

FORT WORTH POLICE DEPARTMENT

2016

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 subsequent to traffic stops 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 Fort Worth Police Department requested this analysis and review to assist the City Council in reviewing the data.

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

- **A COMPREHENSIVE REVIEW OF THE FORT WORTH POLICE DEPARTMENT GENERAL ORDERS, SPECIFICALLY GENERAL ORDER 347.00 OUTLINING THE DEPARTMENT'S POLICY CONCERNING RACIAL PROFILING, SHOWS THAT THE FORT WORTH 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 FORT WORTH 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 FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE ANALYSIS OF STATISTICAL INFORMATION FROM FORT WORTH POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE FORT WORTH POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**
- **THE FORT WORTH 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 Fort Worth Police Department's policies, training, and statistical information on racial profiling for the year 2016. 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 Fort Worth Police Department in 2016. 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: Fort Worth Police Department's policy on racial profiling; Fort Worth Police Department's training and education on racial profiling; Fort Worth Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; analysis of Fort Worth 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).

Fort Worth Police Department Policy on Racial Profiling

A review of Fort Worth Police Department's General Order 347.00 revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix C). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in General Order 347.00 (347.02 and 347.03 specifically) concerning Racial Profiling and Bias-Free Policing. The Fort Worth Police Department's general orders provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined according to the agency's general order up to and including indefinite suspension. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix B lists the applicable statute corresponding to the Fort Worth Police Department regulation.

A COMPREHENSIVE REVIEW OF FORT WORTH POLICE DEPARTMENT'S General Order 347.00 SHOWS THAT THE FORT WORTH POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Fort Worth 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. Information provided by the Fort Worth Police Department reveals that racial profiling training and certification is current for all officers requiring such training.

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

Fort Worth 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. Fort Worth Police Department utilizes a brochure on “Racial Profiling Policy and Procedures” and also maintains a website with a link for filing a complaint that also provides access to past racial profiling reports (www.fortworthpd.com/fwpd/racial-profiling-reports.aspx). This easy to read and accessible brochure, along with the website, outlines the racial profiling complaint process and other pertinent information in an easy to comprehend format. The website and brochure have information and links where citizens may receive further information and/or 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.

Fort Worth Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic citations and detentions 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. The Fort Worth Police Department submitted statistical information on all stops in 2016 and accompanying information on the race of the person detained. Accompanying this data was the relevant information on searches and arrests.

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

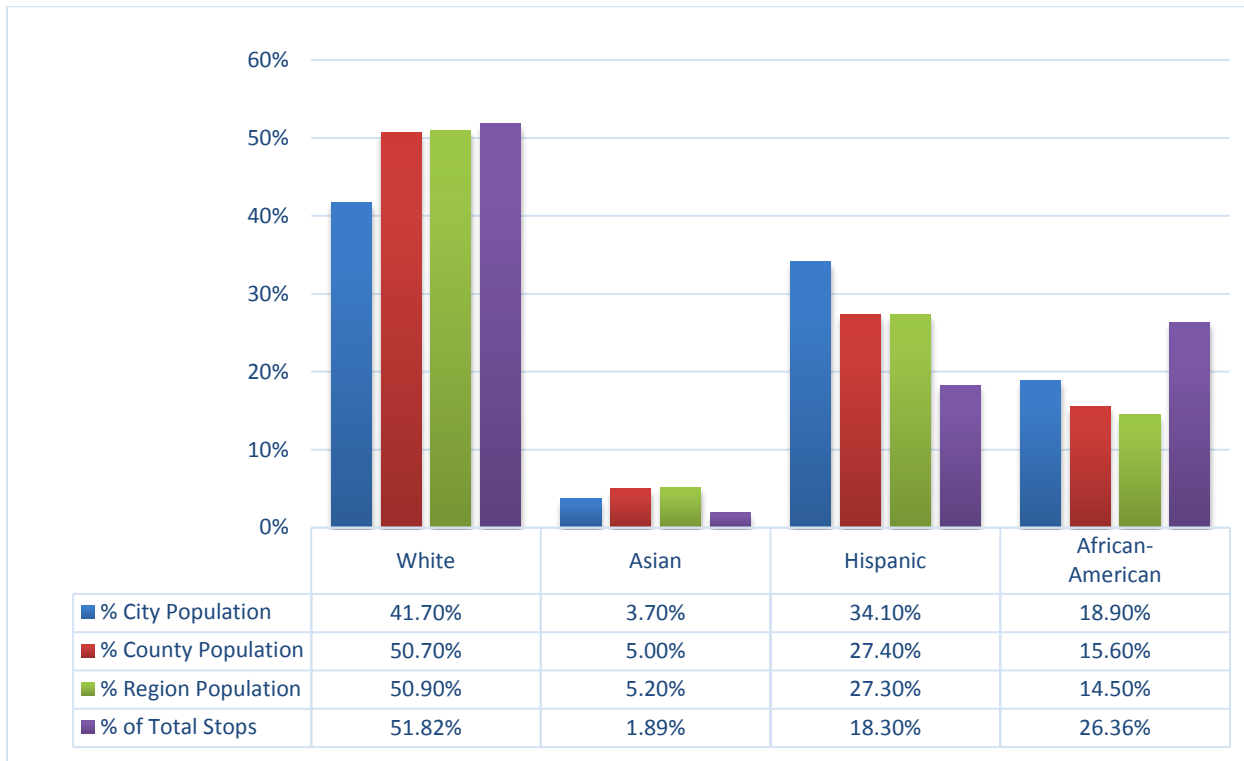
Analysis of the Data

The first chart depicts the percentages of people stopped by race (racial categories such as Middle Eastern and Native American are not charted due to extremely small number of vehicle stops relative to the population). Overall, there were a total of 33,345 vehicle stops in 2016, of which 26,770 resulted in a citation, arrest, or both.¹ *White drivers* constituted 51.82 percent of all drivers stopped, whereas Whites constitute 41.70 percent of the city population, 50.70 percent of the county population, and 50.90 percent of the region population.² *African-American drivers*

¹ The total number of all stops, 33,345, is used for calculations in this report unless otherwise noted. For additional information, see the TCOLE forms at the end of this report.

² City and County population figures are derived from the U.S. Census 2010 of the U.S. Census Bureau. Regional population figures are derived from the 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 Area including the

constituted 26.36 percent of all drivers stopped, whereas African-Americans constitute 18.90 percent of the city population, 15.60 percent of the county population, and 14.50 percent of the region population. *Hispanic drivers* constituted 18.30 percent of all drivers stopped, whereas Hispanics constituted 34.10 percent of the city population, 27.40 percent of the county population, and 27.30 percent of the regional population. *Asian drivers* constituted 1.89 percent of all drivers stopped, whereas Asians constituted 3.70 percent of the city population, 5.00 percent of the county population, and 5.20 percent of the regional population.



The chart shows that White drivers were stopped at rates higher than the percentage of Whites in the city population and roughly equivalent to the percentage of Whites in the county and region population. African-American drivers were stopped at rates higher than the percentage of African-Americans in the city, county, and region population. Hispanic drivers were stopped at rates lower than the percentage of Hispanics in the city, county, and regional population. Asians were stopped at rates lower than the percentage of Asians in the city, county, and regional population.

Based on the chart above, easy determinations regarding whether or not Fort Worth 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. Problems with the State’s racial profiling law as it currently stands make it impossible to discern whether or not profiling has occurred on the basis of comparisons made to population base-rates. The next section will highlight the issues and problems specifically associated with the current racial profiling law in Texas. Problems related to the law discussed below include: 1) methodological issues associated with using group-level

following counties: Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

data to explain individual officer decisions, 2) the lack of objective indicators for the race of the driver that is stopped, and 3) problems associated with population base-rates that are commonly used as a “benchmark” of comparison.

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 decisions based on the examination of aggregate 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 and 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 city of Fort Worth and the North Texas region as a whole, and the large numbers of citizens who are African-American, Hispanic, 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.

Moreover, there has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. Questions concerning the most appropriate base-rate are most problematic in the case of traffic stops, because there are problems associated with using any number of different population measures to determine whether or not aggregate level racial disparities exist. The outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. In addition, the explosive rate of growth that has recently occurred across much of North Texas and in the city of Fort Worth has made the base-rate issue especially problematic because measures derived exclusively from the U.S. Census 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.

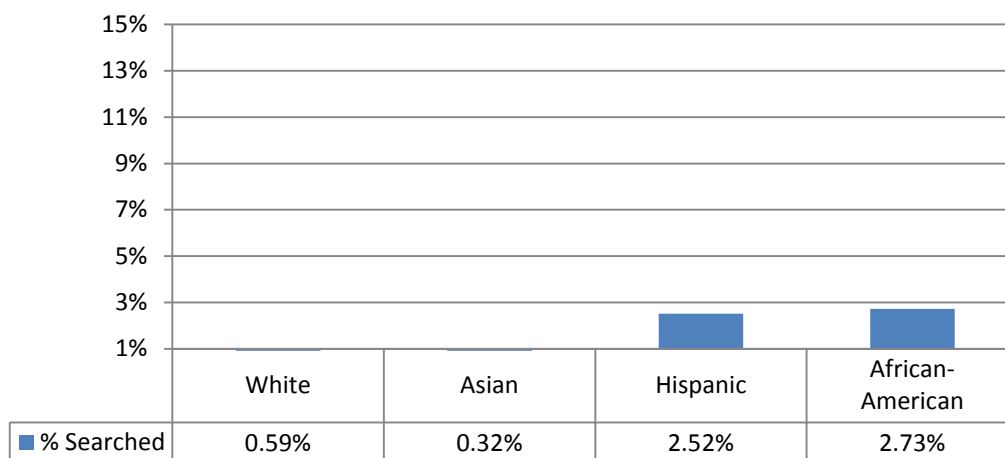
In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are stopped in order to determine whether or not racial profiling exists within a given jurisdiction.

