

City of San Antonio

Interdepartmental Correspondence Sheet

TO: Erik J. Walsh, City Manager

FROM: William P. McManus, Chief of Police

COPIES TO: María Villagómez, Deputy City Manager; File

SUBJECT: 2018 Racial Profiling Report

Date: August 6, 2019

The San Antonio Police Department (SAPD) collected racial profiling data for 2018 pursuant to state law and regulation. Further, state law requires that the Department report to the “governing body of the agency” all data collected for the 2018 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 2018. Dr. Withrow is one of the nation’s leading authorities on racial profiling. He has published two textbooks and numerous scholarly articles on this topic and has conducted racial profiling studies for police departments throughout the nation.

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, 2018. By department, these totals are as follows: SAPD – 152,099; Park Police – 2,806; and Airport Police – 830.

The percentages, by department, of these stops, with respect to the race/ethnicity of the drivers provided to TCOLE, are as follows.

	Hispanic	Caucasian/White	African-American/Black	Asian/Pacific Islander	Alaskan/Native American Indian
SAPD	56.21	32.44	10.14	1.16	0.05
Park Police	64.90	26.30	7.98	0.78	0.04
Airport Police	39.40	44.94	13.86	1.45	0.36

Based on Dr. Withrow’s independent analysis, there is no evidence suggesting that the City of San Antonio is engaging in a pattern or practice of racial profiling among city residents or non-residents. I am confident we have complied with the law to the fullest extent possible for calendar year 2018 and have continued to improve our collection and analysis of the racial profiling data gathered.

Overall, the evidence and documentation in the current report show the San Antonio Police Department, Park Police, and Airport Police are in compliance with existing mandates associated with 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 P. McManus
Chief of Police

WPM:cl:drf

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Table of Contents

- I. GENERAL INTRODUCTION
 - Executive Summary and Introduction

- II. TEXAS LAWS
 - Texas Law on Racial Profiling
 - TCOLE Requirements

- III. DATA ANALYSIS AND RESULTS
 - Traffic Stop Analysis and Results Presented in Standard
 - 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 Complaints/Allegations Process (Educating and Informing the Public)
 - Training

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I. General Introduction

EXECUTIVE SUMMARY AND INTRODUCTION

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February 24, 2019

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

Dear Distinguished Members of the City Council:

In 2001, the 77th Texas Legislature passed S.B. 1074 in an attempt to address racial profiling by law enforcement officers. On June 19, 2009, during the 81st 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. In the 85th Texas Legislature, H.B. 2702 made further changes to the racial profiling data collection requirements and reporting. All of these bills are consolidated in statute in the Texas Code of Criminal Procedure Articles 2.131 through 2.134. To ensure compliance with Texas law, the San Antonio Police Department (SAPD) entered into a contract with me to analyze its traffic stop data and present a report to city's law enforcement and civilian executives on racial profiling. I assisted the SAPD in complying with the racial profiling data collection and reporting requirements mandated by the Code of Criminal Procedure.

The substantive report begins in Section II with the text of the Texas Code of Criminal Procedure. 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, 155,735 traffic stops from three agencies were analyzed for the period of January 1 through December 31, 2018: San Antonio Police Department (152,099 traffic stops), Park Police Department (2,806 traffic stops), and Airport Police Department (830 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. 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 the Texas Code of Criminal Procedure.

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. Based on the independent analysis conducted by me, 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

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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 1 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. **Full Reporting** - Agencies that routinely perform traffic stops or motor vehicle stops must file by online report. The online report requires the completion of agency general public contact information and requires completion of **both**:
 - a 1 page online form about the numbers of motor vehicles stops made **and**
 - uploading a separate PDF document containing a statistical analysis 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 profiling complaints and the corresponding resolutions.

