

## **Racial Profiling Report 2016**

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### **ALAMO HEIGHTS POLICE DEPARTMENT Police Contact Data (Tier I Data) Annual Report January 1, 2016 through December 31, 2016**

In accordance with the Texas Racial Profiling Law, Art. 2.134 CCP, the Alamo Heights Police Department has collected police contact data to comply with the law. Throughout the past year, the police department has worked to ensure that the numbers reported, via citations and arrest reports, were as accurate as possible. The information reported in this report only applies to what is referred to as Tier I information (stops that resulted in a citation or arrest). Due to the installation of mobile video camera systems in police vehicles, the department is not required to capture information referred to as Tier II information and is exempt from Tier II reporting requirements.

In this report there are several sections intended and designed to provide background information on the rationale and objectives of the Texas Racial Profiling Law. Other sections contain information relevant to the policies adopted by the Alamo Heights Police Department prohibiting the practice of racial profiling among its officers, providing for a complaint system, and requiring the use of video or voice recordings on all traffic and pedestrian stops.

The first component of this report (Exhibit 1) provides statistical data relevant to the public contacts made during the period of 1/1/2016 and 12/31/2016. Other analysis compares searches and arrests to the total number of traffic stops conducted over the listed time period. This data captured in Exhibit 1 has been analyzed and compared to the U.S. Census data (2010) concerning the population demographics of the City of Alamo Heights.

It is important to point out there are limitations as to the interpretation and extrapolation of "information" from this data. We feel confident that our analysis is as correct and relevant as any model that could be used to evaluate the data we have collected. The comparative analysis model that we have used (Exhibit 2) is only one model that could have been used. Again, this points to the limitations of the way these numbers are extrapolated and evaluated, which is a big warning sign on the validity issues surrounding this entire process.

**Assessment of the Data Analysis:** The City of Alamo Heights is located north and immediately outside of the downtown area of the City of San Antonio, Bexar County, Texas. The areas immediately surrounding the San Antonio downtown area are primarily historic districts. In the immediate area of Alamo Heights include a growing San Antonio entertainment/retail/housing district, numerous public and private schools, two major universities, Olmos Park, Brackenridge Park, Witte Museum, San Antonio Zoo, two municipal golf courses, Ft. Sam Houston Military Base, San Antonio Military Medical Center, the City of Terrell Hills and the City of Olmos Park.

Major thoroughfares in Alamo Heights include Loop 368 (Austin Hwy and Broadway), both of which provide direct access to the center of downtown San Antonio, a large tourist and convention area as well as a growing housing/office/retail town center development. Additionally, Broadway is a direct route to the San Antonio International Airport and connects with Loop 410 to the north and IH 35 to the south. Loop 368 (Austin Hwy) is a direct connect to the IH35N / Loop 410 corridor to the northeast. North New Braunfels Avenue borders the City of Alamo Heights connecting to Loop 410 on the north and terminating as a public access roadway at the north gates to Fort Sam Houston. Finally, US Hwy 281N borders the City of Alamo Heights on the west.

The aforementioned all contribute to a large volume of commuter traffic passing through the City of Alamo Heights to areas in San Antonio. This large volume of commuter traffic contributes to a high percentage of traffic enforcement and, in some cases, arrests subsequent to traffic enforcement. A high ratio of minority commuters who reside in the surrounding areas or work in the downtown areas are also subject to enforcement actions when violations are observed.

The total number of traffic enforcement stops where court citations were issued and/or arrests were made was 3,652. This number does not indicate the number of charges but only the number of drivers detained. It is possible to file multiple charges on a person, either by citation or arrest, during a stop, but only counts as one stop for the purposes of this report. Traffic stops where only warning citations were issued are not recorded as traffic contacts unless an arrest is made.

When compared to the 2010 US Census data for the City of Alamo Heights it would appear the Alamo Heights Police Department may be enforcing the traffic laws of this city and state more stringently on some percentages of the population. For example, persons of Hispanic origin represent 16.3% of the Alamo Heights population but accounted for 24.2% of enforcement actions. This would appear to be contrary to the ethnic ratio for persons of Hispanic origin living in Alamo Heights. However, this would appear to be a low ratio when compared to the City of San Antonio US Census data (2010) where persons of Hispanic origin represent 63.2% of the population. Given the large volume of transient commuter traffic who actually reside in the City of San Antonio it is reasonable to compare enforcement activities to US Census data for the City of San Antonio and Bexar County. See Exhibit 2 for a comparative analysis of the population ratios of Alamo Heights, San Antonio, and Bexar County.