The table below presents statistics concerning the total number of vehicle stops across the racial categories, as well as the number of drivers that were searched within each racial category. The table also presents the number of arrests that occurred, as well as the number of searches that were consensual. Overall, the table shows that searches were rare. Searches occurred in only 1.87 percent of all stops resulting in a citation, arrest or both (501/26,770) and in only 1.50 percent of all stops (501/33,345). Consent searches were even more infrequent with only 206 total consent searches in 2016; occurring in less than 1 percent of all stops (33,345) and all stops which resulted in a citation, arrest, or both (26,770). Finally, the table indicates that arrests were also rare, occurring in less than 1 percent of all vehicle stops.

Action	White	African-American	Hispanic	Asian	Other	Total
Total Stopped	17,279	8,790	6,101	631	544	33,345
Searches	102	240	154	2	3	501
Consent Searches	53	93	57	1	2	206
Arrests	40	82	32	2	0	156

Note: The number of actual vehicle stops is 33,345. Of that number, 26,770 resulted in a citation, arrest, or both.

The bar chart below presents summary statistics of drivers who were subject to a search after being stopped within racial categories. The chart shows that the vast majority of stopped drivers were not subject to a search across the racial categories. For example, less than 1 percent of all White drivers who were stopped were subject to a search, 0.32 percent of Asian drivers who were stopped were searched, 2.52 percent of all Hispanic drivers who were stopped were subject to a search, and 2.73 percent of all African-American drivers who were stopped were subject to a search. Overall, roughly 2 percent of all stopped drivers were subject to a search, for a total of only 501 searches across 26,770 vehicle stops that resulted in a citation, arrest, or both.



It should be noted that aggregate level comparisons regarding the rates at which drivers are searched by police are subject to methodological issues. Of particular concern is the fact that Texas' current racial profiling statute fails to mandate the collection of data that could be used to separate 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. An officer cannot be determined to be "racially profiling" when organizational rules and state codes compel them to search regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of search rates ignore these realities and fail to distinguish between discretionary and non-discretionary law enforcement actions.

Analysis of Racial Profiling Compliance by the Fort Worth Police Department

The foregoing analysis shows that the Fort Worth 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 the department received one racial profiling complaint in 2016 involving an officer-initiated citizen stop. The complaint was unfounded.

In addition to providing summary reports and analysis of the data collected by the Fort Worth Police Department in 2016, 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.

Finally, it is also important to note that the racial profiling law in Texas was modified during the 2009 legislative session. The changes took effect on January 1, 2011. In particular, the new law requires the collection of information only on drivers during traffic stops in which citations are issued. In addition, the new law requires each agency to submit a racial profiling report to the Texas Commission on Law Enforcement (TCOLE) each year. The final section of this report includes required TCOLE reporting information by Texas law enforcement organizations.

Fort Worth Police Department TCOLE Reporting Forms

Racial Profiling Report | Tier one

Agency Name:	Fort Worth Police Department
Reporting Date:	02/21/2017
TCOLE Agency Number:	439214
Chief Administrator:	Chief Joel F Fitzgerald
Agency Contact Information:	
Phone:	817-392-4200
Email:	N/A
Mailing Address:	505 W Felix FORT WORTH TX 76115

This Agency claims partial racial profiling report exemption because:

Our vehicles that conduct motor vehicle stops are equipped with video and audio equipment and we maintain videos for 90 days.

Certification to This Report 2.132 (Tier 1), Partial Exemption

Article 2.132(b) CCP Law Enforcement Policy on Racial Profiling

Fort Worth Police Department has adopted a detailed written policy on racial profiling. Our policy:

- 1.) clearly defines acts constituting racial profiling;
- 2.) strictly prohibits peace officers employed by the Fort Worth Police Department from engaging in racial profiling;
- 3.) implements a process by which an individual may file a complaint with the Fort Worth Police Department if the individual believes that a peace officer employed by the Fort Worth Police Department has engaged in racial profiling with respect to the individual;
- 4.) provides public education relating to the agency's complaint process;
- 5.) requires appropriate corrective action to be taken against a peace officer employed by the Fort Worth Police Department who, after an investigation, is shown to have engaged in racial profiling in violation of the Fort Worth Police Department'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; and

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

Executed by: Chief Joel F Fitzgerald

Chief Administrator

Fort Worth Police Department

Date: 02/21/2017

Fort Worth Police Department Motor Vehicle Racial Profiling Information

Total stops: 26770

Number of motor vehicle stops

Citation only: 26413

Arrest only: 156

Both: 201

Race or ethnicity

African: 6873

Asian: 478

Caucasian: 14999

Hispanic: 4303

Middle eastern: 108

Native american: 9

Was race known ethnicity known prior to stop?

Yes: 972

No: 25798

Was a search conducted

Yes: 501

No: 26269

Was search consented?

Yes: 206

No: 295

Submitted electronically to the



The Texas Commission on Law Enforcement

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 2011, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2011.

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 2011, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2011.

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 2011, 81st Leg., R.S., Ch. [1172](#), Sec. 27, eff. September 1, 2011.

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 2011, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2011.

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 2011, 81st Leg., R.S., Ch. 1172, Sec. 29, eff. September 1, 2011.

Appendix B

Racial Profiling Laws and Corresponding Regulations and Procedures

Texas CCP Article	FORT WORTH POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	G.O. 347.02 D/347.03 B
2.132(b)2	G.O. 347.02 A, B, D/347.03 A, B, C
2.132(b)3	G.O. 347.02 F
2.132(b)4	G.O. 347.02 G
2.132(b)5	G.O. 347.02 F4
2.132(b)6	G.O. 347.02 H
2.132(b)7	G.O. 347.02 H

Appendix C

Fort Worth Police Department General Order 347.00, Website, and Recruit Training Materials

347.00 COMMUNITY POLICING STRATEGIES

347.02 RACIAL PROFILING

The guidelines in this General Order are intended to reaffirm the department's commitment to unbiased policing in all its encounters between an officer and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect officers from unwarranted accusations of misconduct when acting within the dictates of departmental policy and the law.

- A. Officers shall police in a proactive manner and investigate suspected violations of law. Officers shall actively enforce state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this order. This order shall be applicable to officer's interactions with all persons, whether drivers, passengers or pedestrians.
- B. Officers shall conduct themselves in a respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and is strictly prohibited.
- C. This order shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this order prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.
- D. Definitions
 - 1. 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.
 - a. 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.
 - b. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:
 - (1) Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.
 - (2) Stopping or detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
 - (3) Stopping or detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.



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- c. A law enforcement agency can derive these principles from the adoption of this definition of racial profiling:
 - (1) That law enforcement officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search.
 - (2) Racial profiling is not relevant as it pertains to witnesses, etc.
 - (3) That police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may consider race in conjunction with other known factors of the suspect.
 2. Race or Ethnicity – Of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern or Native American.
 3. Traffic Stop – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.
- E. Training
1. Officers are responsible for adhering to all Texas Commission on Law Enforcement (TCOLE) training as mandated by law.
 2. All officers shall complete a TCOLE training and education program on racial profiling 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, shall complete a TCOLE training and education program on racial profiling not later than September 1, 2003.
 3. 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.
 4. An individual appointed or elected as a police chief before the effective date of this Act shall complete the program on racial profiling established under Subsection (k), Section 96.641, Education Code.
- F. Complaint Investigation
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. If an officer initiating a stop receives an allegation of racial profiling, the officer shall provide their name and ID number to the individual with information on how to contact Internal Affairs or the officer's supervisor. Any employee contacted shall provide to that person information on the department's process for filing a complaint. All employees will report any allegation of racial profiling to their supervisor before the end of their shift.
 - a. Officers shall provide the pamphlet, Racial Profiling Policy and Procedures, or provide information on how to contact Internal Affairs to any individual that inquires about reporting an incident perceived to be racially motivated.
 - b. Any supervisor/manager receiving a racial profiling complaint shall notify the Internal Affairs Division in a timely manner of the complaint and the action taken.
 - c. Supervisors shall monitor the adherence to the General Orders by all employees under their command and shall initiate an investigation into all alleged violations established under this General Order.



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3. All complaints will be acknowledged in writing to the complainant who will receive information regarding the disposition of such complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be sent through the chain of command to the Chief of Police or designee. When applicable, findings and/or recommendations for disciplinary action, retraining, or changes in policy shall be part of the recommendation to the Chief of Police or designee.
4. Allegations of misconduct and disciplinary action shall follow the procedures as outlined in General Order 410.00. Officers shall be subject to disciplinary action up to and including indefinite suspension for engaging in racial profiling.
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 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.

G. Public Education

The police department will inform the public of its guidelines against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available as appropriate in languages other than English.

H. Data Collection and Reporting

1. Data shall be collected on all motor vehicle stops. Information will be collected on the driver only. The officer shall promptly enter all data required by law into the Motor Vehicle Stop Checklist database before the end of the duty shift. The form may be found on the Fort Worth Police internal portal under Racial Profiling.
2. Any vehicle equipped with video and/or audio capabilities shall retain the video and/or audio documentation in accordance with the division's standard operating procedures. Such documentation shall be retained for at least 180 days after the stop, or until disposition if a complaint has been made.
 - a. If a complaint has been made, the documentation shall be retained by the Internal Affairs Division until final disposition of the complaint, if not longer as required under other laws or policies.
3. Internal Affairs shall be responsible for compiling the number of racial profiling complaints and forwarding this information to Research and Planning at the end of the year.
4. At the direction of the Chief of Police or designee, additional data may be collected by the department in an effort to monitor enforcement actions and to provide a overview of department compliance with this General Order.
5. An annual report will be prepared or coordinated by Research and Planning based on the data collection and in accordance with TCOLE guidelines and forwarded to the city manager within the prescribed time period for presentation to the City Council.