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TCOLE REQUIREMENTS

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Racial Profiling Report

Agency Name:

Reporting Date:

TCOLE Agency Number:

Chief Administrator:

Agency Contact Information:

Phone:

Email:

Mailing Address:

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

- (1) clearly defines acts constituting racial profiling;
- (2) strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- (3) implements a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provides public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and email address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;
- (5) requires appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) requires collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search;
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
 - (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
 - (E) the location of the stop; and
 - (F) the reason for the stop; and

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

(A) the Texas Commission on Law Enforcement; and

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

Executed by: Chief Administrator

Date: 03/01/2019

Agency Racial Profiling Information

Total stops: 571

1. Gender

CCP 2.133(b)(1)(a)

1.1 Female: 228

1.2 Male: 343

2. Race or ethnicity

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

2.1 Black: 190

2.2 Asian/Pacific Islander: 12

2.3 White: 87

2.4 Hispanic/Latino: 282

2.5 Alaska Native/American Indian: 0

3. Was race or ethnicity known prior to stop?

CCP 2.132(b)(6)(C)

3.1 Yes: 0

3.2 No: 571

4. Reason for stop?

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

4.1 Violation of law: 11

4.2 Preexisting knowledge: 0

4.3 Moving traffic violation: 529

4.4 Vehicle traffic violation: 31

5. Street address or approximate location of the stop

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

5.1 City street: 553

5.2 US highway: 15

5.3 County road: 0

5.4 State highway: 0

5.5 Private property or other: 3

6. Was a search conducted?

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

6.1 Yes: 30

6.2 No: 541

7. Reason for Search?

7.1 Consent: 18

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

7.2 Contraband in plain view: 0

CCP 2.133(b)(5)(A)

7.3 Probable cause: 5

CCP 2.133(b)(5)(B)

7.4 Inventory: 0

CCP 2.133(b)(5)(C)

7.5 Incident to arrest: 7

CCP 2.133(b)(5)(C)

8. Was Contraband discovered?

CCP 2.133(b)(4)

8.1 Yes: 8

8.2 No: 22

9. Description of contraband

CCP 2.133(b)(4)

9.1 Drugs: 7

9.2 Currency: 0

9.3 Weapons: 0

9.4 Alcohol: 1

9.5 Stolen property: 0

9.6 Other: 0

10. Result of the stop

10.1 Verbal warning: 99	CCP 2.133(b)(8)
10.2 Written warning: 105	CCP 2.133(b)(8)
10.3 Citation: 356	CCP 2.133(b)(8)
10.4 Written warning and arrest: 3	
10.5 Citation and arrest: 7	
10.6 Arrest: 1	CCP 2.133(b)(6)

Arrest Total = 11

11. Arrest based on

CCP 2.133(b)(6)

11.1 Violation of Penal Code: 4
11.2 Violation of Traffic Law: 1
11.3 Violation of City Ordinance: 0
11.4 Outstanding Warrant: 6

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

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

12.1 Yes: 6
12.2 No: 565

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III. Data Analysis and Results

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

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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 the 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 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). 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.

In 2017, the Texas Legislature amended the statute requiring annual racial profiling reports. These changes include;

- An elimination of the "Middle Eastern" ethnicity category. The United States Census counts individuals of Middle Eastern ethnicity as "Caucasian". This change enables

researchers to develop more accurate benchmarks (i.e. estimates of the racial/ethnic proportions within the driving population).

- The category reporting whether an arrest was made subsequent to the stop was expanded to provide more insight into enforcement decisions.
- “State highway” was added as an attribute to the location of the stop variable.
- An additional category to report incidents involving the use of force resulting in bodily injury was added to the analysis.
- The Tier 1 Exemption was removed and mandates all departments that do not claim a full exemption must submit a full report as well as a statistical analysis of their data.

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

Official Data

This analysis is based on 155,735 recorded traffic stops occurring from January 1 through December 31, 2018. 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 152,099 traffic stops while the Park and Airport Police report 2,806 and 830 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 2018.

