

1. 02-25-2021 Agenda (PDF)

Documents:

[02-25-21 AGENDA.PDF](#)

2. 2-25-2021 Agenda Packet (PDF)

Documents:

[2-25-21 AGENDA PACKET.PDF](#)



**CITY OF MARSHALL, TEXAS
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS, CITY HALL, 401 SOUTH ALAMO
THURSDAY, FEBRUARY 25, 2021, 6:00 P.M.**

This meeting will be conducted utilizing a video and audio conferencing tool, as well as, a standard conference call. Instructions and direct links to view the meeting or speak during Citizen Comment can be found at www.marshalltexas.net.

**AGENDA INFORMATION PACKET IS AVAILABLE FOR THE
PUBLIC TO REVIEW ON THE CITY'S WEB SITE AFTER 8:00 A.M.
ON WEDNESDAY BEFORE THE MEETING AT
www.marshalltexas.net**

1. **CALL TO ORDER AND ROLL CALL**
2. **INVOCATION AND PLEDGES**
3. **CITIZEN COMMENTS**

House Bill 2840 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on an agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on the agenda. Those who wish to speak will have three minutes to do so unless additional time has been requested.

4. **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA**
5. **CONSENT AGENDA**

The items on the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations, a copy of which is filed with the minutes of the meeting. A Councilmember may remove items from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.

- A. Consider approval of the minutes from the February 11, 2021 Regular meeting.
- B. Public Works Activity Report. (Public Works Director)
- C. Fire Department Activity Report. (Fire Chief)
- D. Police Department Activity Report. (Police Chief)

6. **RESOLUTION**

- A. Consider approval of a resolution calling for the cancellation of the City General Election for Districts 1, 2 and 4. (City Secretary)
- B. Consider approval of a resolution announcing the appointment of Election Officers for the General Election. (City Secretary)
- C. Consider approval of a Resolution to update the authorized City of Marshall Representatives at TEXPOOL. (Interim Finance Director)

7. **CITY MANAGER REPORTS AND REQUESTS FOR CITY COUNCIL CONSIDERATION**

- A. Presentation of and acknowledgment of receipt of the 2020 Racial Profiling Report for the Marshall Police Department. (Police Chief)
- B. Consider approval of a contract extension with Pete McCarty Oil Company, Inc. to provide fuel for the City of Marshall. (Director of Public Works)
- C. Consider approval of an expenditure in excess of \$50,000 as an incentive for Project Composite (Marshall EDC).
- D. Consider approval of Small Business Grant Fund Applications. (Community & Economic Development Director)
- E. Report on Update on 2021 winter storm event. (City Manager)

8. **CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA**

9. **ADJOURNMENT**

Posted: February 22, 2021
5:00 p.m.
N. Smith

Marshall City Council Meeting

February 25, 2021

Page 3

This meeting will be conducted in accordance with the Americans with Disabilities Act. Requests for sign interpretive services will be available with at least 72-hour notice prior to the meeting. To make arrangements for these services, please call the City Secretary's Office at 903-935-4446.



**CITY OF MARSHALL, TEXAS
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS, CITY HALL, 401 SOUTH ALAMO
THURSDAY, FEBRUARY 25, 2021, 6:00 P.M.**

This meeting will be conducted utilizing a video and audio conferencing tool, as well as, a standard conference call. Instructions and direct links to view the meeting or speak during Citizen Comment can be found at www.marshalltexas.net.

AGENDA INFORMATION PACKET IS AVAILABLE FOR THE
PUBLIC TO REVIEW ON THE CITY'S WEB SITE AFTER 8:00 A.M.
ON WEDNESDAY BEFORE THE MEETING AT
www.marshalltexas.net

1. **CALL TO ORDER AND ROLL CALL**
Page 1

2. **INVOCATION AND PLEDGES**
Page 2

3. **CITIZEN COMMENTS**

House Bill 2840 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on an agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on the agenda. Those who wish to speak will have three minutes to do so unless additional time has been requested.

Page 3

4. **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA**
Page 4

5. **CONSENT AGENDA**

The items on the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations, a copy of which is filed with the minutes of the

meeting. A Councilmember may remove items from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.

- A. Consider approval of the minutes from the February 11, 2021 Regular meeting.