347.00 COMMUNITY POLICING STRATEGIES

347.03 BIAS-FREE POLICING

A. Purpose and Scope

1. It is the policy of the Fort Worth Police Department to treat all persons with dignity, respect and professionalism. The Fort Worth Police Department provides police services to the community in a nonpartisan, fair, equitable, and objective manner without consideration of race, color, gender, age, national origin, religion, disability, economic status, sexual orientation, gender expression, gender identity, transgender status, membership in a cultural group, or other individual characteristics or distinctions.
2. Equal treatment provides that persons, irrespective of race or other distinction shall be treated in the same basic manner under the same or similar circumstances. Equal treatment does not mean all persons in the same or similar circumstances can or must be treated identically in all cases. Reasonable considerations and/or accommodations may be made when dealing with individuals with physical or mental disabilities, infirmity, illnesses or similar conditions or when information about them necessitates different treatment.

B. Definitions

1. Biased Policing - Discrimination in the performance of duties, based on personal prejudices or partiality of officers, that interferes with their professional judgment, training or adherence to law. Biased policing includes, but is not limited to, making prejudicial decisions affecting individuals in classes protected by federal, state and local law.
2. Gender expression - Person's external characteristics and behaviors including, but not limited to, dress, grooming, mannerisms, speech patterns and social interactions that are socially identified with a particular gender.
3. Gender identity - Person's innate, deeply felt sense of gender, which may or may not correspond to the person's physical body or sex listed on their original birth certificate.
4. Sexual orientation - Heterosexuality, homosexuality or bisexuality or being identified with such orientation.
5. Transgender - Person who experiences and/or expresses their gender differently from conventional or cultural expectations including, but not limited to, those who express a gender that does not match the sex listed on their original birth certificate or who physically alter their sex.
 - a. Intersex individuals - Individuals who, because of their chromosomal make-up or other biological reasons are born with physical characteristics that make their biological sex ambiguous.
 - b. Cross-dressers - Individuals whose gender identity matches their birth-assigned sex, but who sometimes prefer to wear clothes not traditionally associated with their sex. Most individuals who consider themselves cross-dressers do not wear cross-gendered attire all of the time. The term "cross-dressers" should not be used to refer to individuals who are living as members of the opposite sex, in accordance with their gender identity.
 - c. Transsexual - An older term, that originated in the medical and psychological communities, and which is used to refer to individuals who wish to change, or have



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changed their birth-assigned sex, through hormones, surgery or other physical procedures. Just as many gay people prefer the term "gay" to the term "homosexual," many transgender people prefer "transgender" to "transsexual." Some transgender people, however, still prefer to use the medical term to describe themselves.

C. Limitations

1. Bias-based policing is prohibited both in enforcement of the law and delivery of police services.
2. Officers shall not use race, color, gender, age, national origin, religion, disability, economic status, sexual orientation, gender expression, gender identity, transgender status, membership in a cultural group, or an individual's ability/inability to speak English as the criteria for determining when or how to take enforcement action or provide police services.
3. Nothing in this order prohibits officers from using the traits and characteristics of persons, such as race, ethnicity, or national origin, in combination with other facts, to assist in establishing reasonable suspicion or probable cause in the same manner that officers would use descriptions such as a specific hair color, height, gender or other identifying traits.
4. Officers shall not unreasonably endanger themselves or another person to conform to this General Order.

D. Any employee(s) who witness or are aware of instances of bias-based policing shall report the incident to their supervisor immediately.

E. Gender Classification Guidelines for Transgender Individuals

1. Officers shall:

- a. Consider a person transgender if the person identifies themselves as transgender or, if upon reasonable belief that person may be transgender, the officer asks and receives an affirmative response.
- b. Respectfully treat individuals in a manner appropriate to the individual's gender, or gender identity/expression when known,
- c. Use pronouns as requested by the individual (e.g., "she, her, hers" for an individual who self-identifies as a female; "he, him, his" for an individual who self-identifies as a male). If officers are uncertain by which gender the individual wishes to be addressed, they will respectfully ask the individual for clarification,
- d. When requested, address the individual by the name based on their gender identity rather than that which is on their government issued identification, and
- e. Avoid unnecessary personal questions regarding an individual's anatomy, transition status or sexual history.

2. Officers shall not:

- a. Stop, detain, frisk, or search any person for the sole purpose of determining that person's gender or in order to call attention to that person's gender identity/expression, unless following the established department procedures regarding the proper processing of arrestees,
- b. Except when legally necessary, such as processing an arrest, either require proof of an individual's gender or challenge an individual's gender identity/expression,



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- c. Use language that a reasonable person would consider demeaning or derogatory; in particular, language aimed at a person's actual or perceived gender, gender identity/expression, or sexual orientation,
- d. Disclose an individual's gender identity or sexual orientation to other arrestees, members of the public, or other governmental personnel, absent a proper law enforcement purpose,
- e. Make assumptions about an individual's sexual orientation based upon an individual's gender or gender identity/expression, or
- f. Use a person's gender or gender identity/expression alone as reasonable suspicion that the individual is or has engaged in a crime.





The Fort Worth Police Department is dedicated to providing the best quality police service to all citizens of Fort Worth and to those who visit our city. We are committed to the principles of justice and equality and carefully select and train the

best possible employees to support that commitment. To ensure employee understanding of the importance of fair and equal treatment, departmental policy strictly prohibits the practice known as “racial profiling.”

Racial profiling is defined by the *Texas Code of Criminal Procedure* as 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.

Complaints of racial profiling, as with other complaints against departmental personnel, may be lodged with Internal Affairs or with any supervisor in the police department. Internal Affairs is staffed from 8:00 a.m. until 5:00 p.m., Monday through Friday. Complaints may also be made by phone or in person at any of the patrol division facilities.

A racial profiling complaint should be made in a timely manner after the incident so that the details are readily available to the investigating supervisor and prompt attention can be focused to correct and/or discipline an officer acting in an unacceptable manner. If you feel you have been mistreated or harassed, it is your responsibility to file a formal complaint. Get the officer’s name and identification number. They are required to give you this information if you ask.

Keep a file with copies of everything pertinent to your case: your statements, letters sent and letters received. Keep a written log of who you talk to, the date and time of the conversation, and what was said. Keep track of the progress of your complaint.

Additional provisions of the law require collection of certain information related to each motor vehicle stop for an alleged violation of a law or ordinance regulating traffic. Officers are required to document information related to each driver stopped and any search conducted as a result of the stop. Annual reports will be made to the City Council concerning data reported for the previous calendar year. In compliance with state law, data collection related to traffic and pedestrian stops began on January 1, 2002.

Newly hired recruits as well as tenured officers and supervisors receive classroom training on the state law and departmental policy and procedures related to racial profiling. Such training is mandated by law and standardized through the Texas Commission on Law Enforcement, the regulatory agency charged with establishing, implementing, and maintaining standards for peace officers statewide.

The Fort Worth Police Department is vitally interested in the welfare of all its citizens and visitors and diligent in taking action when its employees have proven derelict in their duties or are guilty of wrongdoing. If it becomes necessary for you to make a complaint, you can be assured that it will be given a fair and thorough investigation. By the same token, if you have occasion to see a police officer doing outstanding work, tell us about it. Your Fort Worth Police Officers are dedicated to serving you and our community.



POLICE DEPARTMENT

RACIAL PROFILING POLICY AND PROCEDURES

Useful Addresses and Telephone Numbers:

Internal Affairs	817/392-4270
505 W. Felix	
Fort Worth Police Department	817/335-4222
350 West Belknap Street	
North Division	817/392-4600
2500 North Houston Street	
East Division	817/392-4640
1000 Nashville	
South Division	817/392-3400
3128 West Bolt Street	
West Division	817/392-4700
3525 Marquita Drive	
Central Division	817/392-3900
501 Jones Street	



El Departamento de Policía de Fort Worth está dedicado a proveer el mejor servicio policial para todos los ciudadanos de Fort Worth y a esos que visitan nuestra ciudad. Estamos comprometidos a los principios de justicia e igualdad y cuidadosamente hacemos una

selección y entrenamos a los mejores empleados posibles para dar soporte a ese compromiso. Para asegurar que el empleado entiende la importancia del tratamiento justo y equitativo, la política departamental estrictamente prohíbe la práctica conocida como “perfil racial.”

Perfil Racial está definido por el *Código de Procedimiento Criminal de Texas o Texas Code of Criminal Procedure* como una acción de inicio de un oficial de policía basado solamente en la raza, etnicidad, u origen nacional del individuo en vez del comportamiento del individuo o en información que identifica al individuo como una persona involucrada en alguna actividad criminal.

Las quejas de perfil racial, al igual que con otras quejas en contra de empleados del departamento, puede ser presentadas en la Oficina de Asuntos Internos o con cualquier supervisor en el Departamento de Policía. El personal de la Oficina de Asuntos Internos atiende de 8:00 a.m. a 5:00 p.m., de lunes a viernes. Las quejas también pueden ser hechas por teléfono o en persona en cualquier instalación de la división de patrulla.

Una queja racial debe ser hecha de manera oportuna después del incidente a fin de que los detalles estén disponibles para el supervisor investigador y la atención prestada pueda ser enfocada para corregir y/o disciplinar a un oficial actuando en una manera inaceptable. Si usted siente, que ha sido maltratado o acosado, es su responsabilidad archivar una denuncia formal. Obtenga el nombre y número de identificación del oficial. Ellos están obligados a darle esta información si usted pregunta.