### **Summary Statement**

The findings in this report suggest that the Alamo Heights Police Department does not currently experience a problem regarding racial profiling practices.

**ALAMO HEIGHTS POLICE DEPARTMENT**  
**Police Contact Data**  
**Annual Report**  
**January 1, 2016 - December 31, 2016**  
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**II. Background Information**

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**Police Department Background**

The Alamo Heights Police Department (AHPD) is made up of 22 commissioned officers and 13 staff members. The AHPD officers are committed to performing their jobs in a professional manner while serving the community members and its surrounding areas. This commitment can be found in the AHPD mission statement, vision statement, core values, and goals and reinforced through the issuance of pocket cards to every officer commonly used as a reference during discussions between administrative, supervisory and line personnel.

The department promotes to all its members a philosophy of community-policing practices in order to provide quality service to all residents of the community. In 2002, the Alamo Heights Police Department adopted a policy, in accordance with Texas law on Racial Profiling, prohibiting racial profiling practices by AHPD officers. This policy was updated in 2011 and 2015 to meet accreditation standards for the Texas Police Chiefs Association Best Practices Recognition Program.

**Mission Statement of the Alamo Heights Police Department**

The Alamo Heights Police Department is committed to developing a community partnership with an emphasis on integrity, fairness and professionalism to positively impact the quality of life and promote a safe environment by resolving problems, enforcing the law and preserving the peace.

### **Vision Statement of the Alamo Heights Police Department**

A community environment where the public has full faith and confidence in its police department; it is an environment wherein citizens of the community believe that they are safe and secure in their homes and businesses; it is an environment wherein the criminal element does not feel safe and secure in its activities.

### **Core Values of the Alamo Heights Police Department**

**Integrity** – We are committed to uphold our positions of trust by maintaining the highest ethical standards as set forth in the law enforcement code of ethics.

**Community Safety** – We are committed to public safety through community partnerships, public education, community watch strategies, and the steadfast enforcement of violations of the law.

**Service** – We are committed to prompt, professional and courteous service, unbiased and effective in our response to community concerns.

**Quality** – We are committed to the highest standards of excellence through recruitment, training, teamwork, leadership, innovation, technology and accountability.

### **Goals of the Alamo Heights Police Department**

- Maintain positive interaction with the public and a high degree of visibility within the community.
- Educate the public to the community's role and responsibility in the prevention, detection, and resolution of crime.
- Develop and improve internal systems which assure high quality service to our community while increasing the Department's efficiency.
- Recruit and retain a diverse, highly skilled and motivated law enforcement workforce.
- Provide a rewarding work environment and invest in personnel development.

### **III. Responding to the Texas Racial Profiling Law**

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#### **Educational Campaign:**

In accordance to Senate Bill 1074, the Alamo Heights Police Department has made significant efforts to launch an educational campaign aimed at informing the public on issues relevant to the complaint process. Special emphasis has been placed on informing community members on filing a complaint relevant to racial profiling practices.

The Chief of Police has posted a public statement on the City's web page to inform the public on efforts being made by the police department to continue banning racial profiling practices among its officers. Additionally, the department's complaint system is published on the police department home page on the City's web page.

#### **Filing a Complaint Based on Violations of the Texas Law on Racial Profiling**

A pamphlet has been designed, printed, and distributed that fully explains the Internal Affairs/Complaint system of the department. The following information is extrapolated from the pamphlet, the complaint form, and the procedure for investigation complaints received:

## UNDERSTANDING THE PROCESS

Once an individual has filed a complaint regarding racial profiling, he/she should expect the following process to commence:

### THE INTERVIEW

A police supervisor (rank of sergeant or higher) may interview the individual filing the complaint with the intention of gathering information pertaining to the incident. Through this process it may be possible that the supervisor is able to explain the officer's actions to the complainant's satisfaction.

If the supervisor is not able to satisfactorily answer the citizen's complaint, the supervisor will assist them in filing a formal complaint, if they wish. If the citizen does not wish to be assisted by the supervisor, they will be given a formal complaint pamphlet and given instructions on completing it.