2018 TCOLE Tier II Data Sheet for SA Police Department, SA Park Police, and SA Airport Police

	SAPD	SA PARK PD	SA AIRPORT PD
	Totals	Totals	Totals
Gender			
1) Female	59,316	1,045	261
2) Male	92,783	1,761	569
3) Totals	152,099	2,806	830
Race Ethnicity	Totals	Totals	Totals
4) African American or Black	15,419	224	115
5) Asian	1,762	22	12
6) Caucasian or White	49,347	738	373
7) Hispanic	85,492	1,821	327
9) Native American	79	1	3
10) Totals	152,099	2,806	830
Race Ethnicity Known Prior to Stop	Totals	Totals	Totals
11) Yes	1,342	246	4

12) No	150,757	2,560	826
13) Totals	152,099	2,806	830
	SAPD	SA PARK PD	SA AIRPORT PD
Reason For Stop	Totals	Totals	Totals
14) Law Other than Traffic Violation	5,862	170	59
15) Pre-Existing (Knowledge)	1,449	60	18
16) Moving Violations (Traffic)	136,022	1,524	489
17) Vehicle Equipment Violation	8,766	1,052	264
18) Totals	152,099	2,806	830
	Totals	Totals	Totals
Search Conducted			
19) Yes	9,583	244	42
20) No	142,516	2,562	788
21) Totals	152,099	2,806	830
Reason For Search	Totals	Totals	Totals
22) Consent	1,023	27	1
23) Contraband in Plain Sight	170	6	2
24) Probable Cause	912	39	9
25) Inventory	307	40	8
26) Incident to Arrest	7,171	132	22
27) Totals	9,583	244	42
Contraband Discovered	Totals	Totals	Totals
28) Yes	3,427	78	12
29) No	6,156	167	32
30) Totals	9,583	245	44
Description of Contraband	Totals	Totals	Totals
31) Illegal Drugs	2,740	29	2
32) Currency	24	0	0
33) Weapons	222	2	0
34) Alcohol	190	4	2
35) Stolen Property	73	0	0
36) Other	178	43	8

37) Totals	3,427	78	12

	SAPD	SA PARK PD	SA AIRPORT PD
Result of Stop	Totals	Totals	Totals
38) Verbal Warning	0	0	0
39) Written Warning	19,742	0	0
40) Citation	123,323	2,602	783
41) Written Warning and Arrest	2	0	0
42) Citation and Arrest	375	81	28
43) Arrest	8,657	123	19
44) Totals	143,065	2,602	783
45) Total Arrests	9,034	204	47
	Totals	Totals	Totals
Arrest Based on			
46) Violation of Penal Code	4,321	41	8
47) Violation of Traffic Law	832	92	29
48) Violation of City Ordinance	2,908	71	10
49) Outstanding Warrant	973	0	0
50) Totals	9,034	204	47
Street Address or Approximate Location of Stop	Totals	Totals	Totals
51) City Street	87,928	2,679	823
52) US Highway - Expressway	62,003	103	6
53) County Rd	96	3	0
54) State Hwy	1,340	0	0
55) Private Property	732	21	1
56) Totals	152,099	2,806	830
Physical force resulting in bodily injury used during stop	Totals	Totals	Totals
57) Yes	57	2	0
58) No	152,042	2,804	830
59) Total	152,099	2,806	830

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 or Latino drivers represent 63.2 percent of the residential population and;

- 56.21 percent of the traffic stops made by the San Antonio Police Department,
- 64.90 percent of the traffic stops made by the San Antonio Park Police Department, and
- 39.40 percent of the traffic stops made by the San Antonio Airport Police Department.

The analysis reveals that Caucasian or White drivers represent 26.6 percent of the residential population and;

- 32.44 percent of the traffic stops made by the San Antonio Police Department,

- 26.30 percent of the traffic stops made by the San Antonio Park Police Department, and
- 44.94 percent of the traffic stops made by the San Antonio Airport Police Department.

The analysis reveals that African-American or Black drivers represent 6.9 percent of the residential population and;

- 10.14 percent of the traffic stops made by the San Antonio Police Department,
- 7.98 percent of the traffic stops made by the San Antonio Park Police Department, and
- 13.86 percent of the traffic stops made by the San Antonio Airport Police Department.

The analysis reveals that Asian/Pacific Islander drivers represent 2.4 percent of the residential population and;

- 1.16 percent of the traffic stops made by the San Antonio Police Department,
- 0.78 percent of the traffic stops made by the San Antonio Park Police Department, and
- 1.45 percent of the stops made by the San Antonio Airport Police Department.