Conserve un archivo con copias de todo lo relacionado con su caso: SUS declaraciones, cartas expedidas y sus cartas recibidas. Conserve una anotación de con quien usted habla, la fecha y el tiempo de la conversación, y lo que se dijo. Siga la ruta del progreso de su queja.

Cláusulas adicionales a la ley requieren un archivo de cierta información relacionada con cada detención de un vehículo por violaciones de tránsito. Los oficiales están obligados a documentar información relacionada de cada conductor detenido y cualquier revisión realizada como resultado de la detención. Se harán reportes anuales al Concejo Municipal sobre información concurrente reportada para el año civil previo. De acuerdo con la ley estatal, el archivo de datos guardados con relación a tráfico y parada de peatones empezaron el 1° de enero, 2002.

Los reclutas recién contratados así como también los oficiales y los supervisores en oficio reciben entrenamiento de la ley estatal y la política departamental y los procedimientos relacionados con el perfil racial. Tal entrenamiento es promulgado por la ley y estándar a través de la Comisión de Texas en la Ejecución de la Ley (TCOLE), la agencia reguladora cumple con establecer, implementar, y mantener las normas para oficiales del orden público de todo el estado.

El Departamento de Policía de Fort Worth está sumamente interesado en el bienestar de todos sus ciudadanos y sus visitantes y presto en tomar cartas en el asunto cuando sus empleados han resultado ser ofensores en sus derechos o son culpables de actos contra la ley. Si es necesario para usted hacer una queja, entonces usted puede confiar que recibirá una investigación justa y cabal. Del mismo modo, si usted observa a algún oficial realizando una labor de apremio o sobresaliente, por favor háganoslo saber. Sus Oficiales de Policía de Fort Worth están dedicados a servir a usted y nuestra comunidad.



DEPARTAMENTO DE POLICÍA

PERFIL RACIAL POLÍTICA Y PROCEDIMIENTOS

Direcciones útiles y Números de teléfono:

Oficina de Asuntos Internos	817/392-4270
505 W. Felix	
Departamento de Policía	817/335-4222
350 West Belknap Street	
División Norte	817/392-4600
2500 North Houston Street	
División Este	817/392-4640
1000 Nashville	
División Sur	817/392-3400
3128 West Bolt Street	
División Oeste	817/392-4700
3525 Marquita Drive	
División Central	817/392-3900
501 Jones Street	

Rectangular Snip



Racial Profiling Information

In 2001, the Texas legislature, in an attempt to address the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. Since 2001, the Fort Worth Police Department, in accordance with the law, has collected and reported traffic-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. During the past legislative session, the Racial Profiling Law was modified and new requirements are now in place. Below is information about how to file a racial profile complaint, a staff action report in response to a question regarding the 2010 Racial Profiling Report, and the Fort Worth Police Department's Racial Profiling Reports from 2002 to the latest report:

Racial Profiling Complaint Procedures

[How to File A Racial Profiling Complaint](#)

ABOUT FWP

[About FWP](#)

[Officer Involved Shooting](#)

[Professional Standards](#)

[About the Chief](#)

[Executive Staff](#)

[Organizational Chart](#)

[Department History](#)

[Racial Profiling Information](#)

[Badge & Patch History](#)

[In Memoriam](#)

[Contact Information](#)

[Privacy Policy](#)

Racial Profiling Complaint Procedures

[How to File A Racial Profiling Complaint](#)

Response to Questions Regarding 2010 Racial Profiling Report

[Staff Action Report](#)

Racial Profiling Reports

[2015](#)

[2014](#)

[2013](#)

[2012](#)

[2011](#)

[2010](#)

[2009](#)

[2008](#)

[2007](#)

[2006](#)

[2005](#)

[2004](#)

[2003](#)

[2002](#)

[In Memoriam](#)

[Contact Information](#)

[Privacy Policy](#)

30. RACIAL PROFILING AND THE LAW

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

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

Racial Profiling Requirements:

Racial profiling	CCP 3.05
Racial profiling prohibited	CCP 2.131
Law enforcement policy on racial profiling	CCP 2.132
Reports required for traffic and pedestrian stops	CCP 2.133
Liability	CCP 2.136
Racial profiling education for police chiefs	Education Code 96.641
Training program	Occupations Code 1701.253
Training required for intermediate certificate	Occupations Code 1701.402
Definition of "race or ethnicity" for form	Transportation Code 543.202

- A. Written departmental policies
 - 1. Definition of what constitutes racial profiling
 - 2. Prohibition of racial profiling
 - 3. Complaint process
 - 4. Public education
 - 5. Corrective action
 - 6. Collection of traffic-stop statistics
 - 7. Annual reports
- B. Not prima facie evidence
- C. Feasibility of use of video equipment
- D. Data does not identify officer
- E. Copy of complaint-related video evidence to officer in question
- F. Vehicle stop report
 - 1. Physical description of detainees: gender, race or ethnicity
 - 2. Alleged violation
 - 3. Consent to search
 - 4. Contraband
 - 5. Facts supporting probable cause
 - 6. Arrest
 - 7. Warning or citation issued
- G. Compilation and analysis of data
- H. Exemption from reporting – audio/video equipment
- I. Officer non-liability
- J. Funding
- K. Required training in racial profiling
 - 1. Police chiefs

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

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

- A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)
 1. Motor vehicle search exemption
 2. Traffic violation acceptable as pretext for further investigation
 3. Selective enforcement can be challenged
- B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)
 1. Stop & Frisk doctrine
 2. Stopping and briefly detaining a person
 3. Frisk and pat down
- C. Other cases
 1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
 2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
 3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
 4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
 5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
 6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

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

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

- A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism
- B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole
- C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers
- D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

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

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

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

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

- A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements
- B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)
- C. A typical traffic stop resulting from racial profiling
 1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
 2. The driver and passengers are questioned about things that do not relate to the traffic violation
 3. The driver and passengers are ordered out of the vehicle
 4. The officers visually check all observable parts of the vehicle
 5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
 6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

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

- A. Drug courier profile (adapted from a profile developed by the DEA)
 1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
 2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
 3. Vehicle is rented
 4. Driver is a young male, 20-35
 5. No visible luggage, even though driver is traveling
 6. Driver was over-reckless or over-cautious in driving and responding to signals
 7. Use of air fresheners
- B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

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

- A. Thinking about the totality of circumstances in a vehicle stop
- B. Vehicle exterior
 - 1. Non-standard repainting (esp. on a new vehicle)
 - 2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
 - 3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
 - 4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)
- C. Pre-stop indicators
 - 1. Not consistent with traffic flow
 - 2. Driver is overly cautious, or driver/passengers repeatedly look at police car
 - 3. Driver begins using a car- or cell-phone when signaled to stop
 - 4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)
- D. Vehicle interior
 - 1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
 - 2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

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

Web address for legislation 77R-SB1074:

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

Appendix A

Maryland Training Unit on Proactive Field Stops

Law Enforcement Training Course

TRAINING UNIT
PROACTIVE FIELD STOPS

INSTRUCTOR GUIDE



Developed by the
Maryland Police and Correctional
Training Commissions

NOTICE

Due to the dynamic nature of law enforcement and the impact of court decisions and statutory changes on police and correctional operations, it is important that each department review this information to verify that it is consistent with current federal, state and local law and regulations, and with departmental policy and procedure. This information is not intended to substitute for the advice of legal counsel. You should speak with your legal advisor about the sufficiency of your department's manual, policy, curriculum, and training program. This material should not be used as the sole basis for compliance with any law or regulation, and departments should not rely on this material as a legal defense in any civil or criminal action. The Police & Correctional Training Commissions have compiled and distributed this information as a guide for the individual departments, and are not responsible for the content and delivery of this material by other departments

TRAINING UNIT
Proactive Field Stops

TRAINING OBJECTIVES:

Examine the phenomenon of alleged racial profiling by law enforcement, particularly the tactic of using traffic stops as a pretext to investigate suspected criminal activity.

Review the constitutional issues surrounding the use of police field stops to deter crime and apprehend known criminal offenders, including relevant US Supreme Court and Maryland decisions.

Discuss effective techniques for conducting lawful field stops of suspects operating motor vehicles and suspects on the street.

MPTC OBJECTIVES:

None identified at this time.

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TRAINING UNIT
Proactive Field Stops

I. Racial Profiling – A Background

“To stop and search an individual simply because of his race, gender, or economic level is unlawful as well *as unconstitutional, and should not be tolerated in any police organization.*”

Superintendent David Mitchell
Maryland State Police

- A. In its broadest sense, racial profiling by law enforcement officers is the practice of some officers to stop, search, and investigate minorities, both on the street and while traveling in vehicles, based solely on their racial or ethnic background, rather than on their actions.
- B. The perceived police practice of stopping and searching vehicles operated by African Americans, especially those that are suspected of being drug couriers, had been termed “Driving While Black,” or “DWB.”
- C. “DWB” has likewise been expanded to mean “Driving While Brown,” —the ethnic profiling of Hispanic-Americans.
- D. This perception by some African Americans that they are unfairly and unjustly singled out by police as criminal suspects has been widely publicized by the national and local media.
- E. Racial profiling is any police street or traffic stop, based solely on racial or ethnic stereotypes that has the end result of treating minorities significantly differently than non-minority citizens. This volatile issue can effectively polarize police agencies and the communities they serve.
- F. The majority of complaints alleging racial profiling follow vehicle stops by police.
- G. These vehicle stops are usually the result of police drug interdiction efforts and they occur typically along interstate highways that are considered to be major drug transport corridors.

