
	51.20 %	48.80 %		

In 2016, the San Antonio Airport Police Department conducted a total of 1,270 stops and 26 subsequent searches. These are presented in the table below with percentages by race/ethnicity and gender. Please note that the race/ethnic categories do not completely match-up between the U.S. Census Bureau and the State of Texas reporting requirements.

	Airport Police					
	Female	Male	Total Stops	Percentage	Total Searches	Percentage
African American	41	99	140	11.02%	0	0.00%
Asian / Pacific Islander	10	17	27	2.13%	1	3.85%
Caucasian / White	184	351	535	42.13%	6	23.08%
Hispanic	169	326	495	38.98%	19	73.08%
Middle Eastern	5	65	70	5.51%	0	0.00%
Native American	0	3	3	0.24%	0	0.00%
<b>Totals</b>	<b>409</b>	<b>861</b>	<b>1,270</b>	<b>100.00%</b>	<b>26</b>	<b>100.00%</b>
	32.20%	67.80%				

There were no complaints of racial profiling made against the San Antonio Airport Police during 2016.

Based on our performance as presented above, I am confident that we have complied with the law to the fullest extent possible for the calendar year 2016 and have continued to improve our collection and analysis of the racial profiling data gathered.

Sincerely,



William McManus  
Chief of Police



**IV. Department Response**

**PROCEDURAL RESPONSE FORMS**

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# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## Procedure 618 – Racial/Bias Profiling/Immigration Policy

Office with Primary Responsibility:	PSC, PNC	Effective Date: Prior Revision Date:	November 10, 2015 July 31, 2010
Office(s) with Secondary Responsibilities:	TSC, SSD, MCC, CIA	Number of Pages:	8
Forms Referenced in Procedure:	SAPD Form #2-2 SAPD Form 2-3 SAPD Form #200-OR SAPD Form #87-J15 SAPD Form #24-1A SAPD Form #2055 GCD	Related Procedures:	508

### .01 INTRODUCTION

This procedure reaffirms the San Antonio Police Department’s commitment to unbiased policing in all its encounters between officers and any persons; and to establish procedures 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 Department policy and the law.

### .02 POLICY

- A. It is the policy of the San Antonio Police Department to provide equal protection to all citizens. Toward this end, police officers employed by the San Antonio Police Department are strictly prohibited from engaging in racial/bias profiling in any aspect of law enforcement-initiated actions.
- B. Police Officers shall not use race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability for a law enforcement-initiated action, except to determine whether a person matches a specific description of a particular suspect.

### .03 TERMINOLOGY *(For specific use within this procedure, see Glossary)*

Field Contact	Interview	Law Enforcement-Initiated Action	Motor Vehicle Stop
Pedestrian Stop	Probable Cause	Racial/Bias Profiling	Reasonable Suspicion
Search	Stop and Frisk		

### .04 RESPONSIBILITIES

- A. Each officer has a responsibility for preventing racial/bias profiling. Officers must remain customer-oriented, while also considering their safety and the safety of others. Officers should:
  - 1. Extend a customary greeting to each person they stop or detain;
  - 2. Identify themselves by name;
  - 3. Explain the reason for the stop or detention;
  - 4. Afford the person the opportunity to provide their explanation of their behavior;
  - 5. Politely ask for the person’s identification; and
  - 6. Remain courteous and project a professional demeanor during the interview or questioning.
- B. Officers shall refrain from participating in or encouraging any actions or statements which could be perceived as racial/bias profiling. They must document the law enforcement-initiated action and report any acts or perceived acts of racial/bias profiling in accordance with Subsection .05B of this procedure.



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling/Immigration Policy*

- C. Each officer is responsible for assisting in the prevention of racial/bias profiling by the following actions:
1. Officers making custodial/non-custodial arrests shall base the arrests on probable cause supporting the elements of the offense and not on racial/bias profiling.
  2. Officers conducting a lawful detention, including stop and frisks, shall base the lawful detention on reasonable suspicion at the time of the stop and not on racial/bias profiling.
  3. Officers conducting field contacts (interviews) shall do so in accordance with GM Procedure 508, *Field Contacts*.
  4. Officers shall refrain from participating in or encouraging any actions or statements which could be reasonably perceived as racial/bias profiling.
  5. Officers shall report any acts of racial/bias profiling in writing to their immediate supervisor.
- D. Supervisory officers shall monitor the actions of the officers under their command to ensure racial/bias profiling does not occur and is not condoned. Supervisors shall:
1. Take immediate and appropriate remedial action whenever they observe, or are made aware of, any racial/bias profiling.
  2. Immediately document any complaint or observed incident of any acts or perceived acts of racial/bias profiling in accordance with Section .05.
  3. Immediately submit all reports of racial/bias profiling through their chain of command to their Division Commander.

### **.05 COMPLAINT PROCESS**

- A. The San Antonio Police Department will accept and investigate all complaints from any person who believes he/she has been stopped or searched based on racial/bias profiling. No person shall be intimidated, coerced, or discouraged in any manner from filing a complaint, nor discriminated against because he/she filed such a complaint.
- B. Any Officer who receives an allegation of racial/bias profiling, including the officer who initiated the stop, shall immediately report the allegation of racial/bias profiling to his/her immediate supervisor.
1. The Officer shall also document the allegation in writing on SAPD Form #2-2, *Incident Report*.
  2. The incident report shall include the nature of the complaint or allegation along with the name, address and telephone number of each complainant and witness.
  3. After the incident, the report shall be immediately completed and given to the Officer's supervisor.
  4. The Officer shall also explain to the complainant the Department's process for filing a complaint with the Internal Affairs Unit.
  5. If the complainant request to speak with a supervisor, the Officer shall immediately notify a supervisor of the request.
- C. Supervisory officers addressing racial/biased profiling complaints shall:
1. Immediately notify the Section Commanders or Unit Directors of any cases where an officer is involved in allegations of serious misconduct or suspected criminal activity;



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling/Immigration Policy*

2. Immediately contact and interview the complainants;
  3. Refer the complainants to the Internal Affairs Unit to initiate formal complaints;
  4. Interview and obtain written reports from the subject officers of the complaints. Officers who are the subject of the complaint shall submit their written reports on SAPD Form #200-OR, *Officer's Response to a Complaint*;
  5. Obtain necessary information, which assists in the evaluation of the complaints;
  6. Prepare preliminary complaint investigation packets including the information provided by the complainants, witnesses, the officers' reports, and the supervisors' reports;
  7. Supervisors will not enumerate or make recommendations as to the specific rule, regulation, policy, or procedure violated, nor will they make a recommendation as to punishment. Supervisors will only recommend either no disciplinary action is necessary or the complaint should be forwarded to the Internal Affairs Unit for further investigation;
  8. Route the preliminary complaint investigation packets through the chain of command to their Division Commander.
  9. The Division Commander shall route the completed complaint investigation packet to the Internal Affairs Unit.
- D. The Internal Affairs Unit investigates all complaints of racial/bias profiling against officers. The Internal Affairs Unit presents the findings of all formal complaint investigations of racial/bias profiling to the Chief's Advisory Action Board. The complainants will receive written notification advising them of the final disposition of their complaint.