The analysis reveals that Alaskan Native/American Indian drivers represent 0.9 percent of the residential population and;

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

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 (2018).

	Hispanic	Caucasian/ White	African- American/ Black	Asian/ Pacific Islander	Alaskan Native/ American Indian
Percent of overall residential population	63.2	26.6	6.9	2.4	0.9
SAPD	56.21	32.44	10.14	1.16	0.05
Park Police	64.90	26.30	7.98	0.78	0.04
Airport Police	39.40	44.94	13.86	1.45	0.36

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 was influenced by *racial animus* in the decision to initiate a traffic stop. The data reveals that in only a very small percentage of cases (1.02 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 represent 3,636 or 2.33 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. Here again, this analysis does not suggest a pattern and practice of racial profiling within any of the three departments. This analysis is followed by a table representing the race/ethnicity and gender of San Antonio residents.

Traffic stops (2018) by race/ethnicity and gender of the drivers.

Race/Ethnicity	SAPD		Park		Airport		TOTALS
	Female	Male	Female	Male	Female	Male	
African American/Black	5,624	9,795	68	156	28	87	15,758
Asian / Pacific Islander	748	1,014	7	15	5	7	1,796
Caucasian / White	19,390	29,957	261	477	118	255	50,458
Hispanic	33,526	51,966	709	1,112	109	218	87,640
Alaskan/American Indian	28	51	0	1	1	2	83
Totals	59,316	92,783	1,045	1,761	261	569	155,735
Percent by agency	39.00%	61.00%	37.24%	62.76%	31.45%	68.55%	

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

	Female	Male	Race/ Ethnicity Totals
African American/Black	42,022	40,053	82,075
Asian/Pacific Islander	15,532	14,804	30,336
Caucasian/White	178,769	170,390	349,159
Hispanic	428,747	408,650	837,397
Other	10,767	10,262	21,029
Gender/Grand Totals	675,837	644,159	1,319,996

Use of Force

A review of the data reveals that incidents of physical force resulting in bodily injury subsequent to a stop are exceedingly rare in all three departments.

- Only 57 (0.04 percent) of the 152,099 stops conducted by the San Antonio Police Department included an incident of physical force resulting in bodily injury.
- Only 2 (0.07 percent) of the 2,806 stops conducted by the San Antonio Park Police Department included an incident of physical force resulting in bodily injury.
- None (0.00 percent) of the 830 stops conducted by the San Antonio Airport Police Department included an incident of physical force resulting in bodily injury.

**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 24, 2019

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 (Agency #029218).

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/Black	42,022	40,053	82,075	6.22 %
Asian	15,532	14,804	30,336	2.30 %
Caucasian/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 %
Totals	675,837	644,159	1,319,996	100 %
	51.20 %	48.80 %		

In 2018, the San Antonio Police Department conducted a total of 152,099 stops and 9,583 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.

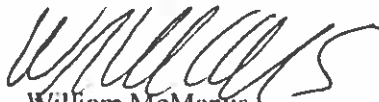
	SAPD					
	Female	Male	Total Stops	Percentage	Total Searches	Percentage
African American /Black	5,624	9,795	15,419	10.14%	1,250	13.04%
Asian / Pacific Islander	748	1,014	1,762	1.16%	42	0.44%
Caucasian / White	19,390	29,957	49,347	32.44%	1,565	16.33%
Hispanic	33,526	51,966	85,492	56.21%	6,724	70.17%
Alaskan/American Indian	28	51	79	0.05%	2	0.02%
Totals	59,316	92,783	152,099	100.00%	9,583	100.00%
	39.00%	61.00%				

The following complaint was investigated by the San Antonio Police Department during 2018:

- 1) IA2018-1078 – Officer conducted a traffic stop on vehicle with active arrest warrants. Complainant believed the stop was based on racial profiling.

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 2018 and have continued to improve our collection and analysis of the racial profiling data gathered.