- H. In the Mid-Atlantic area, Interstate-95 has been the source of the majority of complaints about this practice, particularly those sections of I-95 in Maryland.
- I. Typically, the traffic stop is for a traffic violation, which is actually a pretext for the purpose of conducting a search of the vehicle for drugs or other narcotic-related contraband.
- J. Allegations of racial profiling during a vehicle stop may roughly follow this pattern:
1. On the basis of a real or contrived traffic violation, the suspect vehicle is stopped by the police.
 2. The driver and occupants are subjected to verbal inquiries that are not necessarily related or pertinent to the purported traffic violation that was the basis for the stop.
 3. The driver and other occupants are ordered out of the vehicle.
 4. The police will visually check all observable areas of the interior of the vehicle.
 5. Based on their questioning of the occupants and their visual observation of the vehicle, the police, acting on their perception of a drug courier profile—which is actually an investigative template—may detain the driver and occupants by the roadside for further investigation.
 6. The driver is requested to accede to a consent search of the vehicle.
 7. If consent to search the vehicle is denied, the police will usually conduct a peripheral investigative (and delaying) tactic, such as summoning a drug-detection dog to the scene, or conducting time-consuming wanted and criminal record checks on the vehicle and all occupants.
 8. The key element in this process is the consent search, since this is the means by which the police will successfully accomplish a drug interdiction effort.
 9. If the driver refuses to consent to a search of the vehicle, intimidation may be applied. The police may threaten to detain the driver (for several hours) until they obtain a search warrant, or otherwise allude to some other delaying or harassing action, even intimating the arrest of occupants and the towing and impounding of the vehicle.
- K. Drug courier profiles originated with the Drug Enforcement Administration (DEA) in the early 1970's, and were originally used at airports, train stations, and bus depots. The characteristics of DEA courier profiles were behavioral-based:

- Unusual nervousness of suspect
 - Payment of ticket in cash
 - Traveling to or from a drug-suspect destination
 - Traveling under an alias
 - Carrying little or no luggage
 - Immediate use of telephone after destination arrival
 - Leaving a false call-back phone number with ticket agent
 - Excessive travel to drug-source or distribution locales
- L. In 1986, the DEA instituted “Operation Pipeline,” a highway drug interdiction program, which has since trained state and local police agencies in the use of pretext traffic stops in order to find drugs in vehicles. The techniques suggested by the DEA include the following clues, or indicators of highway drug smuggling:
- Use of car air fresheners to discourage drug-sniffing canines
 - Overt signs of driving long hours without stop, such as food wrappers and beverage cans in the car, days-old facial beards, and disheveled clothing
 - Use of rental vehicles
 - Driver is a young male, usually 20-35 years; the age group which experience has shown to be the most likely drug courier.
 - No visible luggage in the vehicle
 - Driver attempted to avoid or elude the police by operating either recklessly, or even overly-cautiously
 - Unusual driver nervousness and anxiety
- M. The DEA and local police agencies vigorously deny that race or ethnicity is a factor in drug courier profiles. These agencies say they neither teach nor condone racial profiling. If and when it does occur, they infer it is the result of over-zealous or errant officers, the proverbial “bad apples” or “rogue cop” cliché.
- N. Various national civil rights organizations have claimed otherwise. The American Civil Liberties Union (ACLU), has taken the lead in combating alleged racially-biased traffic stops by instituting civil litigation against suspect police agencies, sometimes successfully.
- O. According to the ACLU, pretextual stops are legal deceptions because the alleged traffic violation is not the real reason the officer stopped the car. They note that this becomes obvious when the officer begins to question the occupants and requests consent to search the vehicle. If the stop was really for a traffic violation, they argue, there would be no need for a roadside interrogation or a search.
- P. Pretextual stops that are presumably based solely on the race or ethnicity of the driver and/or passengers, are problematic and are the center of the controversy.

- Q. The US Supreme Court, in *Whren v. United States*, 517 U.S. 806, 116 S. Ct. 1769 (1996), has approved the use of pretextual traffic stops when the officer has observed a traffic violation or has probable cause to believe that criminal activity has been, or is, taking place.
- R. There is an increase in law enforcement agencies being confronted with civil litigation alleging bias traffic stops by their officers, i.e., that their officers are acting primarily in response to a citizen's race or ethnicity, rather than the citizen's actions.
- S. While it is appropriate to use race as an identifying characteristic, such as in a description of a wanted suspect, police cannot utilize a criminal profile based solely on race or ethnicity, nor can police use race or ethnicity as the sole basis for a traffic or street stop. To do so is the crux of racial profiling.
- T. Simply put, racial or ethnic bias has no place in progressive law enforcement, regardless of past practices. Traffic stops and street field inquiries must always be performed in a totally impartial, fair-minded, and professional manner. Police cannot effect a pretextual traffic stop solely on the basis of the race of the driver or occupants.

Police cannot ascribe certain behavior traits to a person or a group merely on the basis of their race or ethnic background. If police action is taken, it must be because the person in question has violated a law, not because he or she is of a particular race, ethnicity, or gender. Police can only intervene on the basis of what people do, not on what they look like.

II. Law Enforcement Profiling – Viewpoints

- A. The alleged practice of racial profiling in law enforcement assumes that most drug offenses, particularly distribution and sales, are committed by minorities—predominantly African Americans and Hispanics. It follows, that when police specifically look for drug violations among African Americans and Hispanics, they'll find them in disproportionate numbers.
- B. On the other hand, civil rights activists challenge the claim that criminal profiling is disproportionately committed by young minority males. They rationalize that because police concentrate aggressive crime suppression tactics primarily in minority communities, they will, as expected, stop, investigate, and arrest a disproportionate number of minority men.
- C. Despite this unintended “targeting” effect of profiling, profiling itself is not necessarily a biased concept. Everyone “profiles,” although some might call it stereotyping. We profile when we make a major purchase, pick our friends, or select

- a school for our kids. Arguably, profiling can be considered an intrinsic part of the human experience.
- D. A profile is a set of characteristics which we arbitrarily ascribe to human behavior or to a social situation, and by which we judge, evaluate, and categorize people, places, and things. These characteristics are derived from our life experiences, and are applied either consciously or subconsciously.
 - E. Profiling, as a criminal investigation tool, is naturally derived from our work experiences as law enforcement officers. We intuitively form insights regarding people we professionally interact with, particularly the criminal element. From these associations, we develop a mental profile of certain characteristics that are habitually associated with specific acts of criminal behavior.
 - F. Essentially, MO, or methods of operation, and criminal profiles are closely related concepts. Based on a criminal's MO, an experienced and insightful investigator, particularly a specialist, can usually formulate a reasonably accurate profile of the perpetrator.
 - G. The heart of the subject controversy is whether law enforcement agencies can legitimately use race, either exclusively, or as one of several factors in devising criminal profiles for suppression of street crime, and particularly, for drug courier interdiction on highways.
 - H. Law enforcement officials, including some African American police chiefs in big cities, defend such tactics as an effective way to target their limited resources on likely lawbreakers. They maintain that profiling is based not on prejudice, but probabilities—the statistical reality that young minority men are disproportionately likely to commit (and be the victim of) crimes.¹
 - I. Bernard Parks, Chief, Los Angeles, CA PD, argues that racial profiling is rooted in statistical reality, not racism. Chief Parks, who is African American, vigorously defends the idea that police can legitimately factor-in race when building a profile of a criminal suspect.²
 - J. Reuben Greenberg, Chief, Charleston, SC PD, who is also Black, sees the problem as "...white cops who are so dumb that they can't make a distinction between a middle-class Black and an under-class Black, between someone breaking the law and someone just walking down the street. Black cops too."³
 - K. The International Association of Chiefs of Police (IACP) maintains that proactive police traffic stops, based on legitimately-observed and articulable violations will:

¹ Jeffrey Goldberg, "What Cops Talk About When They Talk About Race," *The New York Time Magazine*, 20 June 1999, p. 50-57, 64-65, 88.

² Ibid.

³ Ibid.

- Reduce motor vehicle accidents
 - Identify and deter drunk drivers
 - Prevent and abate criminal activity
- L. The IACP notes that studies have shown that more illegal guns are seized through traffic stops than any other enforcement action and that the DEA estimates that 40% of all drug arrests result from traffic stops.
- M. The problem with racial profiling, is that it is not only capricious, it is also inaccurate. It randomly targets all minority men, the innocent as well as the criminal, including many middle-class professionals, based solely on their race or ethnic origin, who are arbitrarily stopped, detained, questioned, and humiliated by this practice, often repeatedly.
- N. Whatever gains law enforcement derives from profiling are vastly outweighed by the negative social costs incurred, principally the erosion of trust and confidence in the criminal justice system in this country by minorities.

III. Constitutional Issues

A. Two U.S. Supreme Court decisions impact proactive field stops. *Whren v. United States*, 517 U.S. 806, 116 S.Ct. 1769 (1996) for traffic stops, and *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868 (1968) for street field interviews.

B. *Whren v. United States*

1. In *Carroll v. United States*, 267 U.S. 132,153 (1925), the Supreme Court established the motor vehicle search exception to the warrant requirement. This decision permitted police to search a vehicle without a warrant when they had probable cause to believe it contained contraband or evidence of a crime. The mobility of a motor vehicle was a factor in this decision.
2. In 1996, the US Supreme Court held unanimously in *Whren v. United States*, that as a general matter, the decision to stop a motor vehicle is reasonable when the police have probable cause to believe that a traffic violation has occurred.
3. The Court noted in *Whren*, that the constitutional reasonableness of the stop does not depend on “ulterior motives,” “actual motivations,” or “subjective intentions” of the officer making the stop.
4. In effect, the United States Supreme Court approved the practice of police using a traffic violation to justify a traffic stop, even when the purpose of the

police was to conduct an investigation into suspected criminal activity not necessarily related to the traffic violation.

