



# ADDISON POLICE DEPARTMENT

2013

## RACIAL PROFILING ANALYSIS

PREPARED BY:

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## **Executive Summary**

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested for traffic violations and whether or not those individuals were searched. Since the law provides no clear instruction to a governing body on how to review such data, the Addison Police Department requested this analysis and review to assist the City Council in reviewing the data.

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

- **A COMPREHENSIVE REVIEW OF THE ADDISON POLICE DEPARTMENT REGULATIONS, SPECIFICALLY DEPARTMENTAL POLICY TBBP: 2.01.1 Sections 326-334 OUTLINING THE DEPARTMENT'S POLICY CONCERNING RACIAL PROFILING, SHOWS THAT THE ADDISON POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE ADDISON POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE ANALYSIS OF STATISTICAL INFORMATION FROM ADDISON POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE ADDISON POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**
- **THE ADDISON POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

## **Introduction**

This report details an analysis of the Addison Police Department's policies, training, and statistical information on racial profiling for the year 2013. This report has been prepared to specifically comply with Article 2.132 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of racial profiling data. Specifically, the analysis will address Articles 2.131 – 2.135 of the CCP and make a determination of the level of compliance with those articles by the Addison Police Department in 2013. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into six analytical sections: Addison Police Department's policy on racial profiling; Addison Police Department's training and education on racial profiling; Addison Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; analysis of Addison Police Department's compliance with applicable laws on racial profiling; and a final section which includes completed data and information reporting forms required to be sent to TCOLE beginning in 2011.

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

## **Addison Police Department Policy on Racial Profiling**

A review of Addison Police Department Policy TBBP: 2.01.1 Sections 326-334 revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix B). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in Departmental Policy TBBP: 2.01.1 Sections 326-334. Addison Police Department regulations provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including dismissal. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race or ethnicity. Appendix C lists the applicable statute and corresponding Addison Police Department regulation.

***A COMPREHENSIVE REVIEW OF ADDISON POLICE DEPARTMENT POLICY TBBP: 2.01.1 Sections 326-334 SHOWS THAT THE ADDISON POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.***

## **Addison Police Department Training and Education on Racial Profiling**

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas Peace officers. Documentation provided by Addison Police Department reveals that racial profiling training and certification was provided to all officers requiring such training.

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

## **Addison Police Department Complaint Process and Public Education on Racial Profiling**

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Addison Police Department Policy TBBP: 2.01.1 Sections 328.06 and 332.01-04 cover this requirement. Moreover, the department maintains an easily accessible website address concerning racial profiling education and information on the racial profiling complaint process ([http://www.addisontx.gov/Departments/police/police\\_welcome.asp](http://www.addisontx.gov/Departments/police/police_welcome.asp)) including how to file a complaint.

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

## **Addison Police Department Statistical Data on Racial Profiling**

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic stops in which a citation is issued and arrests with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also required to be collected. Addison Police Department submitted statistical information on all citations in 2013 and accompanying information on the race of the person cited. Accompanying this data was the relevant information on searches.

