



**AGENDA
ELGIN CITY COUNCIL
REGULAR MEETING
TUESDAY, FEBRUARY 20, 2018
CITY ANNEX COUNCIL CHAMBERS, 310 NORTH MAIN STREET
7:00 PM**

I. CALL TO ORDER

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. PUBLIC COMMENT

Individuals may request to speak on items on the agenda, and items not on the agenda, by requesting to speak during the meeting and under "PUBLIC COMMENT" and will be required to fill out a "PUBLIC COMMENT FORM" and present it, along with any material, handouts or information for Council, to the City Secretary prior to commencement of the Council meeting. Speaker comments are limited to three (3) minutes.

No formal action can be taken by the City Council on items not posted on the agenda. Items requiring a Public Hearing will allow a member of the public an opportunity to speak during the Public Hearing and does not require submission of a "PUBLIC COMMENT FORM". Speakers must address their comments to the Mayor or Presiding Officer rather than to an individual Council Member or member of Staff. All speakers must limit their comments to the specific subject matter noted on the "PUBLIC COMMENT FORM" and refrain from personal attacks or derogatory comments directed at any Council Member, member of Staff, other individual or group.

VI. CITY MANAGER'S REPORT

1. Presentation of 2017 Elgin Police Department Racial Profiling Report - EPD Chief Patrick South
2. Review and discussion of a preliminary staff report on fees, access, operating policies and procedures of the new City of Elgin Recreation Center

VII. NEW BUSINESS

1. Discussion and possible action to appoint a member to Committees/Commissions with a vacancy.
 - Public Safety Advisory Committee

VIII. EXECUTIVE SESSION

The City Council may announce that it will adjourn the public meeting at any time during the meeting and convene in Executive Session pursuant to Chapter 551 of the Texas Government Code to discuss any matter as specifically listed on the agenda and/or as permitted by Chapter 551 of the Texas Government Code.

Recess the Regular Council meeting and call to order Executive Session in a closed session.

None

Adjourn Executive Session and call public back in to Reconvene Regular Council meeting.

RECONVENE

IX. The City Council will return to open session for possible discussion and action as a result of the Executive Session.

X. ANNOUNCEMENTS

XI. ADJOURNMENT

NOTICE

Notice of Assistance at Public Meetings, the City of Elgin is committed to compliance with the Americans with Disabilities Act. Elgin City Hall and Council Chambers are wheelchair accessible and special marked parking is available. Persons with Disabilities who plan to attend this meeting and who may need assistance are requested to contact the City Secretary's Office at (512) 281-5724. Please provide forty-eight hours notice when feasible.

I, Amelia Sanchez, City Secretary for the City of Elgin, hereby certify this notice was posted at the City Hall Annex of the City of Elgin, Texas on or before February 16, 2018 in accordance with Chapter 551 of the Texas Government Code.

Amelia Sanchez
Amelia Sanchez, City Secretary



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

Presentation of 2017 Elgin Police Department Racial Profiling Report - EPD Chief Patrick South

DEPARTMENT: Police

PROPOSED ACTION:

Presentation and consideration of the 2017 Elgin Police Department Racial Profiling Report by the Del Carmen Consulting, LLC

BACKGROUND:

This annual report is submitted pursuant to State Law and covers the required aspects of reporting under the Racial Profiling Act.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☒ included ☐ not included in the current-year budget ☐
N/A

RECOMMENDATION:

Consideration of the 2017 Elgin Police Department Racial Profiling Report as presented

ATTACHMENTS:

Audit Letter

DEL CARMEN Consulting Report

- ☒ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☐ Staff will provide brief comments and answer questions on this item at the meeting.

☐ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Contact Report Audit Elgin Police Department



**DEL CARMEN
CONSULTING, LLC**



February 2, 2018

Elgin Police Department
Chief Patrick South
202 Depot Street
Elgin, TX 78621

Dear Chief South,

I am pleased to inform you that the audit of the 2017 racial profiling data for the City of Elgin Police Department has been completed. The overall aim of this racial profiling audit is to determine if the Elgin Police Department is in compliance with the Texas Racial Profiling Law requirements. These findings are attained under the premise that a police department is better served and functions more effectively by reducing, or perhaps eliminating, errors relevant to data recording and reporting; in addition, to fulfilling all of the components of the Texas Racial Profiling Law. It is my most sincere hope that the findings produced as a result of this audit assist the Elgin Police Department in producing an accurate and transparent racial profiling report.

A review of the data submitted, leads me to conclude that data accurate and within the standard 3% margin of error. If you have any questions, please don't hesitate to call me so that I can elaborate on the points made in this audit. Again, thank you for the opportunity to be of service.

Sincerely,

Alex del Carmen, Ph.D.
Criminologist



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

Del Carmen Consulting, LLC

817.681.7840

www.texasracialprofiling.com

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



Annual Contact Report
2017
The Elgin Police Department

(I) Introduction

Opening Statement

February 2, 2018

Elgin City Council
310 N. Main Street
Elgin, Texas 78621

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001 the Texas Racial Profiling Law. The current report serves as evidence that the Elgin Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Moreover, in 2017, the Sandra Bland Act was passed and signed into law (along with HB 3051 which introduced new racial and ethnic designations). The Sandra Bland Law requires for all law enforcement agencies in the state to collect additional data and provide a more detailed analysis.

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

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/17 and 12/31/17. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Elgin Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

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

Table of Contents

Table of Contents

(I) Introduction

- a) Opening Statement
- b) Table of Contents
- c) TCOLE Guidelines
- d) The Texas Law on Racial Profiling (S.B. 1074)
- e) Modifications to the Original Law (H.B. 3389)
- f) Designations for Racial and Ethnic Categories (H.B. 3051)
- g) The Sandra Bland Act (S.B. 1849)

(II) Responding to the Texas Racial Profiling Law

- a) Institutional Policy on Racial Profiling
- b) Educational Campaign Relevant to the Complaint Process—
Addressing Allegations of Racial Profiling Practices
- c) Racial Profiling Training of Law Enforcement Personnel
- d) Report on Complaints Filed Against Officers for Violating the Racial Profiling
Law (includes outcome of investigation)
- e) Police Contact Information Table (2017)/Known Ethnicity and Race of Detained
and TCOLE Tier 1 Form
- f) Table Depicting Baseline Comparison (2017)
- g) Analysis and Interpretation of Data (2017)

(III) Summary

- a) Checklist
- b) Contact Information

TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

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

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

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

Standard 1

Each law enforcement agency has a detailed written directive that:

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

Commentary

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

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

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

Standard 2

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

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

Commentary

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

Standard 3

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

Commentary

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

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

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

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

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

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

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

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

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

Standard 4

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

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

Commentary

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

Standard 5

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

Commentary

None

Standard 6

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

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

Commentary

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

Standard 7

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

Commentary

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

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

The Texas Law on Racial Profiling

AN ACT

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

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

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual

who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax

effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

(1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;

(2) the registration number of the vehicle involved;

(3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

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

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

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

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

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

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

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as

added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

SECTION 12. This Act takes effect September 1, 200

President of the Senate

Speaker of the House

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

Secretary of the Senate

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

Chief Clerk of the House

Approved:

Date

Governor

Modifications to the Original Law (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

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

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

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

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

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

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

(a) In this article:

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

(7) require the chief administrator of the agency,

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

search;

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

(5) the reason for the search, including whether:
(A) any contraband or other evidence was in plain view;

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

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

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

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

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

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

(a) In this article:

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

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

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

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

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

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

(B) examine the disposition of motor vehicle

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

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

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

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

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

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

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

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

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

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

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

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle ~~[traffic and pedestrian]~~ stop

for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

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

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

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

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

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

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

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

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

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

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

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

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

(1) a sentence is imposed on the person;

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

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

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

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

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

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

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or

municipal treasury complies with Subsection (e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal

Procedure) . . . \$3;

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

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

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;

~~[and]~~

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

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

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

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

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

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

(1) this chapter;

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

(3) a commission rule.

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

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

Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051

AN ACT

relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

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

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino [, Native American, or Middle Eastern descent].

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino [or Native American descent].

SECTION 3. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

The Sandra Bland Act (S.B. 1849)

S.B. No. 1849

AN ACT

relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

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

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness

or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision (2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a

reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental

retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article:

(1) releasing a defendant who has a mental illness

[mentally ill] or is a person with an intellectual disability
[mentally retarded defendant] from custody on personal or surety
bond; or

(2) ordering an examination regarding the defendant's
competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is
amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH
CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency
shall make a good faith effort to divert a person suffering a mental
health crisis or suffering from the effects of substance abuse to a
proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment
center in the agency's jurisdiction to which the agency may divert
the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a
misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue
is suspected to be the reason the person committed the alleged
offense.