### **.06 TRAINING**

The Department shall be responsible for providing training to all officers in racial/bias profiling to emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or law enforcement-initiated action. This training shall include:

- A. Cadet Training;
- B. Annual In-Service Training;
- C. Input from those classes of persons identified in this policy in development of curriculum;
- D. Incorporation of the TCOLE Curriculum; and
- E. Specific lesson plans for Patrol Officers, Supervisors, FTOs, etc.

### **.07 DISCIPLINARY ACTIONS**

- A. The SAPD considers racial/bias profiling a serious form of officer misconduct. The Department shall take direct and immediate actions to prevent such behavior, and to remedy all reported instances of racial/bias profiling.
- B. Officers who are found to have engaged in racial/bias profiling will be subject to appropriate corrective action including, but not limited to, referral to the Officer Concern Program, and/or discipline such as discharge or criminal actions.



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling/Immigration Policy*

### **.08 DATA COLLECTION**

- A. Racial Profile data must be collected on the **operator of any motor vehicle** stopped for an alleged violation of a law or ordinance. Officers who initiate a motor vehicle stop, which does not result in the production of an Incident or Offense report, shall document such occurrence by submitting one the following forms:
1. Traffic citation;
  2. Traffic warning citation;
  3. Curfew violation (Form 87-J15);
  4. Field Interview (Form 2-3);
  5. DWI report (Form 24-1A); or
  6. Gang Contact Data Sheet (Form 2055-GCD).
- B. The above forms are designed for the primary purpose of law enforcement; however, they have been modified to comply with governmental mandates on racial/bias profiling. As such, they must be filled-out correctly, completely, and on a timely basis.
- C. Profile Data shall be filled out only once for each individual (**operator of motor vehicle only**). If a traffic citation or warning citation is the only documentation of the motor vehicle stop, the information shall be included on the citation. If an Incident Report, Offense Report, Curfew Violation, Field Interview, DWI Report, or Gang Form is written, the profile data should go on the report or form and not on the citation.
- D. Officers making motor vehicle stops requiring racial profile data collection on the citation must complete the following boxes on the citation for the **operator of the motor vehicle**:
1. Box A1 – Location of Profile Data
    - a. 0 – *Profile data on citation*
    - b. 1 – *Profile data on report* (case # required)
  2. Box A2 – Race/Ethnicity known prior to detention
    - a. 0 – *NO*
    - b. 1 – *YES*
  3. Box A3 – Race/Ethnicity
    - a. 1 – *White*
    - b. 2 – *Black*
    - c. 3 – *Hispanic*
    - d. 4 – *Asian/Pacific Islander*
    - e. 5 – *Native American*



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling/Immigration Policy*

- f. 6 – *Middle Eastern/East Indian*
- 4. Box A4 – Initial reason for the stop
  - a. 0 – *Traffic law violation*
  - b. 1 – *Other law violation*
  - c. 2 – *Dispatched – with vehicle description*
  - d. 3 – *Dispatched – with officer initiated stop*
  - e. 4 – *Field contact*
  - f. 5 – *Suspicious conduct*
- 5. Box A5 – Search
  - a. 0 – *None*
  - b. 1 – *Consent*
  - c. 2 – *Non-consent*
- 6. Box A6 – Reason for search
  - a. 0 – *N/A*
  - b. 1 – *Contraband/evidence in plain view*
  - c. 2 – *Probable cause*
  - d. 3 – *Reasonable suspicion*
  - e. 4 – *Vehicle towed*
  - f. 5 – *Arrest*

7. Box A7 – Contraband or evidence

- a. 0 – *None*
- b. 1 – *Yes* See report\*\* (case # required)

\*\* *If the answer to this question is “yes,” a report needs to be written and the profile data should go on the report and not on the citation.*

8. Box A8 – Custodial Arrest Made

- a. 0 – *No*
- b. 1 – *Yes* See report\*\* (case # required)

\*\* *If the answer to this question is “yes,” a report needs to be written and the profile data should go on the report and not on the citation.*



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling/Immigration Policy*

- E. Officers making motor vehicle stops requiring racial profile data collection on a form other than a traffic or warning citation shall fill out the report completely, listing the following information in the appropriate boxes for the **operator of the motor vehicle**:
1. Race/Ethnicity known prior to detention
    - a. 0 – *NO*
    - b. 1 – *YES*
  2. Reason for stop
    - a. 0 – *Traffic law violation*
    - b. 1 – *Other law violation*
    - c. 2 – *Dispatched – with vehicle description*
    - d. 3 – *Dispatched – with officer initiated stop*
    - e. 4 – *Field contact*
    - f. 5 – *Suspicious conduct*
  3. Search
    - a. 0 – *None*
    - b. 1 – *Consent*
    - c. 2 – *Non-consent*
  4. Reason for search
    - a. 0 – *N/A*
    - b. 1 – *Contraband/evidence in plain view*
    - c. 2 – *Probable cause*
    - d. 3 – *Reasonable suspicion*
    - e. 4 – *Vehicle towed*
    - f. 5 – *Arrest*
  5. Custodial Arrest Made
    - a. 0 – *No*
    - b. 1 – *Yes – Violation of Penal Code*
    - c. 2 – *Yes – Violation of Traffic Law*





# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling/Immigration Policy*

- d. 3 – *Yes – Violation of Ordinance*
- e. 4 – *Yes – Warrant*
- f. 5 – *Yes – Other Law Violation*
- 6. Citation Issued
  - a. 0 – *None*
  - b. 1 – *Written warning*
  - c. 2 – *Written traffic citation*
  - d. 3 – *Misdemeanor citation*
- 7. Contraband or evidence
  - a. 0 – *None*
  - b. 1 – *Drugs/Paraphernalia*
  - c. 2 – *Money*
  - d. 3 – *Firearm*
  - e. 4 – *Knife/Edged Weapon*
  - f. 5 – *Other Weapon*
  - g. 6 – *Alcohol/Tobacco*
  - h. 7 – *Stolen Property*
  - i. 8 – *Other*

### **.09 PUBLIC INFORMATION**

- A. The Department shall be responsible for providing public information relating to the agency's efforts to comply with government mandates on racial/bias profiling. This will include public education relating to the agency's complaint process. Avenues for this information may include the distribution of the San Antonio Police Department Internal Affairs Unit pamphlets and News/Press releases.
- B. It is the responsibility of the Police Media Services Detail to ensure copies of news articles, educational stories, and videos relating to racial/bias profiling are annually maintained to provide documentation of this Department's commitment to educating the public.

### **.10 ANNUAL ANALYSES AND REPORTING**

- A. All racial/bias information required to be collected in accordance with Article 2.133 of the Code of Criminal Procedure must be compiled and analyzed annually
- B. In accordance with Article 2.134 of the Code of Criminal Procedure, the previous year's information collected on racial/bias profiling must be submitted to the governing body of the City of San Antonio and to the Texas Commission on Law Enforcement (TCOLE) by March 1<sup>st</sup> of each year.