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

## **Analysis of the Data**

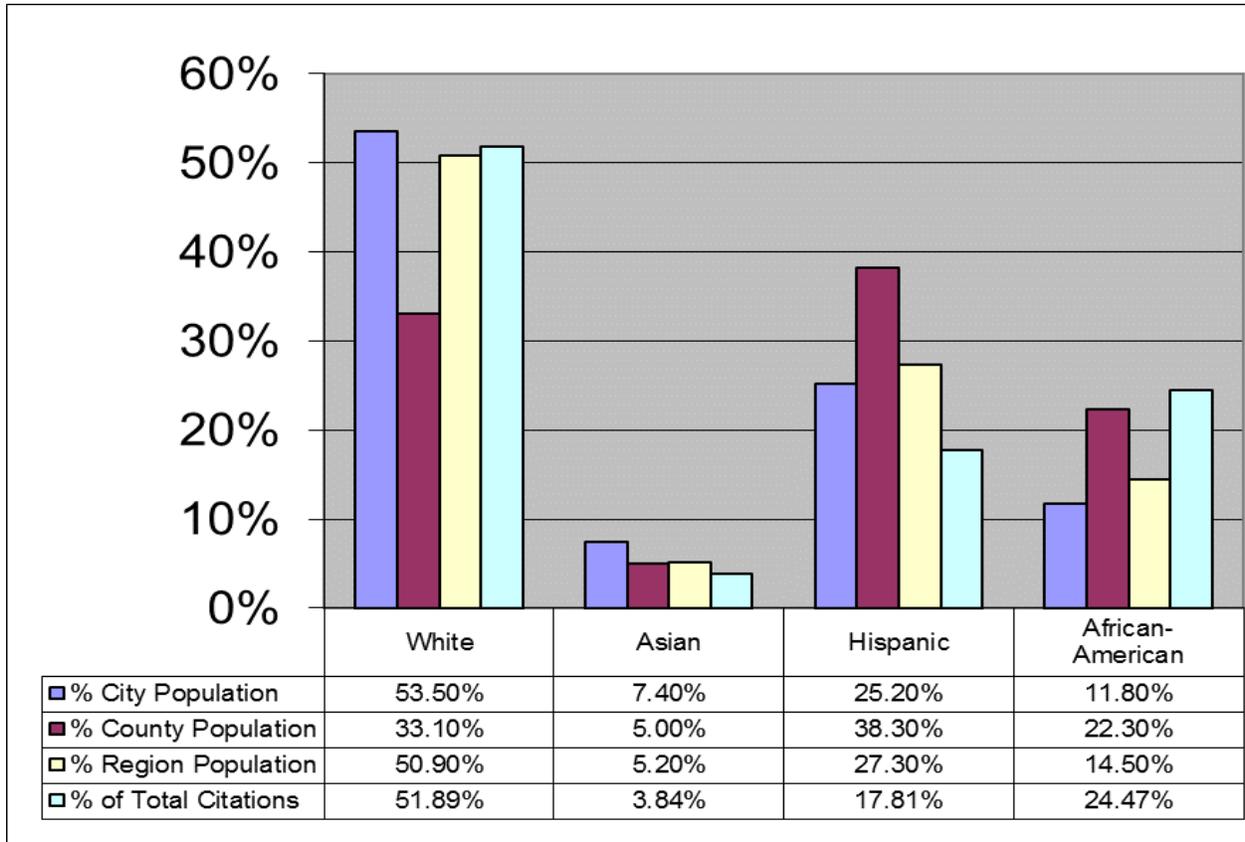
The first chart depicts the percentages of people cited by race among the total 4,891 traffic contacts that resulted in an action (citation, arrest, or both) in 2013.<sup>1</sup> White drivers constituted 51.89 percent of all drivers cited, whereas Whites constitute 53.50 percent of the city population, 33.10 percent of the county population, and 50.90 percent of the region population.<sup>2</sup> African-American drivers constituted 24.47 percent of all drivers cited, whereas African-Americans constituted 11.80 percent of the city population, 22.30 percent of the county population, and

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<sup>1</sup> Among the total 4,891 traffic contacts, 4,383 resulted in a citation, 487 resulted in arrest, and 21 resulted in both arrest and a citation. See the TCOLE forms near the end of this report.

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

14.50 percent of the region population. Hispanic drivers constituted 17.81 percent of all drivers cited, whereas Hispanics constituted 25.20 percent of the city population, 38.30 percent of the county population, and 27.30 percent of the region population. Asian drivers constituted 3.84 percent of all drivers cited, whereas Asians constituted 7.40 percent of the city population, 5.00 percent of the county population, and 5.20 percent of the region population.