(b) Subsection (a) does not apply to a person who is accused
of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065,
49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended
to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF
COMMUNITY COLLABORATIVES. (a) To the extent funds are
appropriated to the department for that purpose, the department
shall make grants to entities, including local governmental

entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

- (1) establishing [a] new collaboratives; or
- (2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

- (1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]
- (2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and
- (3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY

COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas] Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the indictment [same] to the accused or the accused's [his] counsel[,] at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may demand a copy, which shall be given as early as possible

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(a) The commission shall:

(1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;

(2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

(5) revise, amend, or change rules and procedures if necessary;

(6) provide to local government officials consultation on and technical assistance for county jails;

(7) review and comment on plans for the construction and major modification or renovation of county jails;

(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;

(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;

(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;

(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;

(12) require that the chief jailer of each municipal

lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;

(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;

(15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;

(16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; ~~and~~

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

~~(21)~~ ~~[(20)]~~ require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

~~(22)~~ ~~[(20)]~~ adopt reasonable rules and procedures

regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall adopt reasonable rules and

procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county jail:

(1) a suicide;

(2) an attempted suicide;

- (3) a death;
- (4) a serious bodily injury, as that term is defined by Section 1.07, Penal Code;
- (5) an assault;
- (6) an escape;
- (7) a sexual assault; and
- (8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection (a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position.

The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows:

commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. **The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.**

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

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

(1) topics selected by the agency; and

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

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

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; **[and]**

(C) **de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and**

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

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

(ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as

amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

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

(1) clearly define acts constituting racial profiling;

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

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

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

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

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual

detained;

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

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

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

(E) the location of the stop; and

(F) the reason for the stop; and

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

(A) the Texas Commission on Law Enforcement; and

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

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

The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or

audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

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

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

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

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

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

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

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

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

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

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

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

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

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

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

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

appointed, and must include:

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

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

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

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

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

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available

revenue, and budget surpluses. The criteria must give priority to:

- (1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;
- (2) smaller jurisdictions; and
- (3) municipal and county law enforcement agencies.

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

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that

the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [the] amount not to exceed \$5,000 [of \$1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and

(B) a glossary of terms relating to the information to make the information readily understandable to the

public.

this Act takes effect September 1, 2017.

Senate Speaker of the House _____ President of the

I hereby certify that S.B. No. 1849 passed the Senate on
May 11, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on
May 20, 2017, by the following vote: Yeas 137, Nays 0, one
present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,
Approved:

Date

Governor

Chief Clerk of the House

(II) Responding to the Law

Institutional Policy on Racial Profiling

4/2.07.04 Bias-based Profiling

DEFINITIONS

Bias-based Profiling

The selection of an individual(s) based solely on a trait common to a group for enforcement action. This includes but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.

Racial Profiling

Law enforcement initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior, or on information identifying the individual as having engaged in criminal activity, CCP Art. 3.05.

Race Or Ethnicity

A person of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent, CCP Art. 2.132 a (2).

Pedestrian Stop

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.

LAW

Articles 2.131 through 2.138 and Article 3.05 of the Texas Code of Criminal Procedures defines racial profiling and provides the bulk of applicable law regarding racial profiling regulations and monitoring requirements. Other applicable law regarding racial profiling may be found in Section 96.641 of the Education Code, Sections 1701.253 and 1701.402 of the Occupations Code, and Section 543.202 of the Transportation Code.

POLICY

Bias-based profiling in traffic contacts, field contacts, and asset seizure and forfeiture is prohibited. The race, ethnicity, gender, sexual orientation, religion, economic status, age or cultural group of an individual shall not be the sole factor in:

1. Determining the existence of probable cause to take into custody or arrest an individual, or
2. In constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a motor vehicle.

This policy is established to comply with the requirements of Texas CCP Articles 2.131 – 2.138

(effective 9/1/01). The Department will strive to maintain capabilities of video/audio recording that meet the standards for an exemption to the reporting requirements in accordance with CCP Art. 2.135.

COMPLAINTS

Citizens who wish to file a complaint alleging an act of bias-based profiling will utilize the current complaint process as defined in Section 4/1.02.05 of the Department Manual. Officers who are the subject of a complaint will be provided a copy of any audio and/or videotape records pertaining to the occurrence on which the complaint is based, if a video and/or audio record was made. Other materials related to the complaint will be provided in accordance with Department policy.

PUBLIC EDUCATION

The Office of the Chief of Police, will establish a program to provide citizens with information regarding the process for filing complaints against officers that they suspect of engaging in profiling practices. This program should include written materials explaining the process in English and Spanish.

CORRECTIVE ACTIONS

Officers who are found to be engaging in practices that may indicate bias-based profiling practices will be investigated in accordance within the Department Policy Manual, 4/1.02.05.

DATA COLLECTION

The Department will capture and report all data required under CCP Art. 2.132 pertaining to all traffic and pedestrian stops. The most efficient point for data collection of traffic and pedestrian stops is during officers' radio transmissions to the Communications Unit. These data include: The person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability; Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

OFFICER RESPONSIBILITIES

Officers will engage in traffic or pedestrian stops in a manner consistent with state law and Departmental policy. It ultimately is the officer's responsibility to insure the collection and internal reporting of all required data. Communications system overload or failure does not preclude the responsibility of data collection under the law.

Traffic Stops

1. Officers will continue to conduct traffic stops in accordance with Department procedures and will maximize officer safety over data-collection concerns. All information will be

transmitted in a manner that minimizes radio congestion.

2. Officers will initially provide Communications with the location of the stop, license plate number, or if not available, vehicle description. (The order of this information is not mandated by this policy.)
3. If the officer conducts a vehicular or individual search, the officer will advise Communications that such a search is being made, whether the search is by consent or involuntary.
4. Officers will advise if an arrest is made as a result of the search and will make a written report in accordance with Department procedures, stating the offense charged, the probable cause for the search, (i.e. odor, plain view, furtive movements), and whether contraband was seized.
5. Officers will advise Communications of the final disposition of the stop, the violators' information, to include race or ethnicity (as stated by the individual or, if not stated, in the officer's best judgment) and gender. Although gender (sex) is not required under CCP Article 2.132, the Communication of race and sex is a common practice and may be continued. The omission of gender (sex) in the final disposition does not constitute a violation of this policy. The Communications Unit may provide officers with alternative descriptors for race or ethnicity that may be used for data collection as long as the requirements of CCP Article 2.132 (a) (2) are met. Final disposition should be communicated concisely; (i.e., "warning - black male" or "citation issued - white female").

Pedestrian Stops

Officers will make pedestrian stops as required to ensure public safety and investigate criminal activities. They will provide communications with the same information as required in traffic stops with special consideration to a brief description of the reason for the detention, (i.e., matches the physical description of a suspect, articulable suspicion of a crime in progress).

COMMUNICATIONS RESPONSIBILITIES

The Communications Unit will maintain a system of procedures to collect all data as described in *Officer Responsibilities* section above, and it will provide the necessary equipment and training to its personnel to effectively complete this process. The Communications Supervisor will coordinate with the Patrol Division Commander to establish or amend any procedures necessary to simplify data-collection methods without compromising officer safety and data-collection integrity.

The Department will ensure all Department personnel receive the TCLOESE training concerning bias-based profiling mandated by Section 1701.253, Occupation Code, as well as the Department's policy regarding racial profiling in general, as well as its information collection and reporting requirements.

PATROL DIVISION RESPONSIBILITIES

The Patrol Division Commander will insure all sworn personnel comply with the provisions of this policy and state law. These responsibilities include developing and incorporating procedures for training and conducting traffic and pedestrian stops that support the data-collection requirements of this policy, as well as procedures that support an in-car video/audio tape recording system that complies with CCP Art. 2.135. Patrol Division supervisors will be responsible for monitoring officers assigned to them to identify potential profiling practices and provide interdictory guidance, or disciplinary referral as required. Each patrol officer's immediate

supervisor will randomly review the videotape for at least one of his/her traffic stops on a monthly basis to confirm videotape usage and compliance with profiling law.

OFFICE OF THE CHIEF RESPONSIBILITIES

The Office of the Chief will be responsible for oversight of the reporting process. This office will conduct an annual administrative review of data collected, to include community and personnel input, in order to amend Department policies and procedures as necessary to insure compliance with bias-based profiling legislation and policy. The Department may identify other training needs based on administrative reviews of data. The office of the chief will coordinate to offer additional training related to bias-based profiling as required. This office will publish not later than March 1 of each year an annual report that contains information compiled during the previous year; this report will be submitted to the City Council in accordance with CCP Art. 2.134 (c).