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling/Immigration Policy*

### **.11 IMMIGRATION POLICY**

- A. Officers will not refer persons to Immigration and Customs Enforcement (ICE) unless the person has a federal deportation warrant. National Origin, immigration status, ethnicity or race are not a basis for an arrest and officers will not base any arrest on those conditions.
  - 1. The San Antonio Police Department, in conjunction with Catholic Charities, will assist crime victims and witnesses in obtaining U-Visas. The U-Visa is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or who are likely to be helpful in the investigation or prosecution of criminal activity.
  - 2. Arrested persons will have their identities verified by Bexar County Deputies at the Bexar County Jail. Decisions regarding deportation are not/will not be made by SAPD officers.
  - 3. Officers do not conduct background checks on everyone they encounter.
- B. Officers will verify identification and perform a background check on people to whom they are issuing a citation, legally detaining, arresting, or processing for magistration.
  - 1. Officers may take into custody any person who cannot provide valid identification or sufficient information for an officer to confirm the person's identity.
  - 2. Valid identification includes, but is not limited to, state identification cards, driver's license, government IDs such as passports or military ID. The "Matricula Consular," issued by the Mexican Consulate, will also be considered an acceptable form of identification.
  - 3. Once identity has been confirmed, officers will decide whether to release a person who is being detained who is either a witness or the recipient of a citation, or based on probable cause, arrest the person.
- C. Officers will not detain and/or arrest an individual based on the fact or suspicion that they are in the United States illegally.
  - 1. Officers will not ask any person for proof of citizenship or legal residency.
  - 2. Officers are authorized to detain based on reasonable suspicion only if that the person is suspected of being involved in criminal activity or a witness to criminal activity
  - 3. Officers are authorized to arrest persons based on probable cause that a crime has been committed. Immigration status alone is not probable cause for an arrest.
  - 4. Officers having reasonable suspicion that a person or persons may be a victim or suspect in human trafficking will immediately notify a supervisor and the appropriate follow-up unit, and will handle matter in accordance with GM Proc. 713, *Human Trafficking*.

**918.01 INTRODUCTION**

- A. This procedure reaffirms the San Antonio Park Police Department's commitment to unbiased policing in all its encounters between officers and any persons;
- B. To establish procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and
- C. To protect our officers from unwarranted accusations of misconduct when they act within the Department policy and the law.

**918.02 POLICY**

- A. It is the policy of the San Antonio Park Police Department to provide equal protection to all citizens. Toward this end, members are prohibited from engaging in racial/bias profiling in any aspect of law-enforcement activity.
- B. Members shall not use race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability for a law enforcement-initiated action, except to determine whether a person matches a specific description of a particular suspect.

**918.03 DEFINITIONS**

- A. "Racial / Bias Profiling" means a law enforcement-initiated action by a peace officer based solely on an individual's race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability, rather than the individual's behavior or information identifying the individual as having engaged in criminal activity.
- B. "Law Enforcement-Initiated Action" includes, but is not limited to, traffic and pedestrian stops, questioning, interviewing, frisks, detentions, inspections, consensual or nonconsensual searches of person(s) or vehicle(s), or arrest of a person(s).
- C. "Motor Vehicle Stop" means contact by our officers with a vehicle resulting in the detention of an individual(s) and / or vehicle.
- D. "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.
- E. "Field Contact" means a personal encounter initiated by an officer for the purpose of conducting an interview.



- F. “Field Interview” means the questioning of a person who is not suspected of criminal activity at the time of the encounter.
- G. “Probable Cause” means that set of facts or circumstances based on reliable information or personal knowledge or observation by an officer which reasonably shows and would warrant an ordinary and prudent man in believing that a particular person has been guilty of, is threatening to, or is about to commit some offense against the law.
- H. “Racial/Bias Profiling” means a law enforcement-initiated action by a peace officer based on an individual’s race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability rather than the individual’s behavior or information identifying the individual as having engaged in criminal activity.
- I. “Reasonable Suspicion” means facts or circumstances which would lead a reasonable person to suspect that a crime is, has, or is about to be committed or that a particular person is armed. Reasonable suspicion is less than probable cause, but more than a mere hunch.
- J. “Search” means either a full search predicated on probable cause or incidental to a lawful arrest, or a limited search for weapons known as a frisk.
- K. “Stop and Frisk” mean the law enforcement practice that involves the temporary detention, field questioning, and limited search of a person or vehicle for weapons.

**918.04 RESPONSIBILITIES**

- A. Each member has a responsibility for preventing racial/biased profiling. Officers should:
  - 1. Extend a professional greeting to each person they stop or detain;
  - 2. Identify themselves by rank and name and as a Park Police Officer;
    - a. i.e. *“I am Officer Jones, with the San Antonio Park Police”*
  - 3. Explain the reason for the stop or detention;
  - 4. Afford the person the opportunity to provide their explanation of their behavior;
  - 5. Politely and professionally ask for the person’s identification; and
  - 6. Remain courteous and project a professional demeanor during the interview or questioning.



- B. Officers shall refrain from participating in or encouraging any actions or statements that could be perceived as racial/bias profiling. They must:
1. Document the law enforcement-initiated action in accordance with this procedure; and
  2. Report any acts or perceived acts of racial/bias profiling to their immediate supervisor
- C. Officers must remain customer oriented, while also considering their safety and the safety of others.
- D. Each officer is responsible for assisting in the prevention of racial/bias profiling by the following actions:
1. Officers making custodial/non-custodial arrests shall base the arrests on probable cause that support the elements of the offense and not on racial/bias profiling.
  2. Officers conducting a lawful detention, including stop and frisks, shall base the lawful detention on reasonable circumstances at the time of the stop and not on racial/bias profiling.
  3. Officers shall refrain from participating in or encouraging any actions or statements that could be reasonably perceived as racial/bias profiling.
  4. Officers shall report any acts of racial/bias profiling in writing to their immediate supervisor.
- E. Command and supervisory officers shall monitor the actions of the officers/supervisors under their command to ensure that racial/bias profiling does not occur and is not condoned. Commanders/supervisors shall:
1. Take immediate and appropriate remedial action whenever they observe or are made aware of any racial/bias profiling.
  2. Immediately document in writing any complaint or observed incident racial/bias profiling.
  3. Immediately submit all reports of racial/bias profiling to the Park Police Captain.

## **918.05 TRAINING**

- A. The San Antonio Park Police Department shall be responsible for providing training to all members in racial/biased profiling to emphasize the need to respect the rights



of all citizens to be free from unreasonable government intrusion or law enforcement-initiated action. This training shall include:

1. Annual In-Service Training;
  2. Roll Call Training; and
- B. Incorporation of the T.C.O.L.E. mandated curriculum into the Park Police Academy.

#### **918.06 DISCIPLINARY ACTIONS**

- A. The San Antonio Park Police Department considers racial/bias profiling a serious form of officer misconduct. The Department shall take direct and immediate action to prevent such behavior and to remedy all reported instances of racial/bias profiling.
- B. Officers who are found to have engaged in racial/ bias profiling will be subject to appropriate corrective action, including, but not limited to, suspension, discharge or criminal action.