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

Easy determinations regarding whether or not Addison police officers have “racially profiled” a given motorist are impossible given the nature of the data that has been collected and presented for this report. The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling” motorists.

This methodological error, commonly referred to as the “ecological fallacy,” defines the dangers involved in making assertions about individual officer decisions based on the examination of

aggregate incident level data. In short, one cannot "prove" that an *individual* officer has "racially profiled" any *individual* motorist based on the rate at which a department stops any given *group* of motorists. This kind of determination necessarily requires an examination of data at the individual officer level for a more detailed analysis of individual officer decision-making. Unfortunately, the law does not currently require the collection of this type of data, resulting in a considerable amount of conjecture as to the substantive meaning of aggregate level disparities.

Additional interpretation problems remain in regards to the specific measurement of racial "profiling" as defined by Texas state code. For example, officers are currently forced to make subjective determinations regarding an individual's race based on his or her personal observations because the Texas Department of Public Safety does not provide an objectively-based determination of an individual's race/ethnicity on the Texas driver's license. The absence of any verifiable race/ethnicity data on the driver's license is especially troubling given the racial diversity within the North Texas region as a whole, and the large numbers of citizens who are of Hispanic and/or mixed racial descent. The validity of any racial/ethnic disparities discovered in the aggregate level data becomes threatened in direct proportion to the number of subjective "guesses" officers are forced to make when trying to determine an individual's racial/ethnic background.

In addition, the data collected for the current report does not allow for an analysis that separates (or disaggregates) the discretionary decisions of officers to stop a motorist from those that are largely non-discretionary. For example, non-discretionary stops of motorists based on the discovery of outstanding warrants should not be analyzed in terms of whether or not "profiling" has occurred simply because the officer who has stopped a motorist as a result of the discovery of an outstanding warrant does not *independently* make the decision to stop, but rather, is required to stop that individual regardless of any determination of race. An officer cannot be determined to be "racially profiling" when organizational rules and state codes compel them to stop regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of stop rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions. In the future, this validity issue could be lessened by the collection of data indicating the initial reason for the traffic stop, whether it be an observed traffic violation, other criminal activity, the existence of an outstanding warrant, or some other reason.

Finally, there has been considerable debate as to what the most appropriate population "base-rate" is in determining whether or not racial/ethnic disparities exist. As the current analysis shows in regards to the use of city, county, and regional population base-rates, the outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. In addition, population shifts and the changing demographic character of the North Texas region has exacerbated problems associated with determining appropriate base-rates because measures derived exclusively from the U.S. Census can become quickly outdated since they are compiled only once per decade. Related, the determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures. This is particularly true in cities such as Addison whose non-resident populations tend to fluctuate significantly during business hours as a result of non-resident commuters. In addition, the population of Addison increases significantly during the evening and nighttime hours as non-residents take advantage of Addison's extensive array of restaurants, bars, and hotels.