### THE INVESTIGATION

After a formal complaint is filed, the Alamo Heights Police Department will investigate the alleged misconduct. The Chief of Police will assign an investigator experienced in internal investigation procedures who will talk to the complainant, any witnesses, and will visit the site of the incident.

- The Chief of Police receives all formal complaints, reviews them, logs them into the IA log and assigns the investigation to an investigator.
- The complainant will receive a letter from the Chief of Police, regarding the progress of the investigation. Although it is impossible to estimate how long the investigation will take, the complainant is advised they can expect a report as to the outcome of the investigation in about two weeks.
- All officers having knowledge of the incident will be interviewed as well as any identified witnesses.
- A report will then be prepared with conclusions and recommendations.
- The Chief of Police will review the report of investigation to determine if any rule, policy, or regulation has been violated. If it is determined that a violation has occurred it will be decision of the Chief of Police as to the discipline that will be administered.

### THE FINDINGS

The results of a complaint are called "findings". There are four possible findings:

- **Sustained** - The complaint has been supported: The officer(s) involved acted improperly and may be disciplined.
- **Unfounded** - The investigation found no basis to the complaint filed.
- **Exonerated** - The police officer(s) involved acted properly and will not be disciplined; or
- **Not sustained** - There was insufficient evidence to prove the complaint true or false and no further action will be taken.

The Chief of Police will decide on a finding after the complaint has been reviewed and will inform the complainant through an official letter of the final decision.

## **A COMMITMENT TO RESPOND TO THE NEEDS OF THE COMMUNITY**

The Alamo Heights Police Department has made a commitment to its citizens regarding the following:

1. The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.
2. Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall direct the complainant to a supervisor or offer to provide them with a formal complaint packet. Any employee contacted shall provide to any person a copy of a complaint form or the department process for filing a complaint. All employees will report any allegation of racial profiling to their superior before the end of their shift.
3. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the chief. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.
4. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including indefinite suspension (termination).
5. If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

### **Corrective Action**

It is the policy of the Alamo Heights Police Department that any officer who, after an internal investigation, has been found guilty of engaging in racial profiling, that one of the following series of disciplinary measures is taken (as per the recommendation of the chief of police):

1. Officer is retrained in racial sensitivity issues
2. Officer is suspended and as a condition of further involvement with the police department is required to undergo racial sensitivity training
3. Officer is indefinitely suspended (terminated)

### **Data on Corrective Action**

**There were no public complaints made alleging racial profiling by any member of the Alamo Heights Police Department during the 2016 reporting period. There were no internal reports made to the Chief of Police by members of the Alamo Heights Police Department alleging racial profiling by another member of the Alamo Heights Police Department during the 2016 reporting period.**

## Training

In compliance with the Texas Racial Profiling Law, the Alamo Heights Police Department required that all its officers adhere to all Texas Commission on Law Enforcement Officers (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

All officers from the Alamo Heights Police Department have completed a TCOLE training and education program on racial profiling, as required by law, by 08/31/02 or will have completed the required training not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCOLE intermediate proficiency certificate, or who had held a peace officer license issued by TCOLE for at least two years, will complete a TCOLE training and education program on racial profiling not later than September 1, 2003. The department has met all training requirements mandated by law.

The Chief of Police, as part of the initial training and continued education for such appointment, attended the LEMIT program on racial profiling. This fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Training law.

## Checklist

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**The following requirements must be met by all law enforcement agencies in the State of Texas:**

- Clearly defined act of actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Alamo Heights 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 officers found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
  - Race and ethnicity of drivers contacted during a traffic enforcement investigation
  - Whether the race of the driver was known prior to the contact
  - Whether a search of the vehicle was conducted
  - If there was a search, whether it was a consent search or a non-consent search
  - Whether a custodial arrest took place
- Produce an annual report on police contacts (Tier 1) by March 1, 2017. As a part of this requirement the annual report is presented to the governing body of Alamo Heights and a Tier 1 data report is provided to the Texas Commission on Law Enforcement (TCLOE) before March 1, 2017. **The required Tier 1 report was submitted to TCOLE and accepted on January 30, 2017. The required annual report was presented to the Alamo Heights City Council at a regularly scheduled City Council meeting on February 13, 2017.**
- Adopt a policy on standards for reviewing video and audio documentation of traffic stops.