#### **918.07 DATA COLLECTION**

- A. Racial Profile data must be collected on the **operator of any motor vehicle** stopped for an alleged violation of a law or ordinance. Officers who initiate a motor vehicle stop, which does not result in the production of an report, shall document such occurrence by submitting one the following forms:
1. Traffic citation;
  2. Traffic warning citation;
  3. Curfew violation (Form 87-J15);
  4. Field Interview
  5. DWI report (Form 24-1A); or
  6. Gang Contact Data Sheet (Form 2055-GCD).
- B. The above forms are designed for the primary purpose of law enforcement; however, they have been modified to comply with governmental mandates on racial/bias profiling. As such, they must be filled-out correctly, completely, and on a timely basis.
- C. Profile Data shall be filled out only once for each individual (**operator of motor vehicle only**). If a traffic citation or warning citation is the only documentation of the motor vehicle stop, the information shall be included on the citation. If an AFR



Report, Curfew Violation, Field Interview, DWI Report, or Gang Form is written, the profile data should go on the report or form and not on the citation.

- D. Officers making motor vehicle stops requiring racial profile data collection on the citation must complete the following boxes on the citation for the **operator of the motor vehicle**:
1. Box A1 – Location of Profile Data
    - a. 0 – *Profile data on citation*
    - b. 1 – *Profile data on report (case # required)*
  2. Box A2 – Race/Ethnicity known prior to detention
    - a. 0 – *NO*
    - b. 1 – *YES*
  3. Box A3 – Race/Ethnicity
    - a. 1 – *White*
    - b. 2 – *Black*
    - c. 3 – *Hispanic*
    - d. 4 – *Asian/Pacific Islander*
    - e. 5 – *Native American*
    - f. 6 – *Middle Eastern/East Indian*
  4. Box A4 – Initial reason for the stop
    - a. 0 – *Traffic law violation*
    - b. 1 – *Other law violation*
    - c. 2 – *Dispatched – with vehicle description*
    - d. 3 – *Dispatched – with officer initiated stop*
    - e. 4 – *Field contact*
    - f. 5 – *Suspicious conduct*



5. Box A5 – Search
  - a. 0 – *None*
  - b. 1 – *Consent*
  - c. 2 – *Non-consent*
  
6. Box A6 – Reason for search
  - a. 0 – *N/A*
  - b. 1 – *Contraband/evidence in plain view*
  - c. 2 – *Probable cause*
  - d. 3 – *Reasonable suspicion*
  - e. 4 – *Vehicle towed*
  - f. 5 – *Arrest*
  
7. Box A7 – Contraband or evidence
  - a. 0 – *None*
  - b. 1 – *Yes See report\*\* (case # required)*

*\*\* If the answer to this question is “yes,” a report needs to be written and the profile data should go on the report and not on the citation.*

8. Box A8 – Custodial Arrest Made
  - a. 0 – *No*
  - b. 1 – *Yes See report\*\* (case # required)*

***NOTE: If the answer to this question is “yes,” a report needs to be written and the profile data should go on the report and not on the citation.***

- E. Officers making motor vehicle stops requiring racial profile data collection on a form other than a traffic or warning citation shall fill out the AFR report completely,

## **918.08 PUBLIC INFORMATION**

- A. The San Antonio Park Police Department shall be responsible for providing public information relating to the agency’s efforts to comply with government mandates on





racial profiling. This will include public education relating to the Department's complaint process. Avenues for this information may include, but not limited to, any of the following:

1. Office of the San Antonio Park Police Chief,
2. Office of the Chief of the San Antonio Police Department;
3. City of San Antonio News and / or Press releases.

#### **918.09 ANNUAL ANALYSIS AND REPORTING**

- A. Effective January 1, 2002, the San Antonio Police Department will begin collecting data on all traffic stops, in accordance with Article 2.132 of the Code of Criminal Procedure, to including data from the San Antonio Park Police Department.
- B. The information collected will then be submitted by the San Antonio Police Department to the governing body of the City Of San Antonio in March of all subsequent years.
- C. The information will be reported in a format that may include, but is not limited to, the reporting of the data in numerical and/or percentage categories of ethnicity, stops, reasons for the stops, searches resulting from the stops, disposition of the stops, and the duration of the stops.

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# SAN ANTONIO AIRPORT POLICE DEPARTMENT GENERAL MANUAL



## Procedure 618 – Racial/Bias Profiling

Office with Primary Responsibility:	None	Effective Date: Prior Revision Date:	October 17, 2005 February 24, 2016
Office(s) with Secondary Responsibilities:	None	Number of Pages:	6
Forms Referenced in Procedure:	SAPD Form #2-2 SAPD Form 2-3 SAAP Form #200-OR SAPD Form #87-J15 SAPD Form #24-1A SAPD Form #2055 GCD	Related Procedures:	508

### .01 INTRODUCTION

This procedure reaffirms the San Antonio Airport Police Department’s commitment to unbiased policing in all its encounters between officers and any persons; to establish procedures 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 Department policy and the law.

### .02 POLICY

- .01 It is the policy of the San Antonio Airport Police Department to provide equal protection to all citizens. Toward this end, police officers employed by the San Antonio Airport Police Department are strictly prohibited from engaging in racial/bias profiling in any aspect of law enforcement-initiated actions.
- .02 Police Officers shall not use race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability for a law enforcement-initiated action, except to determine whether a person matches a specific description of a particular suspect.

### .03 TERMINOLOGY *(For specific use within this procedure, see Glossary)*

Field Contact	Interview	Law Enforcement-Initiated Action	Motor Vehicle Stop
Pedestrian Stop	Probable Cause	Racial/Bias Profiling	Reasonable Suspicion
Search	Stop and Frisk		

### .04 RESPONSIBILITIES

- A. Each officer has a responsibility for preventing racial/bias profiling. Officers must remain professional and customer-oriented, while also considering their safety and the safety of others. Officers should:
  - 1. Extend a customary greeting to each person they stop or detain;
  - 2. Identify themselves by name;
  - 3. Explain the reason for the stop or detention;
  - 4. Afford the person the opportunity to provide their explanation of their behavior;
  - 5. Politely ask for the person’s identification; and
  - 6. Remain courteous and project a professional demeanor during the interview or questioning.
- B. Officers shall refrain from participating in or encouraging any actions or statements which could be perceived as racial/bias profiling. They must document the law enforcement-initiated action and report any acts or perceived acts of racial/bias profiling in accordance with Subsection .05B of this procedure.
- C. Each officer is responsible for assisting in the prevention of racial/bias profiling by the following actions:
  - 1. Officers making custodial/non-custodial arrests shall base the arrests on probable cause supporting the elements of the offense and not on racial/bias profiling.
  - 2. Officers conducting a lawful detention, including stop and frisks, shall base the lawful detention on reasonable suspicion at the time of the stop and not on racial/bias profiling.



# SAN ANTONIO AIRPORT POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling*

3. Officers conducting field contacts (interviews) shall do so in accordance with GM Procedure 508, *Field Contacts*.
  4. Officers shall refrain from participating in or encouraging any actions or statements which could be reasonably perceived as racial/bias profiling.
  5. Officers shall report any acts of racial/bias profiling in writing to their immediate supervisor.
- D. Supervisory officers shall monitor the actions of the officers under their command to ensure racial/bias profiling does not occur and is not condoned. Supervisors shall:
1. Take immediate and appropriate remedial action whenever they observe, or are made aware of, any racial/bias profiling.
  2. Immediately document any complaint or observed incident of any acts or perceived acts of racial/bias profiling in accordance with Section .05.
  3. Immediately submit all reports of racial/bias profiling through their chain of command to their Airport Police Commander.