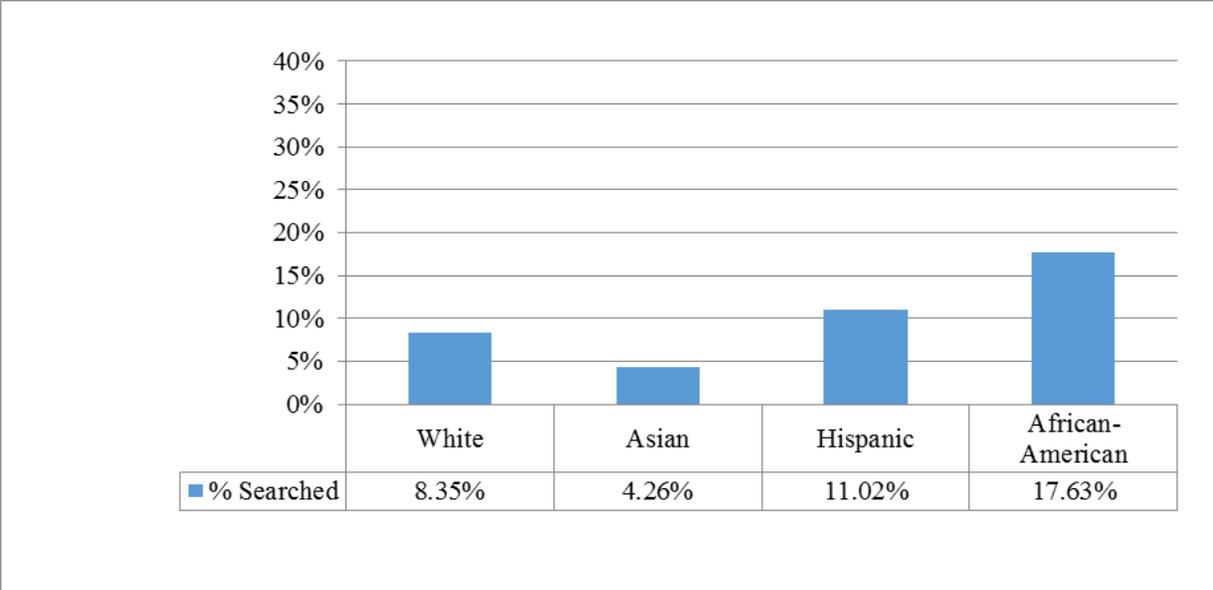
In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are cited in order to determine whether or not racial profiling exists within a given jurisdiction.

The table below reports the summaries for the total number of persons cited by the Addison Police Department for traffic offenses in 2013. In addition, the table shows the number of cited individuals who granted consent to search and those cited drivers who were arrested pursuant to the stop. The table shows that roughly 52 percent of all persons cited were White drivers (2,538/4,891 total citations), roughly 24 percent (1,197) of all persons cited were African-American drivers, and roughly 18 percent (871) of all persons cited were Hispanic drivers. In addition, roughly 40 percent of all drivers searched were White (212/529), roughly 18 percent were Hispanic, and 40 percent were African-American. It is clear that the vast majority of the total number of drivers cited (including White, African-American, and Hispanic groups) were not searched (89%), and only about 3 percent of all searches were consent searches (14/529).

Action	White	African-American	Hispanic	Asian	Other	Total
Stops	2,538	1,197	871	188	97	4,891
Searches	212	211	96	8	2	529
Consent Searches	12	2	0	0	0	14
Arrests	199	204	95	8	2	508

The bar chart below presents the percentage of cited drivers who were searched *within* each racial category. The chart indicates that drivers who were cited were rarely searched across the racial categories. For example, only 8.35 percent of all White drivers who were cited were also searched (212 total searches), 4.26 percent of all Asian drivers who were cited were searched (8 total searches), 11.02 percent of all Hispanic drivers who were cited were searched (96 total searches), and 17.63 percent of all African-American drivers who were cited were searched (211 total searches). Further, among the 4,891 stops in 2013, less than 1% resulted in a consensual search.

It should be noted that aggregate level comparisons regarding the rates at which drivers are searched by police are subject to some of the same methodological issues as those outlined above regarding analyses of aggregate level stop rates. Of particular concern is the absence of any analyses that separates discretionary searches from non-discretionary searches. For example, searches that are conducted incident to an arrest or as part of a vehicle tow inventory should not be included in analyses designed to examine whether or not racial profiling has occurred because these types of searches are non-discretionary in that the officer is compelled by law or departmental guidelines to conduct the search irrespective of the race of the stopped driver.



**Analysis of Racial Profiling Compliance by Addison Police Department**

The foregoing analysis shows that the Addison Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection of data in compliance with the law. Finally, internal records indicate that during 2013 the department received no complaints that could be categorized as involving some type of racial profiling.