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

Informing the Public on the Process of Filing a Racial Profiling Complaint with the Elgin Police Department

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

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

Racial Profiling Training

Racial Profiling Training

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

It is important to recognize that the Chief of the Elgin Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Elgin Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

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

Racial Profiling 3256

Instructor's Note:

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

Abstract

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

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

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

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

Evaluation Process and Procedures

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

Reference Materials

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

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

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

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

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

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

A. Written departmental policies

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

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

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

F. Vehicle stop report

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

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

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

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

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

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

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

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

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

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

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

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

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

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

2.0 RACIAL PROFILING AND THE COMMUNITY

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

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

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

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

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

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

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

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

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

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

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

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

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside

6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

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

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

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

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

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

Resources

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

Web address for legislation 77R-SB1074:

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

Report on Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/17---12/31/17, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

☐

A check above indicates that the Elgin Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/17 ---- 12/31/17.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case
001	Alleged Violation of the Racial Profiling Law			Unfounded

Additional Comments:

Tables Illustrating Traffic and Motor Vehicle-Related Contacts

Tier 1 Data

(I) Tier 1 Data

Motor Vehicle-Related Contact Information (1/1/17—12/31/17)

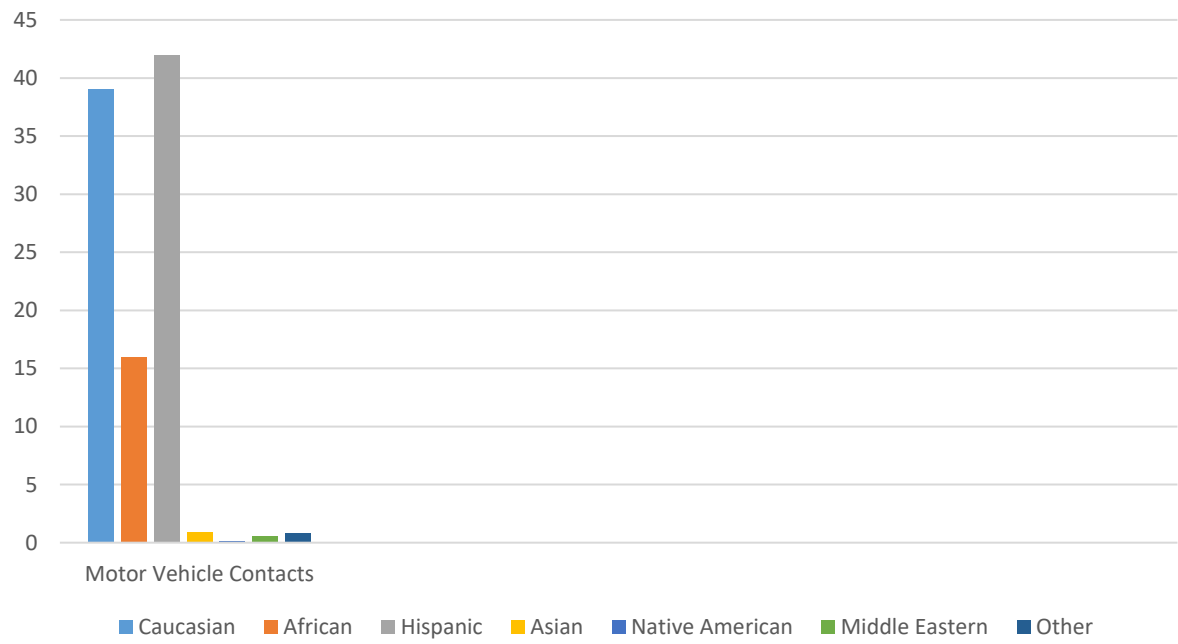
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	546	39	20	24	7	29	12	22	1	25
African	229	16	24	29	7	29	16	29	1	25
Hispanic	595	42	38	46	10	42	26	47	2	50
Asian	12	.9	0	0	0	0	0	0	0	0
Native American	2	.1	0	0	0	0	0	0	0	0
Middle Eastern	8	.6	1	1	0	0	1	2	0	0
Other	11	.8	0	0	0	0	0	0	0	0
Total	1,403	100	83	100	24	100	55	100	4	100

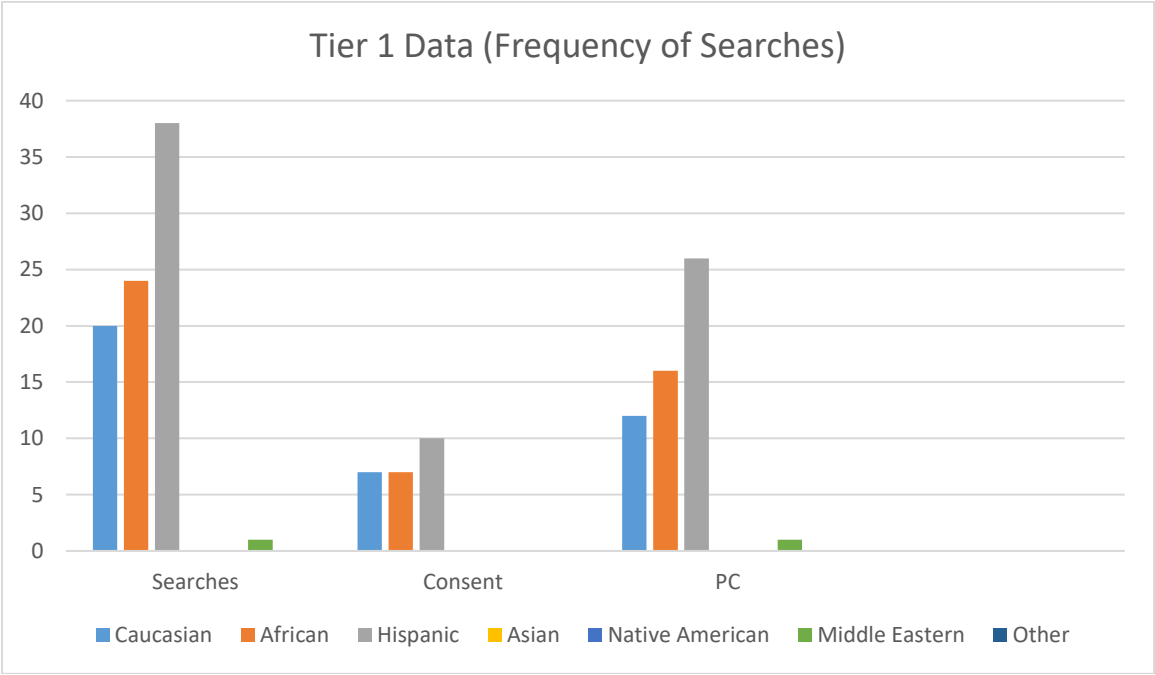
“N” represents “number” of traffic-related contacts

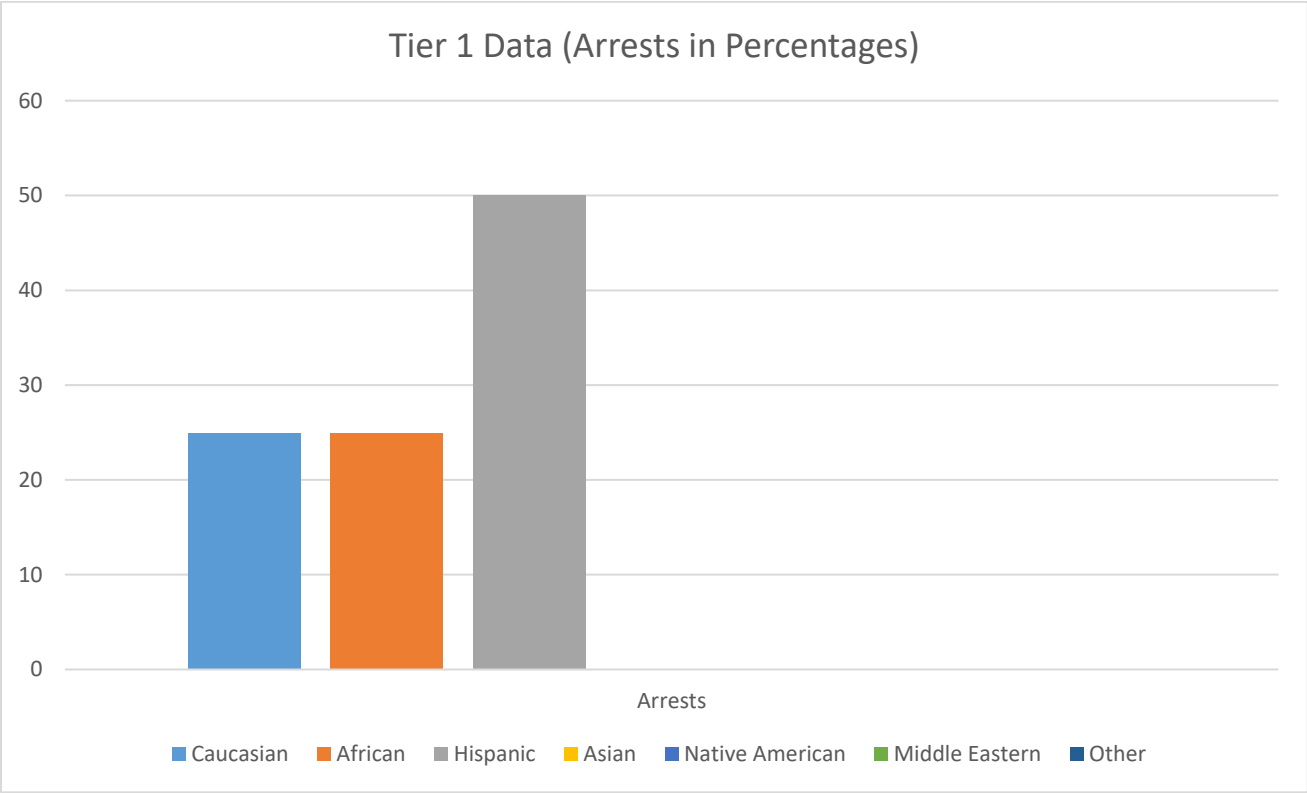
* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern”.