5. The Court, while declaring that such stops do not violate the Fourth Amendment, did allow that allegations of unlawful selective enforcement (stops based solely on race or ethnicity) could be challenged civilly under the equal protection clause of the 14th Amendment.

C. *Terry v. Ohio*

1. *Terry v. Ohio* was a landmark Supreme Court case that established the Stop & Frisk doctrine, and outlined the Supreme Court's guidelines for investigative stops.
 2. The Court held that police may, in certain circumstances, approach and stop a person for the purpose of investigating possible criminal behavior, even when there is not enough probable cause to make an arrest.
 3. Under *Terry*, a police officer may stop and briefly detain a person only if the officer has a reasonable suspicion, supported by articulable facts, that the individual may be involved in criminal activity.
 4. The Court also held that under certain circumstances, the person stopped could also be "frisked," in that the police could conduct a limited search, or "pat down", of the individual's outer clothing to discover the presence of any weapons.
- D. These decisions permitted a wide latitude of individual police discretion in stopping and investigating citizens operating motor vehicles, standing on a corner, or walking down the street.
- E. Obviously, discretion is a critical part of the police task and police work grants front-line officers an enormous amount of autonomy in decision-making. In this sense, police discretion can be defined as making judgmental decisions based on several factors, such as:
- Laws and ordinances
 - Agency policies and procedures
 - Training
 - Job knowledge and experience
 - Personal values and beliefs
 - Work group norms
 - Community mores and customs

- F. Police work, by its very nature, however, can be driven by a single-minded determination to just getting the job done; an ends justify the means attitude. This is personified by the old cop adage: “Do something—take some kind of action—even if it’s the wrong thing.”
- G. When this macho, action-oriented mindset is coupled with wide-ranging autonomous and loosely-supervised discretion, the potential for police abuse of power is considerably magnified.
- H. For some officers, the ends, or objectives, have become so important to them, that they will resort to using borderline means or risky shortcuts to accomplish what *they* think is right and proper, regardless of what the law requires or what their agency policies dictate.
- I. In time, this “ends justify the means” outlook evolves into an “us versus them” approach to law enforcement; a cynical, and self-serving personal assessment of the officer’s relationship to the citizenry he or she is sworn to protect.
- J. Whatever the individual police officer may personally think about crime, criminals, and the law, he or she must perform their duty in a competent and fair-minded manner.
- K. Competence and fairness are the keys to professional police work, especially in confronting citizens in proactive field stops; anything less is ethically and professionally unacceptable.
- L. To validate and justify a traffic stop or a street field interview, you must be capable of reasonably and intelligently articulating, verbally and in writing, the basis for the stop. In order to stop a vehicle, for instance, a police officer must be able to explain that a traffic violation or a criminal act had occurred.
- M. Articulating simply means you must be able to persuasively explain or demonstrate to a court that you had probable cause to stop the vehicle or person in the first place, and that you had reasonable suspicion for any further detaining or investigative actions you conducted following the stop.
- N. Reasonable suspicion is something less than probable cause, but is more than a vague suspicion, an unexplainable hunch, or a “gut feeling.” If you can’t articulate the reason(s) for the stop, you probably don’t have grounds for a legal stop in the first place.
- O. Other Significant Cases:
 - 1. *Pennsylvania v. Mimms*, 434 U.S. 106, 98 S.Ct. 330 (1977) A US Supreme Court decision which allows an officer to order the driver out of a vehicle following a lawful traffic stop. The Court decided this case on the basis of

officer safety, and cited a study that revealed 30% of police shootings occurred when officers approached suspects in vehicles.

2. *Maryland v. Wilson*, 117 S.Ct. 882 (1997) This US Supreme Court decision permits officers to order passengers out of a vehicle following a lawful traffic stop pending the completion of the stop.
3. *Graham v. State*, 119 MdApp 444, 705 A.2d 82 (1998) Passenger is “seized” for purposes of the 4th Amendment when he is ordered to remain in a car stopped for speeding while officer checks the driver’s license and registration. Continued detention of passenger *after* purpose of stop is accomplished is unreasonable, unless there is reasonable, articulable suspicion to justify continuing the detention. (driver’s license proved invalid, driver was arrested, yet passenger ordered to remain in the car after driver’s arrest to wait 25 minute for a K-9 unit).
4. *Pryor v. State*, 122 Md.App. 671 (1997), *cert. denied* 352 Md. 312, 721 A.2d 990 (1998) (other citations omitted) The 4th Amendment permits the warrantless search of an automobile when there is probable cause to believe that the automobile contains contraband or evidence of criminal activity.. Note: there is no separate “exigency requirement” for the automobile exception to apply; probable cause alone satisfies the automobile exception to the 4th Amendment’s warrant requirement. *Maryland v. Dyson*, 527 U.S. 465, 119 S.Ct. 2013 (1999)(*per curiam*).
5. *Ferris v. State*, 355 Md. 356, 735 A.2d 491 (1999) The officer’s purpose in an ordinary traffic stop is to enforce the laws of the roadway, and ordinarily to investigate the manner of driving with the intent to issue a citation or warning. Once the initial purpose of that stop has been fulfilled, the continued detention of the car and the occupants amounts to a second detention. Once the underlying basis for the initial traffic stop has concluded, a police-driver encounter which implicates the 4th Amendment is constitutionally permissible only if (1) the driver consents to the continuing intrusion; *or* (2) the officer has, at a minimum, a reasonable, articulable suspicion that criminal activity is afoot. *Ferris v. State*, 355 Md. 356, 735 A.2d 491 (1999). For example:

Officer stopped driver stopped for suspected violations of motor vehicle laws, and continued to briefly detain him after learning that the license and registration were in order. Court found that officer harbored no more than a “hunch” that the driver possessed drugs, and that the continued detention was not independently supported by reasonable suspicion of criminal activity. Therefore, drugs subsequently found in the vehicle were suppressed. *Munafó v. State*, 105 Md.App. 662, 660 A.2d 1068 (1995).

Trooper issued driver a traffic citation, returned driver’s license and registration documents, and then asked driver if he would mind exiting his

vehicle and stepping to the rear to answer a few questions. After several questions, driver admitted to smoking and possessing pot. Pot was suppressed because court found trooper had insufficient reason to justify continuing the encounter after issuing citation. *Ferris v. State*, 355 Md. 356, 735 A.2d 491 (1999).

In meeting the reasonable articulable suspicion standard, it is not enough for officers to articulate reasons why they stopped someone if those reasons are not probative of behavior in which few innocent people would engage. The factors together must serve to eliminate a substantial portion of innocent travelers before the requirement of reasonable suspicion will be satisfied; officers' assertions that a criminal activity is indicated by "garden variety nervousness" must be treated with caution. *Ferris v. State*, 355 Md. 356, 735 A.2d 491 (1999) (other citations omitted).

6. *New York v. Belton*, 453 U.S. 454 (1981) Allowed that police may conduct a full search of a vehicle's passenger compartment incidental to a custodial arrest of an occupant. A full search would not, however, be permitted in those situations where the officer merely issued a citation.

P. Consent Searches:

1. The two prerequisites for a valid consent search of a vehicle (or anything else) are:
 - a. The consent must be given voluntarily, and
 - b. The consent must be given by a person with authority.
2. Because consent is a critical exception to the search by warrant requirement, the State (the police officer) bears the burden of proving both these prerequisites.
3. The consent given must be free and voluntary. Any appearance of coercion may void the search. A arrestee in custody is seen by the courts to be susceptible to duress and coercion and the courts will closely examine the voluntariness of any consent given by an arrested person.
4. Numerous officers on the scene may be perceived as a coercive situation to the average person.
5. Similarly, the person consenting to the search must have the legal authority to grant the consent. Again, it is the investigating officer's responsibility to determine authority. From a legal perspective, control and access count for more than ownership.
6. The consent search of a vehicle:

- a. Will usually include all containers in the vehicle unless the consenting person exempted consent for those specific items or areas.
- b. The search must be restricted in scope to the area where consent was given. In other words, a person may consent to a search of the passenger area, but not the trunk.
- c. The request for consent must be in the form of a request, not a command.
- d. The person must clearly understand what he or she is agreeing to when their consent is requested.
- e. Police are not constitutionally required to inform citizens that they are free to leave before getting consent to search a motor vehicle, but by not doing so, the constitutional validity of any further investigation would be imperiled. *Ferris v. State*, 335 Md 356, 735 A.2d 491 (1999).
- f. It is recommended, however, that the driver's license and registration be returned, along with any other documents, including a citation, if one was issued, before consent to search is requested, to dispel any impression on the driver's part that he or she is still detained.
- g. The consent to search may be withdrawn at any time during the search.

7. Consent Form or Waiver:

- a. Most law enforcement agencies have a pre-printed form with which a person can sign to indicate that they consented to a search of their vehicle, home, or possessions. Some consent forms are printed in multiple languages.
- b. It would be very beneficial if officers can persuade the responsible individual to read and sign their agency consent form.
- c. Note: It is not unusual for suspects to verbally agree to a consent search, but decline to sign a consent form. If incriminating evidence or contraband is later found, they can then deny that they ever verbally consented to a search.
- d. To preclude this scenario, officers should obtain the verbal consent on tape if an in-vehicle or tape recorder is available. Lacking that, have your back-up officer available to witness the verbal consent agreement.

NOTE: You cannot tape-record in Maryland with the knowledge, and consent, of the other person.

8. When conducting a consent search of a vehicle, always have a back-up officer on the scene for your own safety. You cannot conduct an effective vehicle search and keep an eye on someone at the same time.