Sincerely,



William McManus
Chief of Police



San Antonio Park Police



February 24, 2019

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/Black	42,022	40,053	82,075	6.22 %
Asian	15,532	14,804	30,336	2.30 %
Caucasian/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 %
Totals	675,837	644,159	1,319,996	100 %
	51.20 %	48.80 %		

In 2018, the San Antonio Park Police Department conducted a total of 2,806 stops and 244 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/Black	68	156	224	7.98%	32	13.11%
Asian / Pacific Islander	7	15	22	0.78%	1	0.41%
Caucasian / White	261	477	738	26.30%	27	11.07%
Hispanic	709	1,112	1,821	64.90%	184	75.41%
Alaskan/American Indian	0	1	1	0.04%	0	0.00%
Totals	1,045	1,761	2,806	100.00%	244	100.00%
	37.24%	62.76%				

There were no complaints of racial profiling made against the San Antonio Park Police during 2018.

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 2018 and have continued to improve our collection and analysis of the racial profiling data gathered.

Sincerely,


William McManus
Chief of Police



CITY OF SAN ANTONIO AIRPORT 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 24, 2019

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/Black	42,022	40,053	82,075	6.22 %
Asian	15,532	14,804	30,336	2.30 %
Caucasian/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 %
Totals	675,837	644,159	1,319,996	100 %
	51.20 %	48.80 %		

In 2018, the San Antonio Airport Police Department conducted a total of 830 stops and 42 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				Total Searches	Percentage
	Female	Male	Total Stops	Percentage		
African American/Black	28	87	115	13.86%	10	23.81%
Asian / Pacific Islander	5	7	12	1.45%	0	0.00%
Caucasian / White	118	255	373	44.94%	10	23.81%
Hispanic	109	218	327	39.40%	22	52.38%
Alaskan/American Indian	1	2	3	0.36%	0	0.00%
Totals	261	569	830	100.00%	42	100.00%
	31.45%	68.55%				

There were two (2) complaints of racial profiling made against the San Antonio Airport Police during 2018:

- 1) IA 18-035: Complainant was involved in a possible road rage incident and traffic violation that officers observed but believed the stop was based on racial profiling.
- 2) IA 18-052: Complainant was stopped for a traffic violation and believed the stop was based on racial profiling.

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 2018 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:	September 19, 2018 Sept. 1, 2017
Office(s) with Secondary Responsibilities:	TEC, FCD, IDC, COS, 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, gender expression, gender identity, 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	Gender Expression	Gender Identity	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. Field Interview (Form 2-3);
 4. DWI report (Form 24-1A); or
 5. 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, 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*



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 618 – Racial/Bias Profiling/Immigration Policy

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*
 - d. 3 – *Yes – Violation of Ordinance*



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 618 – Racial/Bias Profiling/Immigration Policy

- 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*
- F. Failure by an officer to document a traffic or pedestrian stop; field contact; or any other officer-initiated interaction, as required by this procedure, shall not constitute prima facie evidence of racial profiling.

.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



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 618 – Racial/Bias Profiling/Immigration Policy

- 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 1st of each year.

.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 other entities, 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. The enforcement priorities of the San Antonio Police Department are to protect public safety and foster community trust. The priorities do not include asking individuals for proof of citizenship or legal residency.
 2. Officers may not inquire into the immigration status of a victim of or witness to an alleged criminal offense unless the officer determines that the inquiry is necessary to:
 - (1) investigate the offense; or
 - (2) provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.
 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 1st of each year.

.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 Airport Police Department, in conjunction with other entities, 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 SAAPD officers.



SAN ANTONIO AIRPORT POLICE DEPARTMENT GENERAL MANUAL



Procedure 618 – Racial/Bias Profiling

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. The enforcement priorities of the San Antonio Airport Police Department are to protect public safety and foster community trust. The priorities do not include asking individuals for proof of citizenship or legal residency.
 2. Officers may not inquire into the immigration status of a victim of or witness to an alleged criminal offense unless the officer determines that the inquiry is necessary to:
 - (1) investigate the offense; or
 - (2) provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.
 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*.

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**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 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



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>