**Figure has been rounded

Tier 1 Data (Motor Vehicle Contacts in Percentages)

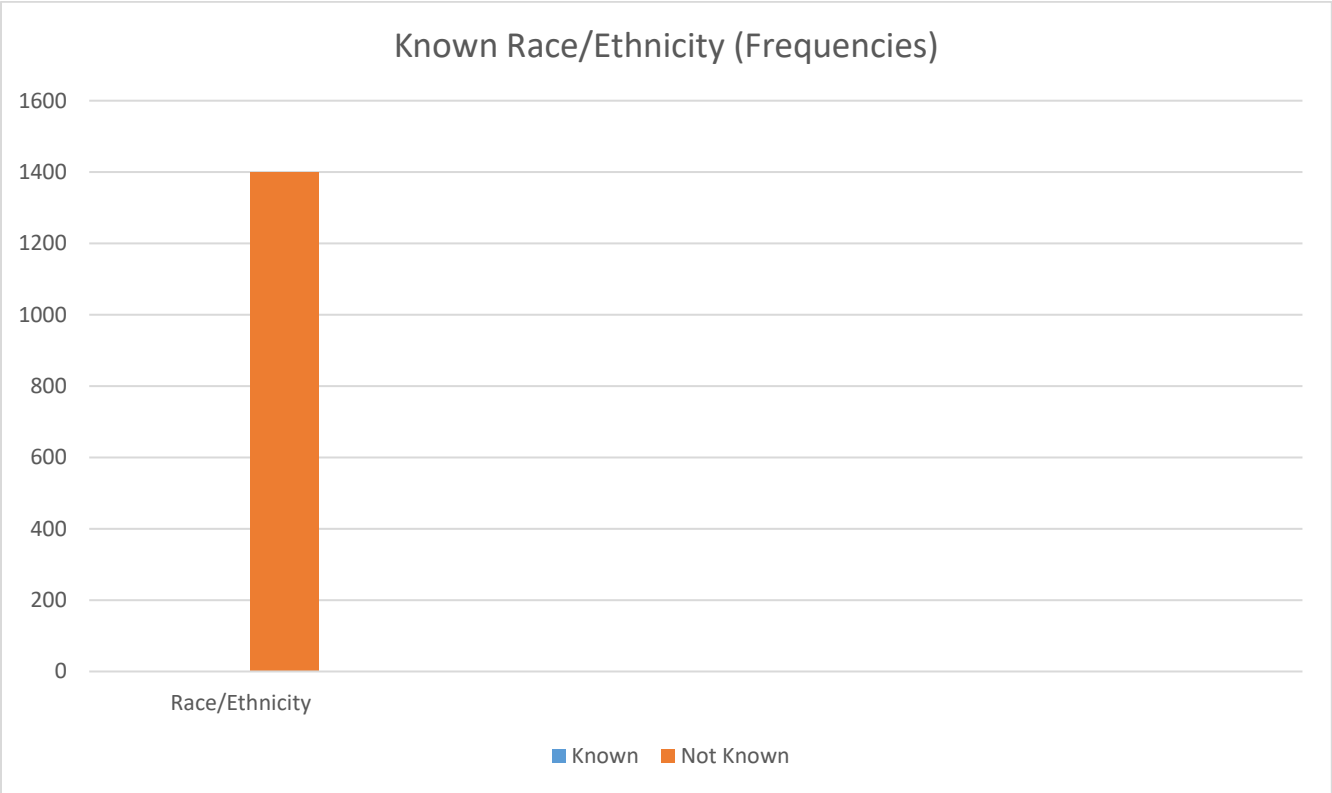






Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/17--12/31/17)

Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained	Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained
2	1,401



Tier 1 (Partial Exemption TCLEOSE Form)

Partial Exemption Racial Profiling Reporting (Tier 1)

Department Name: **Elgin Police Department**

Agency Number^{[L][SEP]} **021202**

Chief Administrator Name: **Patrick South**

Reporting Name^{[L][SEP]} **Patrick South**

Contact Number^{[L][SEP]} **(512)285-5757**

E-mail Address: **psouth@pd.ci.elgin.tx.us**

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):^{[L][SEP]} **Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:**

- (1) clearly define acts constituting racial profiling;^{[L][SEP]}
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;^{[L][SEP]}
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;^{[L][SEP]}
- (4) provide public education relating to the agency's complaint process;^{[L][SEP]}
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;^{[L][SEP]}
- (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;^[L]_[SEP]

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and^[L]_[SEP]

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

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

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

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

These policies are in effect

Patrick South 2/3/2018

Chief Administrator Date

Partial Exemption Racial Profiling Reporting

(Tier 1)

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):

☒ all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

☐ In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

Patrick South 2/3/2018

Chief Administrator Date

Partial Exemption Racial Profiling Reporting (Tier 1)

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

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

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

- 1. Total on lines 4, 11, 14, and 17 Must be equal**
- 2. Total on line 20 Must equal line 15**

Number of Motor Vehicle Stops:

1. 1399 citation only
2. 4 arrest only
3. 0 both
4. 1403 Total

Race or Ethnicity:

5. 229 African
6. 12 Asian
7. 546 Caucasian
8. 595 Hispanic
9. 8 Middle Eastern
10. 2 Native American
11. 1403* Total (*11 other not listed in 5-10 added to Caucasian in TCOLE report to meet rule #1 above)

Race or Ethnicity Known Prior to Stop?

12. 2 Yes

13. 1401 No

14. 1403 Total

Search Conducted:

15. 79 Yes

16. 1324 No

17. 1403 Total

Was Search Consented?

18. 24 Yes

19. 55 No

20. 79 Total Must Equal # 15

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

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

(A) the race or ethnicity of the individual detained;^[L]_[SEP]

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and^[L]_[SEP]

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

This report meets the above requirements

Patrick South

2/3/2018

Chief Administrator

Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

Tier 1 Baseline Comparison (Fair Roads Standard)

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

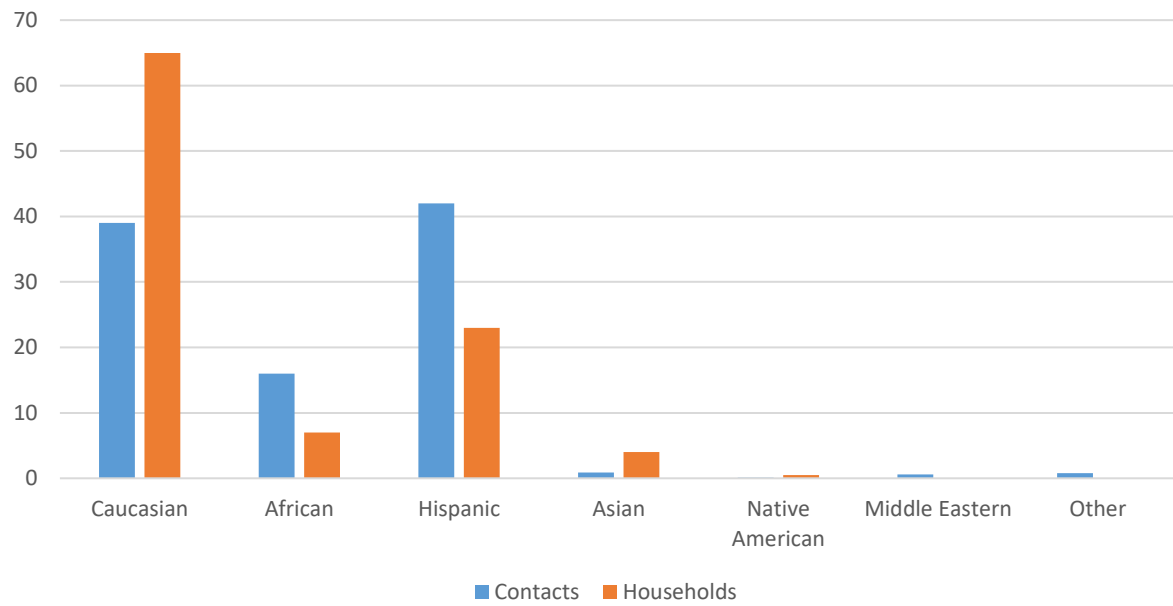
Comparison of motor vehicle-related contacts with households in Austin-Marble Falls CSA that have vehicle access (in percentages). (1/1/17—12/31/17)

Race/Ethnicity*	Contacts (in percentages)	Households with vehicle access (in percentages)
Caucasian	39	65
African	16	7
Hispanic	42	23
Asian	.9	4
Native American	.1	.5
Middle Eastern	.6	N/A
Other	.8	N/A
Total	100	99**

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

**Represents rounded figure

Motor Vehicle Contacts and Households
(Percentages) 2017



Analysis and Interpretation of Data

Analysis

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

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

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

In 2017, the Texas Legislators passed H.B. 3051 which removed the Middle Eastern data requirement but standardized the racial and ethnic categories relevant to the individuals that came in contact with the police. In addition, the Sandra Bland Act (S.B. 1849) was passed and became law. That is, the most significant legislative act in Texas history regarding future data requirements on law enforcement contacts, became law and effective January 1, 2018. All future reports will contain more extensive data entries and analysis as well as records regarding audits and the analysis of searches, as required by law.