**The Alamo Heights Police Department has complied with all requirements of the Texas Racial Profiling Law.**

**2016 Racial Profiling Report**  
**Demographics, Traffic Stops, Searched, Not Searched & Arrests**  
**Exhibit 1**

Number of MV Stops citation only arrest only citations & arrest	Month												Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Spt	Oct	Nov	Dec	
313	350	266	261	292	294	278	322	327	325	279	187	3494	
5	2	3	4	3	2	2	4	7	3	1	3	39	
9	7	9	15	7	13	11	15	7	13	7	6	119	
327	359	278	280	302	309	291	341	341	341	341	287	3652	

Race or Ethnicity	Month												Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Spt	Oct	Nov	Dec	
african	26	53	22	25	30	29	26	29	29	22	22	19	332
asian	1	6	5	3	3	3	4	1	7	2	3	2	40
caucasian	213	201	165	187	200	209	176	237	211	217	181	144	2341
hispanic	77	94	79	61	65	65	81	70	88	98	76	29	883
middle eastern	7	5	5	2	4	2	4	3	4	0	0	2	38
native american	3	0	2	2	0	1	0	1	2	2	5	0	18
	327	359	278	280	302	309	291	341	341	341	287	196	3652

R/E Known Prior to Stop	Month												Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Spt	Oct	Nov	Dec	
yes	1	2	1	4	1	1	1	4	3	0	2	0	20
no	326	357	277	276	301	308	290	337	338	341	285	196	3632
	327	359	278	280	302	309	291	341	341	341	287	196	3652

Search Conducted	Month												Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Spt	Oct	Nov	Dec	
yes	84	77	69	62	68	66	82	89	74	102	73	49	895
no	243	282	209	218	234	243	209	252	267	239	214	147	2757
	327	359	278	280	302	309	291	341	341	341	287	196	3652

Was Search Consented ?	Month												Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Spt	Oct	Nov	Dec	
yes	14	6	7	12	10	10	13	19	4	11	5	7	118
no	70	71	62	50	58	56	69	70	70	91	68	42	777
	84	77	69	62	68	66	82	89	74	102	73	49	895

Vehicles Impounded	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Spt	Oct	Nov	Dec	Total
	81	80	76	71	78	86	102	103	98	113	84	58	1030

ALAMO HEIGHTS POLICE DEPARTMENT  
2016 Racial Profiling Audit

Census Comparisons To Police Activities  
Period: 01/01/2016 - 12/31/2016  
Exhibit 2

2016 AHPD Contact & Arrest	2010 Census Data							
	Alamo Heights 7031		San Antonio 1,327,407		Bexar County 1,714,773			
#	%	%	+ or (-)	%	+ or (-)	%	+ or (-)	
African	332	9.1%	0.7	+8.4%	6.9	(+2.2%	7.5	(+1.6%
Asian	40	1.1%	1.4	(-0.3%	2.5	(-1.4%	2.5	(-1.4%
Caucasian	2,341	64.1%	94.4	(-30.3%	72.6	(-8.5%	72.9	(-8.8%
Middle Easterner	38	1.0%	***	***	***	***	***	***
Native Amer. <sup>1</sup>	18	0.5%	0.4	+0.1%	0.9	(-0.4%	0.8	(-0.3%
Hispanic <sup>2</sup>	883	24.2%	16.3	+7.9%	63.2	(-39.0%	58.7	(-34.5%
Unknown	0							
<b>Total Contacts</b>	<b>3,652</b>	<b>100.0%</b>						

<sup>1</sup> includes Native Alaskan and Pacific Islander

<sup>2</sup> included in caucasian totals

\*\*\* middle easterners counted as "other" or "multi-ethnicity" in the 2010 census

# ALAMO HEIGHTS POLICE DEPARTMENT

## 2016 Racial Profiling Report

### Census Comparisons - 2010 Census Report

Race/Ethnicity	Alamo Heights	San Antonio	Bexar County
<b>2010 Census Population</b>	7031	1,327,407	1,714,773
Caucasian	94.4% (a)	72.6% (a)	72.9% (a)
African American	0.7% (a)	6.9% (a)	7.5% (a)
Hispanic	16.3% (b)	63.2% (b)	58.7% (b)
Asian	1.4% (a)	2.5% (a)	2.5% (a)
Native American	0.4% (a)	0.9% (a)	0.8% (a)

(a) includes persons reporting only one race  
 (b) hispanics may be of any race, so also are included in applicable race categories



City of Alamo Heights Police Department  
6116 Broadway  
Alamo Heights, Texas 78209

**Texas Law Enforcement Complies with Senate Bill 1074  
Racial Profiling**

**Public Notice**

The Alamo Heights Police Department supports the 77th Texas Legislature's mandate prohibiting racial profiling in Texas. Our police officers work under a departmental policy that is consistent with all state and federal laws. The policy includes provisions for citizens to contact us if they have a conflict with an officer from the Alamo Heights Police Department.