In addition to providing summary reports and analysis of the data collected by the Addison Police Department in 2013, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Addison Police Department as well as police agencies across Texas. The Addison Police Department should continue its educational and training efforts within the department on racial profiling. Finally, the department should continue to conduct periodic evaluations of individual officers to assess whether or not an officer is engaging in racial profiling. The final section of this report includes newly required TCOLE reporting information by Texas law enforcement organizations.

# **Addison Police Department TCOLE Reporting Forms**



Partial Exemption Racial Profiling Reporting  
(Tier 1)

Department Name ADDISON POLICE DEPT  
Agency Number 113201  
Chief Administrator Name RON DAVIS  
Reporting Name LEVI LANKIN  
Contact Number 972-450-7100  
E-mail Address LANKIN@addison.tx.gov

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):

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 stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
  - (A) the race or ethnicity of the individual detained;
  - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
  - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
- (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
  - (A) the 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

Ron Davis  
Chief Administrator

2/11/14  
Date

**PARTIAL EXEMPTION RACIAL PROFILING REPORTING (TIER 1)**

**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

**AGENCY NAME:**

**Number of motor vehicle stops (mark only 1 category per vehicle stop):**

1. 4383 Citation only
2. 487 Arrest only
3. 21 Both

4. 4891 (Total of 1-3)

**Race or Ethnicity (mark only 1 category per vehicle stop):**

5. 1197 African
6. 188 Asian
7. 2538 Caucasian
8. 871 Hispanic
9. 93 Middle Eastern
10. 4 Native American

11. 4891 (Total of 5-10, must be the same as #4)

**Race or Ethnicity known prior to stop?**

12. 247 Yes
13. 4644 No

14. 4891 (Total of 12-13, must be the same as #4 and #11)

**Search conducted?**

15. 529 Yes
16. 4362 No

17. 4891 (Total of 15-16, must be the same as #4, #11, and #14 above)

**Was search consented?**

18. 14 Yes
19. 515 No

20. 529 (Total, must equal #15)



**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

    *Tom Daw*      
Chief Administrator

    *2/11/14*      
Date



# **Appendix A**

## **Racial Profiling Statutes and Laws**

### **Art. 3.05. RACIAL PROFILING.**

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

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

### **Art. 2.131. RACIAL PROFILING PROHIBITED.**

A peace officer may not engage in racial profiling.

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

### **Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.**

(a) In this article:

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

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

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, 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 stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
    - (A) the race or ethnicity of the individual detained;
    - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
    - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
  - (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
    - (A) the 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.
- (c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.
- (d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. 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 stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

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

(g) On a finding by the 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.

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

Amended by: Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2009.

### **Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.**

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

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

- (3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
- (4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
- (5) the reason for the search, including whether:
  - (A) any contraband or other evidence was in plain view;
  - (B) any probable cause or reasonable suspicion existed to perform the search; or
  - (C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
- (6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
- (7) the street address or approximate location of the stop; and
- (8) whether the officer issued a written warning or a citation as a result of the stop.

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

Amended by: Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2009.

#### **Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.**

(a) In this article:

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

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

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the 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.

(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

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

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

(e) The 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.

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

(g) On a finding by the 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.

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

Amended by: Acts 2009, 81st Leg., R.S., Ch. [1172](#), Sec. 27, eff. September 1, 2009.

**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 stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle 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 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 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).

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

Amended by: Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2009.

**Art. 2.136. LIABILITY.**

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

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

**Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.**

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment 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).

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

**Art. 2.138. RULES.**

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

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

**Art. 2.1385. CIVIL PENALTY.**

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 29, eff. September 1, 2009.

# **Appendix B**

## **Addison PD Racial Profiling Policy**

### 326. Racial Profiling and Bias Reduction (TBBP: 2.01.1)

326.01 It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce Town ordinances, state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin.

326.02 All enforcement actions, particularly stops of citizens (for traffic and other purposes), investigative detentions, arrests, searches and seizures of persons or property, shall be based on the 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 citizens.