In an effort to comply with The Texas Racial Profiling Law, the Elgin Police Department commissioned the analysis of its 2017 motor vehicle contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2017 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2017 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Elgin Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Elgin Police Department in 2017 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

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

Tier 1 (2017) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2017, it was evident that most motor vehicle-related contacts were made with Hispanic drivers. This was followed by Caucasian and African American drivers. With respect to searches, most of them were performed on Hispanic drivers. This was followed by African Americans and Caucasians. It is important to note that the arrest data revealed that Hispanic drivers were arrested the most in motor vehicle-related contacts.

Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in the Austin-Marble Falls CSA who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American and Hispanic descent that came in contact with the police was higher than the percentage of African American and Hispanic households in the Austin-Marble Falls CSA that claimed, in the 2010 census, to have access to vehicles. With respect to Caucasians, Asians and Native Americans, a lower percentage of contacts were detected. That is, the percentage of Caucasian, Asian and Native American drivers that came in contact with the police in 2017 was lower than the percentage of Caucasian, Asian and Native American households in the Austin-Marble Falls CSA with access to vehicles.

Summary of Findings

The comparison of motor vehicle contacts showed that the Elgin Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian, Asian and Native American drivers than the percentage that resided in the Austin-Marble Falls CSA and had access to vehicles. Further, the data suggested that the percentage of African American and Hispanic drivers that came in contact with the police in 2017 was higher than the percentage of African American and Hispanic households in the Austin-Marble Falls CSA with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

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

As part of this effort, the Elgin Police Department is now required by law to:

- 1) Perform an independent search analysis on the search data collected throughout 2018.
- 2) Commission data audits in 2017 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Elgin Police Department has complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

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

- ☒ Clearly defined act or actions that constitute racial profiling
- ☒ Statement indicating prohibition of any peace officer employed by the Elgin Police Department from engaging in racial profiling
- ☒ Implement a process by which an individual may file a complaint regarding racial profiling violations
- ☒ Provide public education related to the complaint process
- ☒ Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- ☒ Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- ☒ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ☒ Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2018.
- ☒ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

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

Del Carmen Consulting, LLC

817.681.7840

www.texasracialprofiling.com

www.delcarmenconsulting.com

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



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

Review and discussion of a preliminary staff report on fees, access, operating policies and procedures of the new City of Elgin Recreation Center

DEPARTMENT: Parks & Recreation

PROPOSED ACTION:

Receipt and consideration of a staff report relating to recommended fees, access, operating policies and procedures for the new City Recreation Center. No Council action is requested or anticipated at this meeting.

BACKGROUND:

Construction of the new City of Elgin Recreation Center is reaching its final stages and it is currently anticipated that the facility can be open for business as early as mid-March. Accordingly, the staff is now ready to engage in a wide-ranging discussion on proposed operating policies and procedures for the Center, including a review of possible fees and access policies.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐ included ☐ not included in the current-year budget ☒
N/A

RECOMMENDATION:

Consideration of the staff report as presented; and direction to staff, if any, as appropriate

ATTACHMENTS:

Proposed Rec Center Fees and Policies

- ☒ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☐ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Proposed Elgin Recreation Center Fees & Policies



Elgin Recreation Center

361 N Hwy 95
Elgin, Texas 78621
(512) 285-6190

Elgin Recreation Center Rates

Monthly Membership

Elgin		Smithville		Round Rock		Pflugerville		Brushy Creek		Bastrop YMCA	
Indiv. Adult	\$	20.00	\$	20.00	\$	20.00		\$	27.00	\$	35.00
Indiv. Youth	\$	15.00	\$	15.00	\$	15.00	-		-		-
Indiv. Senior	\$	15.00	\$	15.00		15.00	-		-		-
Couple	\$	25.00		\$		25.00	-		-	\$	45.00
Family	\$	30.00	\$	55.00	\$	30.00	-	\$	61.00	\$	55.00

Annual Membership

<u>Elgin</u>		<u>Smithville</u>		<u>Round Rock</u>		<u>Pflugerville</u>		<u>Brushy Creek</u>		<u>Bastrop YMCA</u>	
Indiv. Adult	\$	180.00	\$	180.00	\$	125.00	\$	110.00	\$	277.00	-
Indiv. Youth	\$	120.00	\$	135.00	\$	70.00	\$	70.00	-	-	-
Indiv. Senior	\$	120.00	\$	135.00	\$	70.00	\$	70.00	-	-	-
Couple	\$	240.00		-	\$	200.00		-	-	-	-
Family	\$	300.00	\$	495.00	\$	285.00	\$	160.00	\$	672.00	-

Day use

<u>Elgin</u>		<u>Smithville</u>		<u>Round Rock</u>		<u>Pflugerville</u>		<u>Brushy Creek</u>		<u>Bastrop YMCA</u>	
Day use	\$	5.00	\$	5.00	\$	5.00	\$	5.00	\$	15.00	-

Operation Hours

Elgin		Smithville		Round Rock		Pflugerville		Brushy Creek		Bastrop YMCA	
Monday	8am-8pm		8am-9pm		5am-10pm		5:30am-9pm		5:30am-10pm		12-5:30pm
Tuesday	8am-8pm		8am-9pm		5am-10pm		5:30am-9pm		5:30am-10pm		12-5:30pm
Wednesday	8am-8pm		8am-9pm		5am-10pm		5:30am-9pm		5:30am-10pm		8:30-5:30pm
Thursday	8am-8pm		8am-9pm		5am-10pm		5:30am-9pm		5:30am-10pm		12-5:30pm
Friday	8am-8pm		8am-6:30pm		5am-9pm		5:30am-9pm		5:30am-10pm		12-5:30pm
Saturday	11am-7pm		10am-2pm		7am-7pm		8am-8pm		6am-10pm		closed
Sunday	1pm-7pm		2pm-6pm		10am-6pm		1pm-6pm		10am-6pm		closed

Basketball Gym

Elgin Rec Center		EISD Elementary Gyms		EISD Flex Campus Gym		EISD Middle School Gym		EISD High School Main Gym		EISD High School New Gym	
\$300 (carpet/Non Member)		\$30 per hour		\$50 per hour (Also requires the charge of an additional hour for electrical start-up costs)		\$75 per hour (Tournament or playoff use=\$500 per day)		\$100 per hour (Tournament or playoff use=\$500 per day)		\$75 per hour (Tournament or playoff use=\$500 per day)	
\$270 (carpet/member)											
\$100 (non carpet/non member)											
\$90 (non carpet/member)											

Elgin Parks & Recreation Facility and Park Rates

Recreation Center Rates

	Member	Non-Member
Basketball Gym (carpeted)	\$270	\$300
Basketball Gym (uncarpeted)	\$90	\$100
Studio Activity Room	\$27	\$30
Kitchen	\$135	\$150

*Rental fees are based on a **PER HOUR** use
Pricing of the facility rental is at the Staffs discretion
Deposit of \$500 required for rental
Rentals include a 2 hour minimum

Fleming Community Center Rates

Grand Hall (includes Kitchen)	\$30
Studio Activity Room	\$20
Classroom	\$15
Meeting Room	\$15
Lounge	\$15
Grand Hall + Studio	\$50
Entire Facility	\$100

*Rental fees are based on a **PER HOUR** use
Rental time includes time for you to set up and clean up your event
Deposit of \$100 required for rental
Rentals include a 2 hour minimum

Morris Memorial Pool Rates

0-50 patrons	\$100
51-100 patrons	\$200
101- 150 patrons	\$300
151- 240 patrons	call

*Rental fees are based on a **2 HOUR** use
Rental time includes time for you to set up and clean up your event

Park Rental Rates

Elgin Memorial Park

Main Pavilion	\$30
Small Pavilion	\$15
Softball Field	\$5
Sand Volleyball Courts	\$5
Basketball/Tennis Court	\$5
Picnic Tables	\$5
Entire Park	\$800

Thomas Memorial Park

Large Pavilion	\$30
Small Pavilion	\$15
Softball Field	\$5
Soccer Field	\$5
Basketball Court	\$5
Entire Park	\$600

Veterans Memorial Park

Gazebo	\$30
Entire Park	\$300

Morris Memorial Park

Basketball Court	\$5
Backstop	\$5
Picnic table	\$5
Entire Park	\$400

Shenandoah Park

Soccer Field	\$5
Entire Park	\$300

*Rental fees are based on a **PER HOUR** use *excluding the rental for Entire Park
Rental time includes time for you to set up and clean up your event
Deposit of \$100 required for rental
Rentals include a 2 hour minimum

Membership Information

Become a Member of the Elgin Recreation Center!

Membership Rates

	Annual	Monthly
Family	\$300	\$30
Couple	\$240	\$25
Individual Adult	\$180	\$20
Individual Senior	\$120	\$15
Individual Youth	\$120	\$15

Day Use Fees

- All ages pay \$5 fee for facility use without a membership.