9. The question always arises—why would anyone with something to hide, especially of an illegal nature, willingly allow the police to search their vehicle or possessions? Usually for the following reasons:
 - No. 1 Reason – They believe the stuff (drugs, weapons, stolen property, etc.) will be overlooked.
 - No. 2 Reason – They think their consent will be looked on favorably by the courts. They want to appear cooperative (!)
 - If anything incriminating is found, they feel like they can deny any knowledge or personal involvement with it, or otherwise explain it away.
 - They think they've been caught and simply give up.

IV. Interpersonal Communication: The Key Ingredient

A. Effective communication skills can be a police officer's most important attribute. This is particularly so when engaged in a traffic stop or a field interview on the street. A few particulars....:

1. Approach the citizen in a open, friendly manner if at all possible. Keep your body language assertive, but non-hostile. If appropriate, introduce yourself.
2. Remember, the key elements in any stop are civility and caution. Sometimes it's difficult to be courteous, but you should always be civil.
3. Tell the citizen why you stopped him. Unless it's patently obvious, the citizen has a right to know and you are professionally obligated to inform him, without any hostility or posturing on your part.
4. Avoid any excessive small-talk or inappropriate questioning.
5. Be brief and to the point. Don't detain anyone beyond the time needed to effect the necessary enforcement action or otherwise clarify a situation.
6. Keep your physical, or non-verbal indicators friendly and neutral, such as your:
 - Eye contact
 - Stance
 - Position of hands
 - Facial expression
7. According to studies conducted in several states, the number one citizen complaint about police officers is the officer's *verbal conduct*. By

comparison, only about one-fourth of the complaints filed against police officers dealt with excessive force issues.

8. Speak civilly and in a moderate tone. Citizens seem more concerned about *how* officers speak to them, than by what the officer actually says. Citizens are particularly aggrieved by what they perceive as an officer's gruff or condescending tone of voice.
9. Listen actively. Communication is a two-part process and listening is the other half. Regardless of the type of person you're dealing with, stay focused and concentrate on what they're saying (...or not saying).
10. Sgt. Larry E. Capps, of the Missouri City, Texas PD, has coined a police-citizen interaction dynamic, appropriate for this discussion, which he calls CPR, for:⁴
 - a. Civility – A state of affairs characterized by tolerance, kindness, consideration, and understanding. Civility can be expressed by positive action, or even inaction, as when police officers refrain from over-reacting to verbal outbursts from angry citizens.
 - b. Professionalism – In a broad sense, a concept of excellence or a continual striving for excellence. Its core elements include technical knowledge, moral judgements, a client-oriented practice, considerable discretion given to practitioners, and most importantly, an acknowledgement that policing is a “moral call” profession, in which members are duty bound to respond, whenever and wherever called, regardless of who calls them.
 - c. Restraint – The self-control exercised by officers and their selection of the least intrusive means of accomplishing a legitimate police objective.
11. Some officer best-practices for vehicle stops:
 - a. Always inform the driver of the reason for the stop. Speak slowly and clearly.
 - b. Describe the violation in terms of what the vehicle as doing, not what the driver did. This non-accusatory approach can often enhance officer-driver rapport.
 - c. Ask the driver for the reason for the violation; allow them to vent/offer a stress-reducing explanation.

⁴ Larry E. Capps, “CPR: Career-Saving Advice for Police Officers,” *FBI Law enforcement Bulletin*, July, 1988, Washington, DC, p. 14-18.

- d. Provide instructions. After you obtain their license and registration, tell them that you are going back to your police vehicle to review their documents and advise them to remain in their vehicle.
- e. Calm any children in the stopped vehicle that may be visibly apprehensive of the presence of a police officer.

12. Again, it's worth repeating: Proactive traffic enforcement that is race or ethnic-based is neither legal: consistent with democratic ideals, values, and principles of American policing; nor in any way a legitimate and defensible public protection strategy.⁴

13. Use the *but/for* test to determine if a stop was based on racial profiling. Say to yourself, *But for this person's race, ethnic heritage, gender, religious or sexual preference, would this driver have had this encounter with me?* If the answer is that they would not, then this was a profile stop and most likely a violation of the person's Constitutional rights.⁵

V. Proactive Field Stops – Motor Vehicles

- A. You've heard it before; we'll say it again: "There's no such thing as a routine traffic stop." You, the cop, are at a distinct disadvantage during any traffic stop. The driver knows who you are, but you don't know who he is.
- B. All your survival skills and street instincts should be highly focused during a traffic stop, no matter how innocuous or minor it may seem.
- C. Again, you must be able to articulate that a traffic violation or criminal act has occurred in order to stop a vehicle. You cannot stop a car on a whim, or a hunch, or just because you're bored. Discretionary stops are violations of the Fourth Amendment and/or the Fourteenth Amendment because they are arbitrary, intrusive, and discriminatory.
- D. Unless it's an emergency situation, you should not attempt to stop a vehicle if you're in plainclothes and/or operating an unmarked vehicle. Always request a marked patrol vehicle to make the stop for you.

Note

Does this all sound like basic cop stuff you learned back at the Academy and at those dreary and redundant In-Service training sessions? Does a salty, veteran, street cop like yourself need to sit thru all this sermonizing again? Consider this, FBI stats indicate that vehicle stops, nationally, over a 10-year period, account for about 11 percent of all peace

⁴ US Department of Justice, NHTSA, *Strengthening the Citizen and Police Partnership at the Traffic Stop: Professionalism is a Two-Way Street*, (Draft) Washington, DC, Aug.14, 2000, p. 8.

⁵ *Ibid.*

officers feloniously killed or assaulted. Are you fairly comfortable with one-in-ten odds, Officer, ...well, are you?

E. It is not the purpose of this training unit section to tell you how to make a traffic stop. Traffic stop procedures and techniques constitute a training category all their own. We'll cover a few priority highlights that are particularly pertinent for a patrol officer working solo:

1. Select a stop location that will best allow you to deal safely and effectively with the motorist.
2. Position your police vehicle about 30-40 feet behind the stopped vehicle and aim your spotlight at the interior rear mirror of the stopped vehicle
3. Park your police vehicle at an angle to the stopped vehicle and position your vehicle engine block as cover, ...just in case.
4. Notify your dispatcher of the stop location, vehicle description and license—Always!
5. If doable, get a stolen check on the vehicle before approaching. You can obtain a vehicle registration listing later.
6. If circumstances are less than desirable, or if something seems suspicious or amiss, approach the vehicle from the right-hand, or passenger side, especially when:
 - You're working solo
 - You're in a rural or deserted area
 - During darkness or in a low-light area
 - More than one person is in the stopped vehicle
 - You're on a high-traffic roadway
7. If the driver or occupants exit the stopped vehicle right after the stop, exit your police vehicle also, especially if they start walking toward you. Be the first out of your vehicle. You don't want to be behind your steering wheel and secured in your seat belt if a fire fight erupts.
8. Remember: Your initial approach toward the vehicle and your first contact with the driver is the most dangerous stage of a traffic stop. Make your approach slowly and stop and push down on the trunk lid of the stopped vehicle to ensure it is locked. Ask the driver to turn on the dome light.

9. Ask drivers where they keep their operator's permit and vehicle registration. This will allow you to anticipate the driver's movements and might decrease your reaction time in the event something goes wrong.
10. Note: Push down on the trunk with your bare hand to mark and leave your handprint on the vehicle, in case the vehicle has to be identified at a later time (...and if you're not around to do it).
11. Important: If something doesn't look or feel right, back-off and call for a back-up unit, and then wait for it. Trust your instincts.
12. Never place yourself within arms-reach of the driver or any occupant of the stopped vehicle, and keep your gun hand free. Don't lean into an occupied vehicle for any reason.
13. Don't walk or position yourself in front of or behind the stopped vehicle, or between your police vehicle and the stopped vehicle, and don't cross in front of your headlights when approaching the stopped vehicle.
14. Don't allow any unknown suspect to sit in your patrol vehicle, certainly not without being searched. It's a bad practice; they can hear your radio transmissions and there are weapons within easy reach. Just don't do it!
15. Don't turn your back to any of the occupants of a stopped vehicle, or otherwise allow yourself to be distracted and lose visual contact with a suspect. This is the cardinal rule governing any cop-suspect interaction.
16. If you have to return to your police vehicle for any reason during a traffic stop, it may be preferable to sit in the right-front seat as this position will offer you greater bail-out options in the event something goes badly wrong.
17. Be aware of the possibility that the vehicle you stopped was a "load" vehicle carrying valuable contraband and that there may be an "escort" vehicle following or preceding the vehicle you have stopped. Be very observant of any vehicles that stop on the roadway in front of, or behind the vehicle you have stopped.