The Alamo Heights Police Department realizes that there will be disagreements, from time to time, with individuals that come in contact with our officers. We realize that confusion, different perceptions or possibly the timeliness of information could result in information that may produce different accounts of the same incident. These disagreements between citizens and officers need to be addressed. We trust that the vast majority of contacts between citizens and officers are conducted in a positive, professional manner. The relationship between the community and our officers is based on confidence and trust. We cannot be effective without both the community and our officers working together to achieve this goal.

Citizens feeling that they have a legitimate concern may make a formal complaint to the Alamo Heights Police Department at any time by contacting any member of this department for information on the complaint process. Additional information about this process may be obtained by calling us at (210) 822-6433.

The Alamo Heights Police Department would also like to know about positive police contacts. Please write the Chief of Police a letter or note to let him or her know about a positive contact with our officers. Chief Pruitt will let the officer know about your letter and a copy will be placed in the officer's personnel folder.

We are very proud of the relationship the Alamo Heights Police Department shares with the community. Our longstanding goal is to provide our citizens with a safe community where all may live without the fear of crime.

Richard L. Pruitt Sr., Chief of Police  
Alamo Heights Police Department



## ALAMO HEIGHTS POLICE DEPARTMENT

### Policy 2.2 Bias Based Policing

Effective Date: 06/29/11

Replaces: 806

Approved: Richard Pruitt Sr.  
Chief of Police

Reference: TBP 2.01

### I. POLICY

We are committed to a respect for constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, national origin, ethnicity, age, or religion. All people carry biases: in law enforcement, however, the failure to control our biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of our department. Most importantly, actions guided by bias destroy the trust and respect essential for our mission to succeed. We live and work in communities very diverse in population: respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions, particularly stops of individuals (for traffic and other purposes), investigative detentions, arrests, searches and seizures of persons or property, shall be based on standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, sex, sexual orientation, gender, national origin, ethnicity, age, or religion. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

All departmental orders are informed and guided by this directive. Nothing in this order limits non-enforcement contacts between officers and the public.

## II. PURPOSE

The purpose of this order is to provide general guidance on reducing the presence of bias in law enforcement actions, to identify key contexts in which bias may influence these actions, and emphasize the importance of the constitutional guidelines within which we operate.

## III. DEFINITIONS

Most of the following terms appear in this order. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

- A. **Bias:** Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.
- B. **Biased policing:** Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- C. **Ethnicity:** A cluster of characteristics which may include race but also cultural characteristics or traits which are shared by a group with a common experience or history.
- D. **Gender:** Unlike sex, a psychological classification based on cultural characteristics or traits.
- E. **Probable cause:** Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.
- F. **Race:** A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
- G. **Racial profiling:** A law-enforcement initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.
- H. **Reasonable suspicion:** Articulate, objective facts which lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion

supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."

- I. **Sex:** A biological classification, male or female, based on physical and genetic characteristics.
- J. **Stop:** The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is investigative detention.

#### **IV. PROCEDURES**

##### **A. General responsibilities**

- 1. Officers are prohibited from engaging in bias based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, national origin, citizenship, religion, ethnicity, age, gender, color, creed, sexual orientation, disability, or economic status. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. (TBP: 2.01)
- 2. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
- 3. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
  - a. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.
  - b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
- 4. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.

- a. Personnel shall facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
  - b. All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by an individual against the department. Furthermore, officers shall provide information on the complaints process and shall give copies of the "Citizen Complaint Procedures" pamphlet when appropriate.
5. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on an individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel shall thank him or her for cooperating.
  6. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.
  7. All personnel are accountable for their actions. Personnel shall justify their actions when required.

#### B. Supervisory Responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
2. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are the key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
4. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.

5. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
6. Supervisors shall facilitate the filing of any complaints about law enforcement service.

C. Disciplinary consequences

Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.