Membership Fees & Guidelines

The Elgin Parks & Recreation Department reserves the right to adjust membership fees as necessary.

- All youth 12 years and under must be accompanied by a guardian 18 years or older.
- Memberships are available at the Check In counter and are available to the public. Dependent upon age, memberships must be signed by an adult aged 18 & older. Spouses and children of members may also purchase a membership.
- A government issued ID must be presented at time of purchase of membership.
- All members must sign a waiver.
- Membership includes access to the Elgin Recreation Center, Morris Memorial Pool, and the ability to register for programs and services listed for members. All members must sign in upon entering the ERC
- All membership policies will be reviewed annually.
- Memberships may be purchased monthly or annually.
- Members may only register their children for programs that are specifically noted as being for children based on age requirements.
- Fees do not include externally contracted classes, leagues, tournaments, special events, or concessions.
- All patrons must adhere to ERC rules and staff. Please contact ERC staff for more information on facility rules, policies, and procedures.
- ERC staff has the right to remove anyone from the premises.
- Members will receive a 10% discount on all facilities managed by the Elgin Parks and Recreation Department

Definitions

- **Family** – Persons listed on the family membership have to be members of the same immediate family, living in the same household, claimed on the two adult's IRS tax return and children are 17 years of age and younger. A maximum of two (2) adults and two (2) children can be on a family membership. Each additional child added to the family membership will be an additional \$2 per child for the monthly membership and an additional \$10 per child for the yearly membership.
- **Couple** – Any two (2) people who live in the same residence.
- **Adult** – 18 years of age or older.
- **Senior** – 65 years of age or older.
- **Youth** – 17 years of age and younger. Youths who are 17 years of age and younger must obtain a parent/guardian's signature on the membership form before a membership will be given.

Main Gym Guidelines

By purchasing a membership/day pass to the ERC, you acknowledge and agree to abide by the facility rules. A complete list of facility rules and the discipline policy can be found in the lobby area.

- Youth 12 years and under must be accompanied by a guardian 18 years old or older.
- All members must sign a waiver.
- All patrons must adhere to ERC rules and staff. Please contact ERC staff for more information on facility rules, policies, and procedures.
- ERC staff has the right to remove anyone from the premises.
- No food or open drinks in the Gym, only water only in a plastic container with a secured lid or squirt spout is allowed
- Zero Tolerance for;
 - Inappropriate/offensive language
 - Fighting or threats of violence
 - Physical abuse or hostility
 - Destruction of city property
- The following are NOT permitted
 - Hanging from the rims or nets
 - Throwing balls at the windows or other patrons
- Must wear proper attire and footwear
- Staff may adjust rules as necessary
- Every person entering the gym must have purchased a membership or day pass

Fitness Room Guidelines

- Only individuals age **15 & OLDER** allowed
- **CLEAN EQUIPMENT** after each use. Paper towels and disinfectant are available for use
- Drinks must be in a **SEALABLE CONTAINER**
- Free weights and/or dumbbells should never be dropped on the floor
- **RERACK** your weights after use
- Use weight collars/clips with bars and weight plates
- Allow other members to **"WORK IN"**

Aerobic/Dance Studio Guidelines

- If classes are crowded, participants cannot reserve space or equipment for anyone not present.
- Patrons must be at least **15 YEARS OF AGE** to participate in fitness classes.
- Participants who enter a class after the warm up has concluded may be asked to leave.
- Stereo use and closet access is limited to current instructors.
- In order to maximize space and ensure safety, participants are encouraged to store personal belongings in one of the cubby areas or along to wall out of the way
- For the comfort and safety of participants, a towel and water bottle is highly recommended for group fitness classes.
- No cell phones are to be used inside of the studio during class instruction
- The instructor reserves the right to ask a participant to leave for refusal to follow these policies.
- Participants are encouraged to use cleaning towels to wipe down equipment before and after use.
- Put away all equipment after use

Policies & Procedures

Elgin Recreation Center Policies and Procedures

Recreational Services

Mission Statement

The Department of Parks & Recreation promotes healthy life-styles through exceptional recreational programs, services, and facilities.

Assumption of Risk

Users assume a risk of injury or even death while participating in recreational activities. All participants are strongly urged to have regular medical check-ups and carry medical insurance coverage. All members and guests are required to sign a waiver.

Important Phone Numbers

Elgin Recreation Center	512-285-5555
Elgin Recreation Center Fax	512-285-5050
Fleming Community Center	512-285-6190
Fleming Community Center Fax	512-285-3016
City Hall	512-285-5721
Police Department	512-285-5757

Elgin Recreation Center (ERC) Layout

The ERC is a single-level 14,800 sq. ft. recreational facility. The facility is located in Elgin Memorial Park. The main entrance is located on Hwy 95 in the front parking lot.

First Level

- Check in Counter
- Main Gym, basketball & volleyball court with seating
- Industrial Kitchen
- Laundry Facility
- Fitness Room
- Aerobics/Dance Studio
- Administrative Offices
- Men's/Women's locker rooms
- Sitting areas
- Restrooms
- AED and First Aid

Age Requirements

- All children 12 & younger must be with their parent or guardian at all times.
- Children ages 14 & younger are only allowed access to the Main Gym.
- Children ages 15 & older are allowed access to all areas.

Elgin Recreation Center Rental Rules

For All Community Center Users:

1. Reservations are made 7 days in advance. _____
 - a. Requests must be made a minimum of 7 days prior to an event and coordinated with the Parks and Recreation Department. Reservation requests made less than 7 days prior may not be filled due to staffing or availability issues.
2. Facility reservations are non-refundable. _____
 - a. A change of date for a cancelled reservation will be allowed for one occurrence as long as the reschedule date is available. Reservations canceled more than 24 hours in advance of event are subject to a refund minus a \$30 cancellation fee. Reservations cancelled less than 24hrs in advance would be a forfeit of the entire reservation fee.
3. Nothing is stored on site you must take your materials at the end of each event. _____
4. Event Contact assumes all responsibilities listed in reservation agreement form. _____
 - a. No part of the event may be delegated to other groups or individuals that are not listed on the reservation form as responsible parties.
5. Children must be accompanied by a responsible adult at all times. _____
6. Fees are determined by your completed reservation form. _____
 - a. All fees will be determined via the completed and submitted request/reservation form and the fees will be paid in full prior to reservation confirmation.
7. Decorations must follow guidelines listed in reservation agreement form. _____
 - a. No event materials, including banners, flyers, posters or signs may be nailed, stapled, tacked, or driven into any portion of the center, whether inside or out, or affixed to the Center in such a way that causes any changed, alterations, discoloration, staining, or need for repairs. In addition, tape and other adhesive materials may not be applied to walls or other surfaces in the Center without prior approval by the City of Elgin. Outdoor signs and banners must be pre-approved by city staff before installation.
 - b. All decorative materials must be flame proof or enclosed in a flame proof container (e.g. fish bowl, hurricane glass cover).
 - c. Fire exits, exit signs, and air system inlets or outlets must remain accessible and visible at all times.
 - d. The following materials are prohibited inside the Center: straw, hay, glitter, confetti, birdseed, rose petals, rice, sequins, chemical glow light products including but not limited to bracelets, necklaces, and glow sticks, and artificial snow.
 - e. Balloons cannot be filled with any of the above items. Rice, birdseed, paper confetti, and rose petals are permitted in the parking lot and street areas of the Center only.

8. No animals are permitted with the exception of service animals. _____

9. Facility rental time includes for set up and clean up of the event. _____

a. The events contact will be responsible to for adhering and following the stated rules for setting up, decorating, and cleaning up the event space

10. The Elgin Recreation Center is a non-smoking building. _____

a. Smokers are required to use the designated outdoor areas and receptacles only. Smoking in the Center will result in a forfeiture of the security deposit, and or assessment of additional fees for cleaning and or repairs.

By signing this form, I acknowledge I agree to abide by the City of Elgin policies and regulations. Failure to follow City of Elgin policies and regulations may result in cancellation of reservation, additional facility use, staff or security fees, and or damage, cleaning, or replacement fees at the discretion of the City of Elgin.

Event Contact: _____ Date: _____

City of Elgin: _____ Date: _____

OFFICE USE ONLY

Facility Space: _____

Date of use: _____ Time of use: _____

Keys issued: ☐ No ☐ Yes Key Code: _____

Bicycles, Hoverboards, Skateboards, In-line & roller skates

- Bicycles and hoverboards are not allowed inside the ERC. Roller skates, skateboards, and in-line skates may not be worn or used inside the ERC.
- No loitering is allowed directly outside of the ERC, this includes Bicycles, Hoverboards, Skateboards, In-line & roller skates

Clothing

Staff reserve the right to make the final decision on what is appropriate and safe. The policies, procedures, and guidelines listed are in effect for the protection of the facility, equipment, or patron.