VI. Proactive Field Stops – Street Interviews

- A. Maryland has recently ruled that police accosting a citizen is a viable law enforcement tool, as long as the encounter remains voluntary, i.e., that the citizen feels free to walk away. However, a seizure occurs when police indicate that compliance with their requests is required, such that the reasonable person would no longer feel free to walk away. *Reynolds v. State*, 130 Md.App. 304, 746 A.2d 422 (1999), *cert. denied* __Md.__, __A.2d__ (April 13, 2000) (citizen accosted responded to officer's questions, answers yielded no reasonable articulable suspicion or probable

- cause; ensuing 5-minute wait - in silence - for results of warrant check was excessive and unreasonable because it was unsupported by reasonable suspicion or probable cause).
- B. The street field interview involves a police officer stopping a person or persons on the street, purposely to question, and sometimes to search them, because the officer has a reasonable suspicion that they may have been engaged in criminal activities.
- C. Like their companion traffic stops, however, street field interviews, particularly in high-crime, disadvantaged neighborhoods, have been the cause of minority-community complaints, alleging that the police are indifferent to, and abusive of the civil rights of minority citizens.
- D. Aggressive field stops and searches, especially by quasi-military, police tactical units in minority communities, have created a highly negative and unfavorable image in the media, as witness the recent NYPD street unit encounters with Amadou Diallo and Patrick Dorismond, which resulted in the shooting deaths of both men, under highly questionable circumstances.
- E. On the plus side, street field interviews are a proven and verifiable anti-crime tactic, in that they:
- Are acceptable to the general public when conducted at moderate levels
 - Deter at-risk individuals from criminal and delinquent behavior
 - Identify and lead to the arrest of known criminal offenders
 - Identify possible witnesses and informants
 - Provide intelligence from both criminal and non-criminal sources
- F. Street field interviews should not be used to harass or intimidate citizens, regardless of their appearance, background, or perceived criminal propensity.
- G. The stop should be reasonably brief to clarify the situation.
- H. The person stopped should be addressed civilly and be advised of the reason for the stop and any subsequent questioning.
- I. The investigating officer may conduct a patting-down (Stop & Frisk) of the suspect's outer garments if the officer has reasonable suspicion to believe that the suspect has a weapon and may pose a physical danger to the officer or to other citizens.
- J. All street field stops should be minimally documented on the officer's note book, run sheet, or daily activity report. A Stop & Frisk should be permanently documented by a field report, accompanied by an agency complaint number.
- K. It is the policy of many departments to issue a receipt to the person being stopped that indicates the purpose and result of the stop.

L. Appropriate targets for street field stops include, but are not necessarily limited to the following types:

- People who don't fit the surroundings
- Known criminals and delinquent youths
- Homeless and "street" people, including suspected addicts
- Persons acting in a manner indicative of criminal or suspicious behavior
- Unfamiliar juveniles and minors
- Loiterers, individually or in groups

M. Again, caution and civility are the guidelines for a street stop and field interview.

N. As with traffic stops, the indiscriminate stopping and questioning of citizens is an abuse of police power and is a clear infringement on the personal liberty of citizen to move about freely.

O. Unlike a traffic stop, probable cause is not required to effect a street stop, merely reasonable suspicion. Reasonable suspicion need not depend solely on the observed actions of the suspect, but the totality of circumstances, which may include the following elements:

- The surrounding neighborhood
- The time of day
- Prior knowledge of the individual
- Information received from another source

P. Again, the officer must be capable of articulating the elements that led to a valid presumption of reasonable suspicion in the officer's thinking.

Q. A lawful stop does not alone justify a frisk. The investigating officer must have a reasonable belief that the stopped suspect has a weapon and poses a danger to the officer or to others. You must be able to independently justify the frisk.

VII. Conducting Effective Vehicle Stops

Note:

The preponderance of the material contained in this section was taken from the National Highway Traffic Safety Administration's manual titled: *Conducting Complete Traffic Stops*. This excellent law enforcement resource is available from the US Department of Transportation, 400 7th St. SW, Washington, DC, 20590. It is a highly recommended agency training resource.

A. Traffic and Criminal Enforcement Mutuality:

1. An aggressive and proactive traffic enforcement program can be a highly effective means to both deter and detect criminal activities.
2. Law enforcement doctrine, in many jurisdictions, traditionally regards traffic enforcement as separate from, and often of lesser importance than criminal enforcement, particularly in regard to allocation and prioritization of agency resources.
3. Recent experience in several jurisdictions, both large and small, however, indicates otherwise. Using a proactive approach, supported by intensive training and effective supervision, traffic enforcement has been found to provide a solid base upon which agencies may increase and enhance their criminal enforcement effort.
4. Traffic enforcement is every patrol officer's responsibility, even when there is a specialized agency traffic unit. Patrol officers who know how to properly conduct investigative stops may account for more arrests than specialized anti-crime units.
5. Traffic enforcement can have a meaningful impact against roadway-related crimes, such as:
 - Car thefts and car jacking offenses
 - Fugitives and wanted persons
 - Drivers under the influence of drugs and alcohol
 - Drug transporters
 - Transporting stolen property and contraband (untaxed cigarettes and alcoholic beverages, pirated videotapes)

B. Criminal-Activity Indicators:

1. The traffic stop must be based on a traffic violation or clear and articulable probable cause that the occupants of the subject vehicle are engaged in a criminal activity. Any traffic stop is a legal stop if there has been an observed violation of the law.
2. There are certain indicators, both verbal and non-verbal, that law enforcement officers, from experience, have identified as indicative or strongly suggestive of criminal activity by individuals operating vehicles. There are also vehicle appearance clues that suggest that the vehicle in question may be used in connection with unlawful purposes.
3. The mere presence of one or even a few indicators does not necessarily signify that the vehicle or the occupants are engaged in criminal behavior. They do, however, form part of the totality of circumstances on which the

investigating officer can use as legal justification to further detain and investigate the vehicle and its occupant(s).

C. Pre-Stop Indicators:

1. Vehicle is conspicuously driven too fast or too slow; not operated consistent with surrounding traffic flow.
2. Driver operates vehicle excessively carefully and guardedly.
3. Driver has repetitious eye contact through mirror with the following police car.
4. Passengers in vehicle continually turn around to glance at the following police car.
5. Driver begins using a car or cell phone when signaled to stop.
6. Suspicious pull-over behavior. When signaled to stop, the driver pretends not to see emergency lights or hear siren. Takes too long to pull-over; exhibits stalling or hesitant behavior, apparently to decide whether to run or not run, hide contraband, or concoct an alibi with passengers. May execute a U-turn or turn into a side street rather than pulling off to the side of the roadway.
7. Immediately after stopping, driver quickly exits vehicle and approaches the police car even before the officer can exit.

C. Vehicle Exterior Indicators:

1. Car repainted in non-standard colors on specific models and signs of repainting, especially with a different color on a new vehicle.
2. Low rear end. May indicate a heavy cargo in trunk.
3. Windows won't roll down all the way. May indicate contraband secreted in door panels.
4. License plate light inoperable or very dark, tinted plastic covering the license plate.
5. Sticker and logo inconsistencies. School ID or business parking decals, etc. on vehicle don't coincide with occupants' appearance, background, and subsequent explanations.

6. License plates don't appear to go with the vehicle, e.g. clean vehicle, dirty plates. Fingerprints or dirt marks around plate, also, dead bugs on rear license plate, indicating the plate was once used on the front of a vehicle.
7. Pulling camper between 10 PM and 7 AM—they're probably not camping. Be aware of campers with kid's bikes but no kids.
8. Heavy duty air shocks, but no trailer hitch on the vehicle.
9. When approaching the vehicle, especially a van, following a stop, slide your hand along the rear fender to check for any vibration or movement indicative of suspects possibly hiding in the trunk or laying on the floor. Do this routinely on night stops, particularly if you noticed any suspicious or furtive movement in the passenger-area prior to the stop.

D. Vehicle Interior Indicators:

1. Look for signs of extended, uninterrupted travel and a lived-in appearance—pillows, blankets, fast food wrappers, and paper cups.
2. Observe if the rear seat is out of position or unsecured.
3. Spare tire on back floorboards or on rear seat. Also, loose tools on the floor or seat, such as pry bars, dent pullers, and car jacks.
4. Cover-up odors—using air fresheners, garlic pods, cedar shavings, mustard, or kitchen and bathroom spray deodorizers.
5. Missing or unmatched screws and fasteners from the dash, door and side panels.
6. Vehicle door and window cranks and knobs missing or laying on the floor or seats.
7. Non-manufacturer's ignition key, especially in a new car. Also, single key in ignition, no trunk key visible. This may indicate a valuable cargo in trunk.
8. Large amount of cash in vehicle which can be observed as driver searches for operator's permit and vehicle registration from wallet, glove box, purse, or luggage. Also, zip-lock money bags in plain view.
9. Maps in plain view in the vehicle that are inconsistent with the ensuing driver's explanation.
10. The Club™ anti-theft device on a rental vehicle.

11. Luggage that is inconsistent with driver and occupants' explanations. Can be too much or too little luggage considering the trip length; even no luggage is questionable on a long trip.
12. Luggage and the spare tire stored in the passenger area; be inquisitive of the trunk's contents

E. Driver and Occupant Indicators:

1. Request a criminal history and wanted check on the operator of a vehicle that appears suspicious or irregular—Always!
2. Always ask the driver to recite the information of the operator's permit and the vehicle registration back to you from memory. Don't just read it to them and ask for their confirmation.
3. If registered owner of the vehicle is not present, ask the driver for information about this individual, including a phone number. Also ask any passengers if they know the names and address of the owner.
4. Ascertain if the passengers' explanations conflict with the driver, or if the explanations sound rehearsed. Be suspicious of questions that are directed at the driver that are answered by a passenger (or vice-versa).
5. Be aware of overly nervous passengers. The usual behavior is indifference, but not undue nervousness. This can be an indicator of illegal activity.

Note: If you ask passengers to identify themselves, they have the right to refuse.

6. Note any lack of movement among passengers, i.e. staying in one body position without change. They may be trying to conceal a weapon or contraband on the seat or floor.
7. Use care when occupants of a stopped vehicle fail to follow directions or appear to make "target glances" looking for escape paths, location of secreted contraband, or ways and means to attack the officer.
8. Look for rental vehicle irregularities i. e., inconsistencies in driver's explanation and the rental contract.

Note: In any situation with a suspicious person, observe if the suspect conducts concealed weapon movements, such as pulling shirt down or pants up to hide a weapon in his waistband. They will use their hands, forearms and elbows to "check" on a weapon location, usually after exiting from a vehicle or getting up from a sitting position (the same way police do when in plainclothes). Look for protrusions or bulges in clothing that may indicate a weapon.