### **.05 COMPLAINT PROCESS**

- A. The San Antonio Airport Police Department will accept and investigate all complaints from any person who believes he/she has been stopped or searched based on racial/bias profiling. No person shall be intimidated, coerced, or discouraged in any manner from filing a complaint, nor discriminated against because he/she filed such a complaint.
- B. Any Officer who receives an allegation of racial/bias profiling, including the officer who initiated the stop, shall immediately report the allegation of racial/bias profiling to his/her immediate supervisor.
1. The Officer shall also document the allegation in writing on SAPD Form #2-2, *Incident Report*.
  2. The incident report shall include the nature of the complaint or allegation along with the name, address and telephone number of each complainant and witness.
  3. After the incident, the report shall be immediately completed and given to the Officer's supervisor.
  4. The Officer shall also explain to the complainant the Department's process for filing a complaint with the Internal Affairs Investigator.
  5. If the complainant request to speak with a supervisor, the Officer shall immediately notify a supervisor of the request.
- C. Supervisory officers addressing racial/biased profiling complaints shall:
1. Immediately notify the Airport Commander and the Assistant Airport Police Commander of any cases where an officer is involved in allegations of serious misconduct or suspected criminal activity;
  2. Immediately contact and interview the complainants;
  3. Refer the complainants to the Internal Affairs Investigator to initiate formal complaints;
  4. Interview and obtain written reports from the subject officers of the complaints. Officers who are the subject of the complaint shall submit their written reports on SAAP Form #200-OR, *Officer's Response to a Complaint*;
  5. Obtain the necessary information to assist in the evaluation of the complaints;
  6. Prepare preliminary complaint investigation packets including the information provided by the complainants, witnesses, the officers' reports, and the supervisors' reports;
  7. Supervisors will not enumerate or make recommendations as to the specific rule, regulation, policy, or procedure violated, nor will they make a recommendation as to punishment. Supervisors will only recommend either no disciplinary action is necessary or the complaint should be forwarded to the Internal Affairs Investigator for further investigation;



# SAN ANTONIO AIRPORT POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling*

8. Route the preliminary complaint investigation packets through the chain of command to the Airport Police Commander.
  9. The Airport Police Commander shall route the completed complaint investigation packet to the Internal Affairs Investigator.
- D. The Internal Affairs Investigator investigates all complaints of racial/bias profiling against officers. The Internal Affairs Investigator presents the findings of all formal complaint investigations of racial/bias profiling to the Airport Commander's Advisory Action Board. The complainants will receive written notification advising them of the final disposition of their complaint.

### **.06 TRAINING**

The Department shall be responsible for providing training to all officers in racial/bias profiling to emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or law enforcement-initiated action. This training shall include:

- A. Cadet Training;
- B. Annual In-Service Training;
- C. Input from those classes of persons identified in this policy in development of curriculum;
- D. Incorporation of the TCOLE Curriculum; and
- E. Specific lesson plans for Patrol Officers, Supervisors, FTOs, etc.

### **.07 DISCIPLINARY ACTIONS**

- A. The San Antonio Airport Police Department considers racial/bias profiling a serious form of officer misconduct. The Department shall take direct and immediate actions to prevent such behavior, and to remedy all reported instances of racial/bias profiling.
- B. Officers who are found to have engaged in racial/bias profiling will be subject to appropriate corrective action including discipline such as discharge or criminal actions.

### **.08 DATA COLLECTION**

- A. Racial profile data must be collected on the **operator of any motor vehicle** stopped for an alleged violation of a law or ordinance. Officers who initiate a motor vehicle stop, which does not result in the production of an Incident or Offense report, shall document such occurrence by submitting one of the following forms:
  1. Traffic citation;
  2. Traffic warning citation;
  3. Curfew violation (SAPD Form 87-J15);
  4. Field Interview (SAPD Form 2-3);
  5. DWI report (SAPD Form 24-1A); or
  6. Gang Contact Data Sheet (SAPD Form 2055-GCD).
- B. The above forms are designed for the primary purpose of law enforcement; however, they have been modified to comply with governmental mandates on racial/bias profiling. As such, they must be filled-out correctly, completely, and on a timely basis.
- C. Profile data shall be filled out only once for each individual (**operator of motor vehicle only**). If a traffic citation or warning citation is the only documentation of the motor vehicle stop, the information shall be included on the citation. If an Incident Report, Offense Report, Curfew Violation, Field Interview, DWI Report, or Gang Form is written, the profile data should go on the report or form and not on the citation.
- D. Officers making motor vehicle stops requiring racial profile data collection on the citation must complete the following boxes on the citation for the **operator of the motor vehicle**:



# SAN ANTONIO AIRPORT POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling*

1. Box A1 – Location of Profile Data
  - a. 0 – *Profile data on citation*
  - b. 1 – *Profile data on report (case # required)*
2. Box A2 – Race/Ethnicity known prior to detention
  - a. 0 – *NO*
  - b. 1 – *YES*
3. Box A3 – Race/Ethnicity
  - a. 1 – *White*
  - b. 2 – *Black*
  - c. 3 – *Hispanic*
  - d. 4 – *Asian/Pacific Islander*
  - e. 5 – *Native American*
  - f. 6 – *Middle Eastern/East Indian*
4. Box A4 – Initial reason for the stop
  - a. 0 – *Traffic law violation*
  - b. 1 – *Other law violation*
  - c. 2 – *Dispatched – with vehicle description*
  - d. 3 – *Dispatched – with officer initiated stop*
  - e. 4 – *Field contact*
  - f. 5 – *Suspicious conduct*
5. Box A5 – Search
  - a. 0 – *None*
  - b. 1 – *Consent*
  - c. 2 – *Non-consent*
6. Box A6 – Reason for search
  - a. 0 – *N/A*
  - b. 1 – *Contraband/evidence in plain view*
  - c. 2 – *Probable cause*
  - d. 3 – *Reasonable suspicion*
  - e. 4 – *Vehicle towed*
  - f. 5 – *Arrest*
7. Box A7 – Contraband or evidence
  - a. 0 – *None*
  - b. 1 – *Yes See report\*\* (case # required)*

*\*\* If the answer to this question is “yes,” a report needs to be written and the profile data should go on the report and not on the citation.*



# SAN ANTONIO AIRPORT POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling*

### 8. Box A8 – Custodial Arrest Made

- a. 0 – *No*
- b. 1 – *Yes* See report\*\* (case # required)

\*\* *If the answer to this question is "yes," a report needs to be written and the profile data should go on the report and not on the citation.*

### E. Officers making motor vehicle stops requiring racial profile data collection on a form other than a traffic or warning citation shall fill out the report completely, listing the following information in the appropriate boxes for the **operator of the motor vehicle**:

#### 1. Race/Ethnicity known prior to detention

- a. 0 – *NO*
- b. 1 – *YES*

#### 2. Reason for stop

- a. 0 – *Traffic law violation*
- b. 1 – *Other law violation*
- c. 2 – *Dispatched – with vehicle description*
- d. 3 – *Dispatched – with officer initiated stop*
- e. 4 – *Field contact*
- f. 5 – *Suspicious conduct*

#### 3. Search

- a. 0 – *None*
- b. 1 – *Consent*
- c. 2 – *Non-consent*

#### 4. Reason for search

- a. 0 – *N/A*
- b. 1 – *Contraband/evidence in plain view*
- c. 2 – *Probable cause*
- d. 3 – *Reasonable suspicion*
- e. 4 – *Vehicle towed*
- f. 5 – *Arrest*

#### 5. Custodial Arrest Made

- a. 0 – *No*
- b. 1 – *Yes – Violation of Penal Code*
- c. 2 – *Yes – Violation of Traffic Law*
- d. 3 – *Yes – Violation of Ordinance*
- e. 4 – *Yes – Warrant*
- f. 5 – *Yes – Other Law Violation*



# SAN ANTONIO AIRPORT POLICE DEPARTMENT GENERAL MANUAL



## *Procedure 618 – Racial/Bias Profiling*

6. Citation Issued
  - a. 0 – *None*
  - b. 1 – *Written warning*
  - c. 2 – *Written traffic citation*
  - d. 3 – *Misdemeanor citation*
7. Contraband or evidence
  - a. 0 – *None*
  - b. 1 – *Drugs/Paraphernalia*
  - c. 2 – *Money*
  - d. 3 – *Firearm*
  - e. 4 – *Knife/Edged Weapon*
  - f. 5 – *Other Weapon*
  - g. 6 – *Alcohol/Tobacco*
  - h. 7 – *Stolen Property*
  - i. 8 – *Other*

### **.09 PUBLIC INFORMATION**

- A. The Department shall be responsible for providing public information relating to the agency's efforts to comply with government mandates on racial/bias profiling. This will include public education relating to the agency's complaint process. Avenues for this information may include the distribution of the San Antonio Airport Police Department Internal Affairs pamphlets and News/Press releases.
- B. It is the responsibility of the SAPD's Police Media Services Detail to ensure copies of news articles, educational stories, and videos relating to racial/bias profiling are annually maintained to provide documentation of this Department's commitment to educating the public.

### **.10 ANNUAL ANALYSES AND REPORTING**

- A. All racial/bias information required to be collected in accordance with Article 2.133 of the Code of Criminal Procedure must be compiled and analyzed annually.
- B. In accordance with Article 2.134 of the Code of Criminal Procedure, the previous year's information collected on racial/bias profiling must be submitted to the governing body of the City of San Antonio and to the Texas Commission on Law Enforcement (TCOLE) by March 1<sup>st</sup> of each year.



**CITIZEN COMPLAINT ALLEGATION PROCESS  
(EDUCATING AND INFORMING THE PUBLIC)**

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## **Informing and Educating the Public How to File a Racial Profiling Complaint with the San Antonio Police Department**

The Texas Racial Profiling Law mandates that law enforcement agencies instruct the public how to file a racial profiling complaint. Toward this end, the San Antonio Police Department (SAPD) has instituted a program to address any concerns the public might have regarding the necessary steps involved in filing a racial profiling complaint. The SAPD currently provides information via their departmental website, [www.sanantonio.gov/sapd](http://www.sanantonio.gov/sapd) that enumerates the procedures aimed at filing a racial profiling complaint. Information is also available in the lobby area of the police department headquarters and substations, respectively. Overall, the police department actively informs and promotes how to file a racial profiling complaint.

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# **TRAINING**

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## **Racial Profiling Training**

The San Antonio Police Department mandates that all officers adhere to racial profiling training outlined by the Texas Commission On Law Enforcement (TCOLE) and the Law Enforcement Management Institute of Texas (LEMIT). All SAPD officers, since 2002, have successfully completed the TCOLE training.

The Chief of the San Antonio Police Department has also completed the educational requirements outlined by the Texas Racial Profiling Law, through LEMIT training. The training requirements documented in the Education Code (96.641) of the Texas Racial Profiling Law have been successfully satisfied by all sworn San Antonio Police Department personnel.

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# 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	CCP2.136
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/tion7r/billtext/SB01074F.htm>

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# San Antonio Police Department Training Academy



## Racial Profiling Instructor Lesson Plan



**TCLEOSE course 3256**  
**2008 TCLEOSE Update**

**Date Prepared: December 2006**

**Prepared By: Officer Barbara Thomas, 0918**

**Date Revised: March 2010**

**Revised By: Officer Barbara Thomas, 0918**

**TEXAS COMMISSION ON LAW ENFORCEMENT  
OFFICER'S STANDARDS AND EDUCATION**

**Racial Profiling Lesson Plan**

**COURSE:** TCLEOSE Course 3256.

**UNIT:** Racial Profiling

**INSTRUCTORS:** Officer Eric Hernandez, 0397, San Antonio Police Department  
Officer John Marroquin, 1451, San Antonio Police Department

**TIME ALLOTTED:** 4 Hours

**PREPARED BY:** Officer Barbara Thomas, 0918

**PREPARATION DATE:** December 2006

**REVISED BY:** Officer Barbara Thomas, 0918

**REVISED DATE:** March, 2010

**INSTRUCTOR AIDS:** PowerPoint presentation, Lesson Plan, DVD and VHS Tapes

**ENTRY LEVEL** The student must be a licensed peace officer with the San Antonio Police Department

I. **Goal:** The student will be able to identify the legal, social and logical aspects of racial profiling, as well as reasonable suspicion versus racial profiling

II. **Preparation:** The training will be delivered through lecture, question and answer, video, PowerPoint, and scenarios.

## 3256 Racial Profiling

### Learning Objectives:

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

#### 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.

#### 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.
- 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.
- 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.

TCLEOSE Course 3256: **Racial Profiling and the Law**

TCLEOSE OBJECTIVE 1.0: Racial Profiling and the Law

**Targeted Audience:** San Antonio Police Cadets

**Class Time:** 4 Hours

**Abbreviations:** (IA) Instructor Activity; (IN) Instructor Notes; (SP) Student Participation; (IAT) Instructor Activity Task;

TCLEOSE 1.1 Unit Goal: The student will be able to identify the legal aspects of racial profiling.

TCLEOSE Objective 1.1.1: Legislative Requirements of Law Enforcement Agencies.

Instructor Activity: Discuss legislative requirements regarding racial profiling. Use applicable state statute for reference and require student to engage by locating and reading statute in their books.

Student Activity: The student should use student handouts and write notes as they follow along with the instructor's lecture and PowerPoint presentation.

Racial Profiling Requirements: (Power Point)

Racial Profiling - CCP 3.05 (CODE OF CRIMINAL PROCEDURE)

Have the student read what the article in the CCP states. Discuss what this article means and its possible applications.

Racial Profiling Prohibited-CCP 2.131 (CODE OF CRIMINAL PROCEDURE)

Have the student read what the article in the CCP states. Discuss what this article means and its possible applications.