D. Training (TBP: 2.01)

1. Officers shall complete all training required by state law regarding bias based profiling.

## V. COMPLAINTS

- A. The department shall publish "Citizen Complaint Procedures" pamphlets and make them available at all city facilities and as a downloadable document on the City website. The department's complaint process and its bias based profiling policy will be posted on the website. If deemed necessary by the Chief of Police, the media may be used to inform the public of the department's policy and complaint process.
- B. Complaints alleging incidents of bias based profiling will be fully investigated as described under Policy 2.4.
- C. Complainants will be notified of the results of the investigations when such investigation is completed.

## VI. RECORD KEEPING

- A. The department will maintain all required records on traffic stops where a citation is issued or where an arrest is made subsequent to a traffic stop pursuant to state law.
- B. The information collected above will be reported to the city council annually in compliance with the Texas Racial Profiling Law.
- C. The information will also be reported to the Texas Commission on Law Enforcement Officer Standards and Education in the required format.

	<b>ALAMO HEIGHTS POLICE DEPARTMENT</b>	
	<b>Policy 7.34 Mobile / Body Worn Video and Audio Recording</b>	
	<b>Effective Date: 10/25/13</b>	<b>Replaces: 7.34 (02/07/2012)</b>
	<b>Approved: <u>Richard Pruitt</u> Chief of Police</b>	
<b>Reference:</b>		

**I. POLICY**

It is the policy of the Alamo Heights Police Department to present for prosecution video / audio evidence of traffic and other law violations. To this end, officers with properly functioning video / audio recording equipment shall make a recording of all applicable events surrounding the contact, stop, detention, interview and arrest of suspected violators and maintain this recorded evidence for consideration in criminal prosecution.

All video / audio recordings generated on department-owned equipment are the property of the Alamo Heights Police Department. The copying or reproduction of any video / audio recording files generated by members of the department for use outside of department business is prohibited.

Distribution of any video / audio recordings generated by department members in any format or for any purpose must be in compliance with this policy and any applicable SOPs.

**II. PURPOSE**

Video / audio recording equipment has proven to be a valuable law enforcement tool. Utilizing mobile video and body worn camera equipment facilitates the Alamo Heights Police Department's objectives to collect evidence for criminal prosecution, aid in the prosecution of traffic violations and related offenses, provide an administrative function in evaluation of officer performance, and assist in training officers to improve safety and tactics.

**III. MOBILE VIDEO RECORDER (MVR)**

- A. Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with mobile video recording equipment and transmitter activated equipment. Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video and/or audio, as appropriate, shall be recorded.
- B. All officers operating a vehicle with functioning MVR equipment shall wear the

microphone or wireless transmitter supplied with each system.

1. Officers shall wear the wireless transmitter on their uniform shirt epaulet.
  2. Officers may elect to wear the wireless transmitter in a shirt pocket. Should this option be used, the officer shall attach an external microphone to the wireless transmitter. The external microphone shall be worn on the outermost garment in a position that will achieve the best audio recording possible.
- C. Officers shall not use any personally owned mobile video and/or audio recording device without authorization from the Chief of Police. This includes, but not limited to, audio recorders, cellular telephones, video cameras, and/or still cameras.
- D. The officer will use MVR equipment to record all portions of the following incidents:
1. Responding to calls for service in emergency mode (Code 2 or 3).
  2. Vehicle pursuits
  3. Traffic stops, including the investigation of a vehicle and occupants already stopped or parked.
    - a. The officer on a traffic stop will continue to record until the stopped vehicle departs or until they leave the scene.
    - b. Officers assisting on traffic stops will continue to record until the stopped vehicle departs or until the officers leave the scene.
  4. Pedestrian stops / Field interviews
    - a. The officer on a pedestrian stop/field interview will continue to record until the pedestrian departs or until the officer leaves the scene.
    - b. Officers assisting on pedestrian stops/field interviews will continue to record until the pedestrian departs or until the officer leaves the scene.
  5. Suspect Detentions
    - a. Officers shall use the MVR equipment to record the actions of suspects during interviews, when undergoing field sobriety tests, or when placed in custody.

6. Field Arrest Incidents
7. Incident / Crime Scenes
  - a. Officers shall use the MVR equipment to record the circumstances at crime and accident scenes or other events such as confiscation or documentation of evidence or contraband if the recording would prove useful in later judicial proceedings.
  - b. This includes, but is not limited to, family violence and disturbance calls, suicidal subjects, and suspicious circumstances.
8. The transport of any person regardless of custody status (e.g. handcuffed prisoner, courtesy ride, etc.) excluding authorized ride-alongs.
9. Requests for consent to search.