- Clothing that expresses any profane or discriminating messages is prohibited.
- Shirts that cover the chest are required. Shirts that cover the torso and shoulders are required in the Fitness Room and Aerobics/Dance Studio.
- Shorts must be long enough to cover buttocks.
- Clothing, belts, or shoes with exposed metal are prohibited. Weightlifting belts are not allowed to be worn while on the upholstered equipment.
- Shoes are required, except in the Aerobic/Dance Studio. In the Main Gym and Fitness room, shoes must have a sole that grips and does not slip, must cover the whole foot, and must not damage or mark the floor or equipment.
- In the Aerobic/Dance Studio, appropriate attire is dictated by the activity, however, shoes or gear that damage the floor or equipment are prohibited.

Conduct

The use of abusive or profane language will not be tolerated. Recreation Services staff reserves the right to address any witnessed or reported concerns related to conduct or disruptive behavior. Disruptive behavior is not allowed and may result in membership suspension or termination.

Patrons participating in any program or utilizing any facility or service offered by Recreational Services are expected to conduct themselves in a respectful and appropriate manner; any patron violating this expectation subjects themselves to membership suspension or termination, or discontinuation of service or program. See the below list of prohibited general conduct:

- Conduct which is obscene or indecent.
- Disrupting or obstructing a program or patrons utilizing the facilities or services.
- Harassing any patron or staff during a program, in our facilities, or utilizing our services through unwanted conduct that causes reasonable fear for safety (e.g. stalking) or is sufficiently severe, pervasive and persistent that it interferes with the person's employment or ability to participate in or benefit from offered programs, services, or facilities.
- Threatening physical abuse, intimidation, coercion or conduct which threatens the health or safety of others.
- Physical abuse, intimidation, coercion or other conduct which endangers the health or safety of others.

Emergency Procedures

In the event of a fire or other emergency, alarms will sound throughout the facility. Recreation staff members or personnel will provide users with evacuation instructions. Users needing help to exit the building should notify a recreation staff member. Fire alarms and extinguishers are located conspicuously throughout the facility.

Food & Beverages

Food and beverages in plastic containers are permitted in the lobby. Water only in a plastic container with a secured lid or squirt spout is allowed in the ERC. Plastic bottles with a secured lid or squirt spout may be used in workout areas. Food, glass bottles and soda cans are prohibited inside the ERC. Please dispose of any litter properly.

Hours

Hours may change based on usage and the needs of the City of Elgin community. Refer to our home page for current events.

Injuries

If an injury occurs, please contact a member of the recreation staff immediately to assist with first aid and to document the incident. First aid supplies is available at the Check In Counter. All facility supervisors carry first-aid supplies. All participants are financially responsible for all expenses related to injuries and emergency care, including medical care and ambulance.

Lost & Found

The City of Elgin is not responsible for lost or stolen articles. Do not bring valuables to the facility. The Lost & Found is located at the Check In Desk. All "non-valuable" items will be held for 14 days, and then discarded. "Valuable items" will be turned over to the City Police, 512-285-5757. Always secure your belongings in a secure place, even when in the shower. The recreation staff is not allowed to hold valuables for users.

Music

Headphones must be used when listening to music, except for the following:

- Groups with reservations and approval to have music in the approved activity space.
- You must use your own music playing device. Extension cords will not be provided. Staff reserve the right to ask patrons to turn off or down music if deemed too loud or offensive.

Pets & Animals

No pets or animals of any kind are allowed inside facilities with the exception of working companion dogs for individuals who have a disability.

Smoking, Tobacco, Drugs and Alcohol

Smoking, smoking devices, e-cigarettes, tobacco, drugs, and alcohol in any form are prohibited.

Lobby

- This main concourse is the primary entrance to and exit from the activity areas of the ERC.
- Use of any other exterior door is prohibited and will activate an alarm system.
- Use of the computers is limited to only checking into the facility and signing waivers for activities.
- No loitering is allowed

Main Gym

- Hanging on the rims or throwing balls at the windows or at other patrons is prohibited.
- Please secure your valuables, clothing and book bags in a secure area.
- For a volleyball set up, contact a staff member at the Check In Desk.
- Courts are available on a first-come, first-served basis when not reserved for programs, special events, or approved reservations.

Fitness Room

- Users are responsible for sanitizing equipment. Each user may bring his or her own towel, or use the dry paper towel dispensers located in the workout area to remove sweat. You are encouraged to clean each machine before and after use.
- Personal belongings are to be secured in a cubby.
- Please report broken equipment to the Check In desk.
- Users must return all equipment to their proper storage location.
- Weight belts are not allowed on exercise equipment if the buckle makes contact with the upholstery.
- Users must allow others waiting for equipment to work into your rotation.
- Slamming weight stacks or dropping Olympic bars, weight plates, barbells or dumbbells is prohibited. Olympic bars, weight plates, barbells and dumbbells must be below the knee before placing down.
- Deadlifts can only occur on the power rack or in designated spaces.
- Users are recommended to have a spotter when excessive weight is lifted.
- Spring collars should be used on all bars with plates added.
- Chalk is prohibited.
- Cell phone use whether talking or texting is prohibited while exercising. Patrons talking on their cell phones while in the Fitness Room will be asked to move to the lobby area until their conversation is over. Please respect your fellow patrons.
- Due to liability and safety concerns, no person aged 14 & younger may be in the Fitness room with or without an adult present.
- Patrons must use the equipment for its intended purpose or function. Improper use of any plate-loaded machines, selectorized machines, or cardiovascular equipment will not be tolerated.

Kitchen and Laundry Area

- Use of these areas are prohibited to the public. Only staff members are allowed entry. Patrons may only enter these areas given authorized by staff.
- Any persons renting or using the kitchen facilities must have obtained an up to date food handlers permit upon staff discretion. Certificate must be provided to staff before use.
- After use of area, you must clean up after yourself. Not doing so will result in forfeit of the deposit.

Equipment Rental

- Only customers who have signed a waiver and given some form of ID may check out equipment. ID will be returned once the equipment is returned
- All checked out items should be returned on the same day they were rented 10 minutes prior to closing.
- Users will be responsible for damaged or broken equipment.
- Cash, check, and credit cards (Visa, MasterCard, and Discover) are accepted for purchases.

Aerobic/Dance Studio

- For safety considerations, classes may be limited based on space and the availability of equipment.
- If classes are crowded, participants cannot reserve space or equipment for anyone not present.
- Patrons must be at least 15 years of age to participate in fitness classes.
- Participants who enter a class after the warm up has concluded may be asked to leave.
- Participants leaving a class early are responsible for their own cool down if they choose to leave before class has ended.
- Stereo use and closet access is limited to current instructors.
- In order to maximize space and ensure safety, participants are encouraged to store personal belongings in one of the cubby areas.
- For the comfort and safety of participants, a towel and water bottle is highly recommended for group fitness classes.
- No cell phones are to be used inside of the studio during class instruction
- The instructor reserves the right to ask a participant to leave for refusal to follow these policies.
- Participants are encouraged to use cleaning towels to wipe down equipment before and after use.



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

Discussion and possible action to appoint a member to Committees/Commissions with a vacancy.

- Public Safety Advisory Committee

DEPARTMENT: Administration

PROPOSED ACTION:

Consideration of possible appointments or re-appointments to the Public Safety Advisory Committee

BACKGROUND:

Discussed at last meeting; Late last year, the City Council approved a new Ordinance establishing new policies and procedures regarding appointments and appointees to the various City commissions, boards, and committees. One goal of the new procedures was to establish a uniform appointment/reappointment schedule. As such, each year the City Secretary is to provide the Council with a list of all upcoming vacancies/appointments to such commissions, boards, and committees thirty (30) days prior to the January Regular Meeting. For a variety of reasons, however, it was necessary to 'push' this schedule forward one month for this first year.

As part of the series of committee appointments made two weeks ago, there may have been confusion regarding a vacancy on the Public Safety Advisory Committee. Based on the information received in time to be included in the meeting packet, there was one more vacancy than what the staff had received applicants for. However, there was one more application for that came in late (see attached) and, in all the discussion of this agenda item, it may have been overlooked. Accordingly, this item has been returned to the agenda so that Council may consider the appointment of this applicant to the one remaining vacancy on said Committee.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐ included ☐ not included in the current-year budget ☒
N/A

RECOMMENDATION:

Appointment to the Public Safety Advisory Committee by Council; and/or further to staff, as necessary.