Law Enforcement Policy on Racial Profiling - CCP 2.132 (CODE OF CRIMINAL PROCEDURE)

Have the student read what the article in the CCP states. Discuss what this article means and its possible applications.

Reports Required for Traffic and Pedestrian Stops - CCP 2.133 (CODE OF CRIMINAL PROCEDURE)

Have the student read what the article in the CCP states. Discuss what this article means and its possible applications.

Liability - CCP 2.136 (CODE OF CRIMINAL PROCEDURE)

Have the student read what the article in the CCP states. Discuss what this article means and its possible applications.

Racial Profiling Education for Police Chiefs - EC 96.641 (EDUCATION CODE)

Have the student read what the article in the EC states. Discuss what this article means and its possible applications.

Training Program- QC 1701.253 (OCCUPATIONS CODE)

Have the student read what the article in the OC states. Discuss what this article means and its possible applications.

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TCLEOSE Objective 1.1.1: Legislative Requirements of Law Enforcement Agencies.

Training Required for Intermediate Certificate - OC 1701.402(OCCUPATIONS CODE)

Have the student read what the article in the QC states. Discuss what this article means and its possible applications.

**Definition of "Race or Ethnicity" for Form - TC 543.202(TRANSPORTATION CODE)**

Have the student read what the article in the TC states. Discuss what this article means and its possible applications

TCLEOSE Objective 1.1.1 Written Departmental Requirements: SAPD General Manual.

Instructor Activity: The instructor will explain the departmental policies where racial profiling is concerned.

Instructor Note: The instructor should always review and use the most current departmental policies according to the latest general manual procedure.

Student Activity: The student should actively engage in reading and discussion the following departmental policies.

A. **Written Department Policies / Prohibition:** The written policies and prohibitions for the San Antonio Police Department where it concerns racial profiling are found in the Department's General Manual; Procedure 61B.

**Gen. Man. 618.02A.** It is the policy of the San Antonio Police Department to provide equal protection to all citizens. Toward this end, police officers and civilians employed by the San Antonio Police Department are strictly prohibited from engaging in racial/bias profiling in any aspect of law enforcement activity.

**Gen. Man. 618.02B.** Police Officers and civilian employees shall not use race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability for a law enforcement-initiated action, except to determine whether a person matches a specific description of a particular suspect.

1. Definition of What Constitutes Racial Profiling;

**Gen. Man. 618.03A. Racial Bias Profiling:** Means a law enforcement-initiated action by a peace officer based on an individual's race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability rather than the individual's behavior or information identifying the individual as having engaged in criminal activity.

2. Prohibition of Racial Profiling:

**Gen. Man. Proc. 618.04A. Responsibilities:** Each officer has a responsibility for preventing racial/bias profiling. Officers must remain customer oriented, while also considering their safety and the safety of others. Officers should: Address the six responsibilities from the General Manual.

TCLEOSE Course 3256: Racial Profiling and the Law

TCLEOSE OBJECTIVE 1.0: Racial Profiling and the Law

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TCLEOSE Objective 1.1.1: Written Departmental Requirements: **SAPD** General Manual.

A. Written Department Policies/Prohibitions: Cont. (PowerPoint)

**Gen. Man. Proc. 618.048.** Officers shall refrain from participating in or encouraging any actions or statements that could be perceived as racial/bias profiling. They must document the law enforcement-initiated action and report any acts or perceived acts of racial/bias profiling in accordance with subsection .058 of this procedure.

**Gen. Man. Proc. 618.04C.** Each officer is responsible for assisting in the prevention of racial/bias profiling by the following actions: Address the five actions from the General Manual.

**Gen. Man. Proc. 618.04D.** Supervisory officers shall monitor the actions of the officers under their command to ensure that racial/bias profiling does not occur and is not condoned. Supervisors shall: Address the three actions from the General Manual.

3. Complaint Process: (PowerPoint)

**Gen. Man. Proc. 618.05A.** The San Antonio Police Department will accept and investigate all complaints from any person who believes he/she has been stopped or searched based on racial/bias profiling. No person shall be intimidated, coerced, or discouraged in any manner from filing a complaint, nor discriminated against because he/she filed such a complaint.

*(Employee Received Complaints)*

**Gen. Man. Proc. 618.058.** Any employee who receives an allegation of racial/bias profiling, including the officer who initiated the stop, shall immediately report the allegation of racial/bias profiling to his/her immediate supervisor: Address the five steps of *employee received complaints* from the General Manual.

*(Supervisory Received Complaints)*

**Gen. Man. Proc. 618.05C.** Supervisory officers addressing racial/biased profiling complaints shall: Address the nine steps of *supervisor received complaints* from the General Manual.

*(Internal Affairs Unit Received Complaints)*

**Gen. Man. Proc. 618.050.** The Internal Affairs Unit investigates all complaints of racial/bias profiling against sworn members. The Internal Affairs Unit presents the findings of all formal complaint investigations of racial/bias profiling to the Chief's Advisory Action Board. The complainants will receive written notification advising them of the final disposition of their complaint.

TCLEOSE Course 3256: Racial Profiling and the Law

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TCLEOSE Objective 1.1.1: Written Departmental Requirements: SAPD General Manual.

4. Public Education: **Public Information** (*PowerPoint*)

**Gen. Man. Proc. 618.09A.** The department shall be responsible for providing public information relating to the agency's efforts to comply with government mandates on racial/bias profiling. This will include public education relating to the agency's complaint process. Avenues for this information may include the distribution of the San Antonio Police Department Internal Affairs Unit pamphlets and News/Press releases.

**Gen. Man. Proc. 618.09B.** It is the responsibility of the Police Media Services to ensure that copies of news articles, educational stories and videos relating to racial/bias profiling are annually maintained to provide documentation of this department's commitment to educating the public.

5. **Corrective Action: Disciplinary Actions** (*PowerPoint*)

**Gen. Man. Proc. 618.07A.** The SAPD considers racial/bias profiling a serious form of officer misconduct. The department shall take direct and immediate actions to prevent such behavior, and to remedy all reported instances of racial/bias profiling.

**Gen. Man. Proc. 618.07B.** Officers who are found to have engaged in racial/bias profiling will be subject to appropriate corrective action including, but not limited to, referral to the Employee Early Warning System, and/or discipline such as discharge or criminal actions.

6. **Collection of Traffic-Stop Statistics: Data Collection - Forms** (*PowerPoint*)

**Gen. Man. Proc. 618.0BA.** Officers who initiate any form of a stop or detention, which does not result in the production of an Incident or Offense report, shall document such occurrence by submitting one of the following forms: Address the six forms to be submitted if an Incident or Offense report is not submitted as required by the General Manual.

**Gen. Man. Proc. 618.088.** The above forms are designed for the primary purpose of law enforcement; however, they have been modified to comply with governmental mandates on racial/bias profiling. As such, they must be filled-out correctly, completely, and on a timely basis.

**Gen. Man. Proc. 618.0BC.** Officers making traffic stops and issuing traffic citations or traffic warning citations must complete the following boxes on the traffic citation to insure the collection of the following information: Address the seven categories to be collected during a traffic stop; as required by the General Manual.