#### **IV. BODY WORN CAMERAS (BWC)**

- A. Body Worn Cameras are intended for official Department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the camera units is strictly prohibited.
- B. Officers will only use Body Worn Cameras approved by the Department. Officers shall not use any personally owned device to record video and/or audio without authorization from the Chief of Police.
- C. Uniformed officers engaged in the patrol function will be equipped with a Body Worn Camera.
- D. Non-uniformed officers (i.e. Detectives, etc.) may utilize the Body Worn Camera while carrying out official police duties.
- E. Prior to utilizing a BWC, officers will ensure its readiness by conducting an operation inspection.
  1. Any problems preventing the use of the unit during the shift will be reported to the shift supervisor and an Equipment Malfunction Report shall be completed.
- F. Officers shall wear the BWC on the front of their uniform shirt, centered with the chest at the sternum level to provide an optimal visual field.
- G. Non-uniformed officers shall wear the BWC on the outermost garment in a position that will achieve the best video and audio recording possible.

- H. Officers will activate the BWC to record all portions of the following incidents or activities:
1. Calls for service or self-initiated activity.
  2. Traffic stops, including the investigation of a vehicle and occupants already stopped or parked.
    - a. The officer on a traffic stop will continue to record until the stopped vehicle departs or until they leave the scene.
    - b. Officers assisting on traffic stops will continue to record until the stopped vehicle departs or until the officers leave the scene.
  3. Pedestrian stops / Field interviews
    - a. The officer on a pedestrian stop/field interview will continue to record until the pedestrian departs or until the officer leaves the scene.
    - b. Officers assisting on pedestrian stops/field interviews will continue to record until the pedestrian departs or until the officer leaves the scene.
  4. Suspect Detentions
    - a. Officers shall use the BWC equipment to record the actions of suspects during interviews, when undergoing field sobriety tests, or when placed in custody.
  5. Field Arrest Incidents
  6. Incident / Crime Scenes
    - a. Officers shall use the BWC equipment to record the circumstances at crime and accident scenes or other events such as confiscation or documentation of evidence or contraband if the recording would prove useful in later judicial proceedings.
    - b. This includes, but is not limited to, family violence and disturbance calls, suicidal subjects, and suspicious circumstances.
- I. Bike officers will activate the BWC on incidents or activities normally reserved for the in-car mobile video camera.

- J. Officers, if asked, shall inform questioners that the BWC is in use, and may, if appropriate, explain the purposes for its use.
- K. Officers will note in the narrative of reports when BWC recordings have been made during an incident.
- L. Officers will off-load the BWC recordings, via workstation docking cable, by the end of shift or upon indication that the device is nearing capacity.

## **V. MVR/BWC RECORDING CONTROL AND MANAGEMENT**

- A. All video / audio recordings generated on department-owned equipment are the property of the Alamo Heights Police Department. The copying, reproduction, or use of any video / audio recording files generated by members of the department for use outside of department business is prohibited without authorization from the Chief of Police or his designee.
- B. Mobile video and body worn camera recordings containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding will be safeguarded as other forms of evidence.
- C. Recordings of an evidentiary nature will be subject to the same security restrictions and chain of evidence safeguards as detailed in AHPD Policy 12.1, Property and Evidence.
- D. Access to MVR/BWC recordings is restricted to sworn personnel unless authorized by the Chief of Police or his designee. Viewing privileges of MVR/BWC recordings for Department personnel shall be established by the Chief of Police or his designee.
- E. MVR/BWC recordings will not be released to another criminal justice agency for trial or other reasons without having a duplicated copy made and returned to safe storage.
  - 1. Recordings will not be released to other than bona fide criminal justice agencies without prior approval of the Chief of Police or his designee.
  - 2. Recordings will be maintained by the Records Division unless ordered otherwise by the Chief of Police or his designee.
- F. No member of the Department shall alter, erase, modify, reuse, tamper with or disable any mobile or body worn video / audio recording equipment in any manner.
  - 1. Media containing MVR/BWC recordings may be destroyed per court order by C.I.D. personnel.