326.03 Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians. 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, economic status or religion. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

### 327. Definitions

327.01 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, sex, sexual orientation, gender, national origin, ethnicity, age, or religion in violation of constitutional safeguards.

- 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 descent, including Caucasian, African, Hispanic, Asian, Middle Eastern 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 - Articulable, 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 citizen. 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.

### 328. General responsibilities

328.01 Officers are prohibited from engaging in racial 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, economic status, cultural group or any other identifiable group. 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. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, or other citizen contacts.

328.02 Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Citizens 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.

328.03 Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all citizens.

328.04 As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrant-less searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a citizen's perception of fairness or discrimination.

328.05 Officers shall not use the refusal or lack of cooperation to justify a search of the citizen's person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.

328.06 All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by citizens against the department. Further, officers shall provide information on the complaint process and shall provide information of "How to Make a Complaint" when appropriate.

328.07 When feasible, personnel shall offer explanations to citizens of the reasons for enforcement actions or other decisions that bear on citizens' well-being unless the explanation would undermine an investigation or jeopardize an officer's safety.

328.08 When feasible, all personnel shall identify themselves by name. When a citizen requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.

328.09 Unless required by law, a citizen's refusal to cooperate or provide information does not create any justification for further enforcement action.

Refusal to sign a summons or failure to obey a lawful order of an officer are examples of exceptions to voluntary cooperation and may require a custodial arrest under some circumstances.

### 329. Supervisory responsibilities

329.01 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.

329.02 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.

329.03 Supervisors shall facilitate the filing of any citizens' complaints about law enforcement service.

### 330. Disciplinary consequences

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

### 331. Training

331.01 Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

331.02 All officers shall complete TCOLE training and education program on racial profiling.

331.03 The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

### 332. Complaints

332.01 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.

332.02 Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address, and telephone number, and forward the complaint through the appropriate channel or direct the individual(s) to a supervisor. Any employee contacted shall provide to that 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.

332.03 All complaints of racial profiling by employees of the department will be thoroughly investigated.

332.04 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 or other image(s) to that officer.

### 333. Public Education

333.01 The department's complaint process and its racial profiling policy will be posted on the department's website.

### 334. Record Keeping

334.01 An 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 and in the event the driver of the vehicle, or the pedestrian contacted, is issued a citation and/or arrested, the officer shall record and report the following information:

- a. A physical description of each person detained as a result of the stop, including:
- b. the person's sex;

- c. the person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability;
- d. The street address or approximate location of the violation. The suspected offense or the traffic law or ordinance alleged to have been violated.
- e. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
- f. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause;
- g. Whether any contraband was discovered in the course of the search and, if so, the type of contraband discovered;
- h. Whether the officer made an arrest as a result of the stop and/or search and, if so, a statement of the offense charged. Whether the officer issued a warning or a citation as a result of the stop and, if so, a statement of the offense charged.
- i. Officers will record whether or not they could identify the race or ethnicity of the suspect before the person was detained.

334.02

By March of each year, the department shall submit a report to its municipal governing board that includes information gathered by the citations. The report will include:

- a. a breakdown of citations by race or ethnicity;
- b. number of citations that resulted in a search;
- c. number of searches that were consensual; and
- d. number of citations that resulted in custodial arrest for this cited violation or any other violation.

# Appendix C

## Racial Profiling Laws and Corresponding Standard Operating Procedures

<b>Texas CCP Article</b>	<b>ADDISON POLICE DEPARTMENT POLICY TBBP: 2.01.1</b>
2.132(b)1	Section 326 – Racial Profiling and Bias Reduction
2.132(b)2	Section 328 - General Responsibilities
2.132(b)3	Section 332 - Complaints
2.132(b)4	Section 333 - Public Education
2.132(b)5	Section 330 - Disciplinary Consequences
2.132(b)6	Section 334 - Record Keeping
2.132(b)7	Section 334 - Record Keeping