ATTACHMENTS:

Application

Public Safety Advisory Committee

Ordinance

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☒ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

From: noreply@civicplus.com
To: [Amelia Sanchez](#)
Subject: Online Form Submittal: Application for Community Boards
Date: Friday, January 12, 2018 8:50:11 PM

Application for Community Boards

Step 1

First Name	Timothy
Last Name	Brooks
Telephone	2107929122
Telephone	2107929122
Telephone	2107929122
Address	18352 Crestwind Lane
City	Elgin
State	TX
Zip Code	78621
Mailing Address	18352 Crestwind Lane
City	Elgin
State	TX
Zip Code	78621
Email Address	tim.brks@gmail.com
Is email a way of contacting you promptly?	Yes
If not, how?	<i>Field not completed.</i>
Which of the Following Boards or Commissions Would You Like to Serve On	Planning and Zoning Commission, Public Safety Advisory Committee
If you apply for multiple boards/commissions, please rank your preferences as 1st, 2nd, 3rd, etc.	1-Planning and Zoning Commission 2- Public Safety Advisory Committee

Reference 1	Phil Thomas
Email Address	bpthomas10.pt@gmail.com
Address	100 Vicksburg Loop
City	Elgin
State	TX
Zip Code	78621
Phone Number	512.661.8411
Fax Number	<i>Field not completed.</i>
Reference 2	Sherri Silva
Email Address	rainbowstoo2@yahoo.com
Address	512 Gettysburg Loop
City	Elgin
State	TX
Zip Code	78621
Phone Number	702.328.0801
Fax Number	<i>Field not completed.</i>
Reference 3	Valarie Scott
Email Address	Valarie.scott@att.net
Address	105 Gettysburg Loop
City	Elgin
State	TX
Zip Code	78621
Phone Number	512.550.9770
Fax Number	<i>Field not completed.</i>
Occupation and/or Area(s) of Expertise	Sr. Construction Project Manager LTC TX Guard

Education	MBA Lindenwood University, St. Louis MO
Additional Pertinent Information	
Do you reside within the City Limits of Elgin?	Yes
If yes, how long?	3 Years
What Ward?	<i>Field not completed.</i>
Do you reside within the Elgin Independent School District?	Yes
Do you own property or a business in the Elgin Area?	Yes
If yes, please specify business name and/or property location	18352 Crestwind Lane
Are you a registered voter?	Yes
Are you currently serving on any other City of Elgin Board/Commission/Committee?	No
If yes, please indicate name	<i>Field not completed.</i>
Recognizing that serving on a Board or Commission is often time consuming, are you committed to attending all regularly scheduled meetings?	Yes
If not, why?	<i>Field not completed.</i>
Why would you like to serve on the selected Board or Commission?	I use to serve on Boards and Commission before we moved and enjoyed helping the community in growing, and expanding.
Do you or your employer have any business dealings with the City of Elgin that might present a conflict of interest?	No
Do you have your employer's support to serve on a Board or Commission?	Yes

Board members are required to participate in training and obtain a certificate of completion for the Texas Open Meetings Act and Public Information Act within 90 days after date of appointment.

Do you agree to complete any training necessary for the Board or Commission?	Yes
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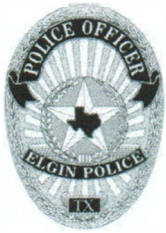
How did you hear of the available position(s)?	The local paper
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Completing and submitting this application does not guarantee your placement on a city board. Your application will be reviewed and kept on file for 2 years for possible placement of an opening on a Board or Commission.

Signature of Applicant	Tim Brooks
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Date	1/12/2018
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Email not displaying correctly? [View it in your browser.](#)



Elgin Police Department
Office of the Assistant Chief
202 Depot Street • Elgin, Texas 78621 • 512 / 281-3330



To: Tom Mattis, City Manager
From: Assistant Chief Phillip Taylor
Date: February 1, 2018
Ref: Public Safety Advisory Committee (PSAC) Appointments

Mr. Mattis,

Per Chief South's instructions, below you will find updated information related to PSAC appointments. If further clarification is need please do not hesitate to let me know.

Name:	Position:	Term Exp:	Status:	Notes:
Randy Starr	Chair	Unknown	wants to continue	current member
Deborah Loftin		Unknown	replaced by	Bettye Lofton (Wants to continue)
Vince Dungan		Unknown	wants to continue	current member
Mike Walterscheidt			wants to continue	current member - lives outside of city
Barbara Tate			wants to continue	current member (Secretary)
Byron Green			wants to continue	current member
Neil Stone			deceased	

Respectfully,

A handwritten signature in blue ink that reads "Phillip Taylor".

Phillip Taylor

ORDINANCE NO. 2017-10-10-19

AN ORDINANCE ESTABLISHING GENERAL RULES AND PROCEDURES, INCLUDING APPOINTMENTS, TERM LIMITS, AND RELATED MATTERS FOR ALL BOARDS AND COMMISSIONS OF THE CITY OF ELGIN, TEXAS; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR A SAVINGS CLAUSE

WHEREAS, Article XI of the Home Rule Charter of the City of Elgin provide the City Council with exclusive authority to establish “boards and commissions as it may deem necessary conduct of city business and management of municipal affairs”; and,

WHEREAS, Article XI of the Home Rule Charter of the City of Elgin further provides the City Council with authority to establish “authority, functions, and responsibilities of such boards and commissions”; and,

WHEREAS, the City Council is now desirous of establishing, among other items, procedural consistency regarding the appointment schedules for all such boards and commissions as well as term limits regarding same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS:

I.

Sec. 1 - Purpose.

The purpose of this Ordinance is to establish clarity as to general rules and procedures for all City of Elgin Boards and Commissions.

Sec. 2 – City Charter Authority

Article XI of the Home Rule Charter of the City of Elgin, states “The city council shall have the authority to establish by ordinance for the such boards and commissions as it may deem necessary conduct of city business and management of municipal affairs. The authority, functions, and responsibilities of such boards and commissions shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions

heretofore established shall be continued in accordance with the ordinance or other acts under which they have been created, or until the city council shall by ordinance abolish, modify, or alter the ordinances or acts under which they exist. Notwithstanding, any other provision of this Charter the elected city council shall have paramount authority over all matters affecting the budgets, appropriation of funds expenditures, purchases, and sale of properties and procedures for accounting therefore consistent with the express provisions of this Charter and applicable provisions of the State Constitution and law of this State.”

Sec. 3 – Boards and Commissions

(1) As of the date of this Ordinance, the following Boards and/or Commissions have been authorized and or duly recognized by the City Council:

- Planning & Zoning Commission
- Board of Adjustment
- Library Advisory Board
- Parks & Recreation Advisory Board
- Economic Development Corporation Board of Directors
- Tax Increment Reinvestment Zone Board of Directors
- Public Safety Advisory Committee
- Historic Review Board
- Main Street Board of Directors
- Building Standards Commission

- (2) Ad hoc boards may be temporarily appointed and terminate upon completion of a specific task or special purpose for which it was created, or when abolished by a majority vote of the City Council. No ad hoc board shall have powers other than advisory to the City Council.

Sec. 4 – Meeting Times and Agenda

Boards, commissions, and committees shall set their own meeting times. All boards, commissions, and committees shall be subject to these rules. Each board, commission, and committee shall set their own agenda, so long as it is in accordance with the Texas Open Meetings Act.

Sec. 5 – Regulatory Authority

The Board of Adjustments, Economic Development Corporation, and Planning and Zoning Commission, are the only boards and commissions that have regulatory authority.

Sec. 6 – Appointments

The City Council will review applications and may, at their discretion, interview eligible applicants for open positions on boards and commissions. Applications are accepted year-round and will be kept on file in the City Secretary's Office until the next appointment process.

Sec. 7 – Board and/or Commission Members

Members appointed to boards or commissions serve at the will of the Council and may be removed, replaced, or not reappointed at the discretion of the Council, by majority vote, with or without cause. When conducting the business of the City, appointed members of all boards or commissions shall follow the rules of procedure set forth by the City Council.

Sec. 8 – Qualifications of Board and/or Commission Appointees

- (1) Members appointed to boards and commissions, for at least twelve (12) months preceding their appointment, must be
 - a. registered voters of the city who have resided within the corporate limits of the City of Elgin, or within territory annexed prior to the appointment; or
 - b. an owner of real property within the corporate limits of the City; or,
 - c. an owner of a business located within the corporate limits of the City.
- (2) Members appointed to boards and commissions should not have any delinquent City taxes, City utilities, or other City assessments; and must not have any pending claim against the City.
- (3) Members appointed to boards and commissions serve without compensation and must not be employed by or hold any other position in city government.
- (4) No member of a board or commission may remain in his/her position after being elected or appointed to City Council.
- (5) In addition to any other requirements prescribed by the City Council, members must maintain the qualifications established while in office.

Sec. 9 – Uniform Appointment Schedule for Board and/or Commission Members

All board and/or commission appointments shall be made at the Regular Meeting of the City Council in January of each year. The City Secretary shall establish deadlines and procedures for providing all applications to the City Council relating to upcoming board and commission appointments at least thirty (30) days prior to the January Regular City Council Meeting each year.

Sec. 10 – Open Government Training

Upon initial appointment, within 90 days of taking the oath of office or assuming duties, all board, commission, and or committee members shall be required to watch the Texas Public Information Act and the Texas Open Meetings Act training videos as provided by the City Secretary.

Sec. 11 –Waiver of Qualifications Requirements

Solely at its discretion, the City Council may consider on a case-by-case basis the waiver of any and all such qualification requirements and/or rules for individual appointments to any board or commission as they may be deemed warranted in serving the best interest of the City.

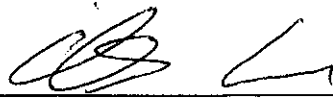
II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this ordinance and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meeting Act, Chapter 551, Texas Government Code, as amended.

READ, PASSED, and ADOPTED on first reading this 10th day of October 2017.



CHRIS CANNON, Mayor
City of Elgin, Texas

ATTEST:



Amelia Sanchez, City Secretary