- G. All original recordings will be retained for a period to be determined by the Chief of Police and in compliance with any records retention laws.
- H. If a complaint is filed with the Department alleging an officer engaged in racial profiling with respect to a traffic or pedestrian stop, the Department shall retain the MVR/BWC recordings of the stop until final disposition of the complaint. If an officer becomes the subject of a complaint alleging racial profiling and the officer makes a written request, the officer shall be provided a copy of the MVR/BWC recordings of the incident.
- I. Officers aware of MVR/BWC recordings containing material that may be deemed beneficial as training material are encouraged and shall direct notification up the chain-of-command.

## **VI. COURT / EVIDENTIARY RECORDINGS**

- A. When MVR/BWC recordings are needed for court or evidentiary purposes, the officer shall request the recordings from the C.I.D. supervisor. A duplicate of the MVR/BWC recording will be made and processed as normal evidentiary material in accordance with Department policy.
- B. If the MVR/BWC recordings are not retained by the requesting court, the recordings will be returned to the C.I.D. supervisor for disposition.

## **VII. REQUESTS FOR MVR RECORDINGS**

- A. Any request for a MVR/BWC recording must be made prior to the end of the prescribed retention period.
- B. Requests for duplicates of MVR/BWC recordings originating from within the Department must be submitted to the Chief of Police or his designee. Recordings of an evidentiary nature may be submitted to the Criminal Investigations Division.
- C. Any request for a MVR/BWC recording by the District Attorney's office or City prosecutor will be permitted with the approval of the C.I.D. supervisor.
- D. Media requests for MVR/BWC recordings will be referred to and handled by the designated Public Information Officer (PIO). The PIO will release the recordings with approval of the Chief of Police or his designee.
- E. **Open Records requests by persons outside the Department to view or obtain a copy of an MVR/BWC recording will be handled under Open Records Act procedures.**
  - 1. Outside requests must be submitted through the Records Division.

Recordings of an evidentiary nature will only be released with the approval of the District Attorney's Office.

2. Requests are then directed to the C.I.D. supervisor for duplication. The Chief of Police or his designee will be responsible for determining to what extent the contents of the video are to be released.
3. Requests for recordings from criminal justice agencies shall be submitted in writing.
4. All other requests for duplicate recordings shall be referred to the Chief of Police or his designee. Requests should include specific information regarding the incident, i.e. date, time, location, etc.

### **VIII. SUPERVISOR RESPONSIBILITIES**

- A. Supervisors will ensure officers follow established procedures for the use and maintenance of MVR/BWC equipment.
- B. Supervisors will ensure the MVR/BWC recordings are off-loaded to the server at the end of the officer's tour of duty.
- C. Supervisors will conduct periodic and random inspections, on at least a weekly basis, of MVR/BWC equipment to determine if the MVR/BWC equipment is being fully and properly used, and to identify material that may be appropriate for training.
- D. Supervisors will ensure all statistical reporting requirements are being completed as required to ensure adequate program evaluation.
- E. Supervisors will assign police vehicles with faulty or no MVR/BWC equipment as a last resort.
- F. Supervisors will ensure that an "Equipment Malfunction Report" is submitted to the Patrol Commander for any damaged or non-functional MVR/BWC equipment. The Patrol Commander will ensure that non-functional MVR/BWC equipment is tracked and sent for repair or replacement.
- G. The Patrol Commander will randomly review MVR/BWC recordings on at least a weekly basis. During that review, a specific incident will be identified and reviewed in its entirety. These reviews will be conducted for training and integrity purposes.
- H. The Patrol Commander will review MVR/BWC recordings in incidents involving:
  1. Injury to Prisoners

2. Use of Force
3. Injury to Officers
4. Vehicle Pursuits
5. Citizen Complaints

AN ACT

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

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

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

and

(B) whether a search was conducted and, if so,

whether the person detained consented to the search; and

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

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

(2) the registration number of the vehicle involved;

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

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

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

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

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

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

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

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

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

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

S.B. No. 1074

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President of the Senate

Speaker of the House

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

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Secretary of the Senate

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

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Chief Clerk of the House

S.B. No. 1074

Approved:

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Date

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Governor

AN ACT

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

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

SECTION 25. 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 [~~traffie~~] 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, [~~e~~] 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 26. 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 27. 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 28. 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 29. 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 37. This Act takes effect September 1, 2009.

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President of the Senate

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Speaker of the House

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

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Chief Clerk of the House

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

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Secretary of the Senate

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

Date

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