TCLEOSE Course 3256: Racial Profiling and the Law

TCLEOSE OBJECTIVE 1.0: Racial Profiling and the Law

**Targeted Audience:** San Antonio Police Cadets

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**TCLEOSE Objective 1.1.1: Written Departmental Requirements: SAPD General Manual.**

**7. Annual Reports: Annual Analysis and Reporting** (PowerPoint)

**Gen. Man. Proc. 618.10.A.B.C.D.E.**

Explain to the students when and how the collected data is to be included in the annual report of the San Antonio Police Department. Tier I and II Reporting.

**B. Training in Racial Profiling (Local Training Process)** (PowerPoint)

**Gen. Man. Proc. 618.06.A.B.C.D.E.**

- A. Cadet Training
- 8. Annual In-Service Training
- C. Input from those Classes of Persons Identified in This Policy in Development of Curriculum
- D. Incorporation of the TCLEOSE Curriculum; and
- E. Specific Lesson Plans for Patrol Officers, Supervisors, FTO's, etc.

**TCLEOSE Objective 1.1.2: Supreme and Other Pertinent Court Decisions.**

The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

**Instructor Activity:** The instructor should discuss and explain following Supreme Court and supporting state court decisions and how they have affected law enforcement where racial profiling is concerned during traffic and detention stops.

**Student Activity:** The student should remain engaged in this learning process and should ask questions about these court decisions.

(PowerPoint)

- A. Whren v. United States, 517 **U.S.** 806, 116 S.Ct. 1769 {1996}
- B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 {1968}

**C. Other Cases:**

**Pennsylvania v. Mimms**, 434 U.S. 106, 98 S.Ct. 330 {1977}

**Maryland v. Wilson**, 117 S.Ct. 882 {1997}

**Graham v. State**, 119 MdApp 444, 705 A.2d 82 {1998}

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

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

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

**Instructor Notes:** Provide scenarios or examples of Whren v. U.S. and Terry v. Ohio Court (on PowerPoint) decisions regarding appropriate actions in traffic stops.



## TCLEOSE Course 3256: Racial Profiling and the Law

### TCLEOSE OBJECTIVE 2.0: Racial Profiling and the Community

**Targeted Audience:** San Antonio Police Cadets

**Class Time:** 4 Hours

**Abbreviations:** (IA) Instructor Activity; (IN) Instructor Notes; (SP) Student Participation; (IAT) Instructor Activity Task;

TCLEOSE 2.1 Unit Goal: The student will be able to identify logical and social arguments against racial profiling.

### TCLEOSE Objective 2.1.1: Racial Profiling and the Community

Instructor Activity: Discuss the following arguments while providing examples and or case scenarios for the logical arguments for, as well as the social arguments against racial profiling.

Instructor Activity: The instructor should discuss and explain the possible positive outcomes of understanding what racial profiling is and its implications to the citizen and law enforcement. Also, the instructor should discuss the side of this argument that reveals the negative outcomes from the practice of racial profiling and not understanding the social or logical arguments against this practice.

Student Activity: The student should become involved in the discussion and pose questions to the following arguments.

### Identifying Logical and Social Arguments Against Racial Profiling: (PowerPoint)

- 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

TCLEOSE Course 3256: **Racial Profiling and the Law**

TCLEOSE OBJECTIVE 3.0: Racial Profiling Versus Reasonable Suspicion

**Targeted Audience:** San Antonio Police Cadets

**Class Time:** 4Hours

**Abbreviations:** (IA) Instructor Activity; (IN) Instructor Notes; (SP) Student Participation; (IAT) Instructor Activity Task;

TCLEOSE 3.1 Unit Goal: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

**TCLEOSE Objective 3.1.1: Racial Profiling Versus Reasonable Suspicion.**

The student will be able to identify the elements of a racially-motivated traffic stop.

Instructor Activity: Discuss the elements of racially-motivated traffic stops. Provide an explanation and example of each listed el of racially-motivated traffic stops. Also, explain how to identify the elements are present.

Student Activity: The student should become involved in the discussion and pose questions to the following arguments.

**Racially-Motivated Traffic Stops:** *(PowerPoint)*

**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.)

**Instructor Example:** ("Flying While Middle Eastern"); others on PowerPoint display

**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 officer visually check all observable parts of the vehicle
5. The officer 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 officer 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.)

TCLEOSE Unit 1. Racial Profiling and the Law

TCLEOSE OBJECTIVE 3.0: Racial Profiling Versus Reasonable Suspicion

**Targeted Audience:** San Antonio Police Cadets

**Class Time:** 4 Hours

**Abbreviations:** (IA) Instructor Activity; (IN) Instructor Notes; (SP) Student Participation; (IAT) Instructor Activity Task;

**TCLEOSE Objective 3.1.2: Reasonable Suspicion of Drug Courier Activity During Traffic Stops.**

The student should be able to identify elements of a traffic stop which would **constitute reasonable** suspicion of drug courier **activity**.

**Instructor Activity:** Began this discussion by explaining the statistical information that provides a relative description of a drug courier. Provide examples of what reasonable suspicion is and how to apply this to awareness of drug courier activity during traffic stops. Explain to the students how to identify when the elements of drug courier activity are present.

**Student Activity:** The student should become involved in the discussion and pose questions to the following arguments.

**Reasonable Suspicion of Drug Courier Activity: (PowerPoint)**

- 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 drives 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**

TCLEOSE Course 3256 Racial Profiling and the Law

TCLEOSE OBJECTIVE 3.0: Racial Profiling Versus Reasonable Suspicion

**Targeted Audience:** San Antonio Police Cadets

**Class Time:** 4 Hours

**Abbreviations:** (IA) Instructor Activity; (IN) Instructor Notes; (SP) Student Participation; (IAT) Instructor Activity Task;

**TCLEOSE Objective 3.1.3: Reasonable Suspicion of Criminal Activity During Traffic Stops.**

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

**Reasonable Suspicion of Criminal Activity: (PowerPoint)**

- A. **Think 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 backplate, 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, tools or spare tire are out of place, etc.
  - 2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

**Conclusion:** Summarize the objective. Ask random questions of the students to insure that they have grasped this particular lesson. Review the legal and procedural issues associated with racial/bias and ethnic profiling and allow for questions to measure the students understanding of the subject.

**Equipment:**  
Computer, Projector,  
Projector Screen

**Instructor/Classroom Aids:**  
Power Point Presentation,  
Dry Erase, Board and Markers

**Student Supplies:**  
Student Outline  
Writing Instruments;  
Student Handouts

**Evaluation/Assessment:** Instructor Observation; Student Participation; Question and Answer; 80% Passing Final Score  
**Color Coding:** Red-TCLEOSE/Objective Black-Administrative/Instructor; Blue- Instructor Notes; Green-Student Task/Notes

Resources: San Antonio Police Department General Manual Procedure 618 Racial/Bias Profiling

Resources: U.S. Supreme Court Center, U.S. Supreme Court Cases and Opinions; [www.supreme.justia.com](http://www.supreme.justia.com)

Resources Proactive Field Stops Training Unit - Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)/  
Webaddress for legislation nR-S81074: <http://lo2.tlc.state.tx.us/tlomr/billtext/SB01074F.htm> Racial Profiling TCLEOSE Course Number 3256, Sept 2001