Page 5

- B. Public Works Activity Report. (Public Works Director)

Page 10

- C. Fire Department Activity Report. (Fire Chief)

Page 13

- D. Police Department Activity Report. (Police Chief)

Page 15

6. **RESOLUTION**

- A. Consider approval of a resolution calling for the cancellation of the City General Election for Districts 1, 2 and 4. (City Secretary)

Page 17

- B. Consider approval of a resolution announcing the appointment of Election Officers for the General Election. (City Secretary)

Page 21

- C. Consider approval of a Resolution to update the authorized City of Marshall Representatives at TEXPOOL. (Interim Finance Director)

Page 27

7. **CITY MANAGER REPORTS AND REQUESTS FOR CITY COUNCIL CONSIDERATION**

- A. Presentation of and acknowledgment of receipt of the 2020 Racial Profiling Report for the Marshall Police Department. (Police Chief)

Page 33

- B. Consider approval of a contract extension with Pete McCarty Oil Company, Inc. to provide fuel for the City of Marshall. (Public Works Director)

Page 120

- C. Consider approval of an expenditure in excess of \$50,000 as an incentive for Project Composite (Marshall EDC).

Page 125

- D. Consider approval of Small Business Grant Fund Applications. (Community & Economic Development Director)

Page 127

- E. Report on 2021 winter storm response. (Public Works Director)

Page 131

8. **CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA**
Page 133

9. **ADJOURNMENT**
Page 134

Posted: February 22, 2021
5:00 p.m.
N. Smith

This meeting will be conducted in accordance with the Americans with Disabilities Act. Requests for sign interpretive services will be available with at least 72-hour notice prior to the meeting. To make arrangements for these services, please call the City Secretary's Office at 903-935-4446.

ITEM 1

CALL TO ORDER AND ROLL CALL

ITEM 2

INVOCATION AND PLEDGES

ITEM 3

CITIZEN COMMENTS

ITEM 4

ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA

ITEM 5A

CONSENT AGENDA

**CONSIDER APPROVAL OF THE
MINUTES FROM THE FEBRUARY 11,
2021 REGULAR MEETING**

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MARSHALL
THURSDAY, FEBRUARY 11, 2021
6:00 PM

Mayor Terri Brown called the Regular meeting to order in the Council Chambers, City Hall at 6:03 p.m.

PRESENT:

MAYOR: Terri Brown, District 3

COUNCIL MEMBERS:

Marvin Bonner, District 1	Leo Morris, District 2
Amy Ware, District 4	Vernia Calhoun, District 5
Amanda Abraham, District 6	Micah Fenton, District 7

ADMINISTRATIVE STAFF PRESENT:

Mark Rohr, City Manager	Cliff Carruth, Police Chief
Scott Rectenwald, Acting City Attorney	
Randy Pritchard, Support Services Superintendent	
Glenna Williams, Finance Director	
Eric Powell, Public Works Director	
Mallori James, Tourism & Cultural Arts Director	
Stormy Nickerson, Management Analysis/Communications Coordinator	
Fabio Angell, Community & Economic Development Director	
Nikki Smith, City Secretary/Payroll Accountant	

INVOCATION & PLEDGE: Mayor Brown

25. **CITIZEN COMMENTS**

There were no citizen comments.

26. **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA**

There were no items withdrawn from the Consent Agenda.

27. **CONSENT AGENDA**

Councilmember Bonner made a motion to approve the Consent Agenda. Councilmember Calhoun seconded the motion, which passed with a vote of 7:0.

- A. Consider approval of the minutes from the January 28, 2021 Regular meeting.
- B. Street Sweeping Activity Report.
- C. Municipal Court Activity Report.
- D. Consider approval of a resolution adopting the City of Marshall Investment Policy.

PUBLIC HEARING AND ORDINANCE

28. CONDUCT A PUBLIC HEARING AND CONSIDER AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP FROM R-2 (SINGLE FAMILY DETACHED) TO R-6 (DUPLEX, TRIPLEX, QUADRAPLEX). THE PROPERTY IS COMMONLY KNOWN AS 103 AND 105 SANFORD STREET.

Fabio Angell, Community & Economic Development Director, asked for the approval of an ordinance amending the official zoning map from R-2 (Single Family Detached) to R-6 (Duplex, Triplex, Quadraplex). He stated the Planning and Zoning Commission approved the change by a vote of 4:0.

Council members asked questions and discussed.

Mayor Brown opened the public hearing.

Amaris Ortiz, 1325 N. Page Rd., applicant, stated this rezoning would allow for the creation of more affordable housing and improve the appearance of the area.

Mayor Brown closed the public hearing.

Mayor Brown made a motion to approve an ordinance amending the official zoning map from R-2 (Single Family Detached) to R-6 (Duplex, Triplex, Quadraplex). Councilmember Ware seconded the motion, which passed with a vote of 7:0.

29. CONDUCT A PUBLIC HEARING AND CONSIDER AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP FROM PS (PUBLIC SERVICE) TO C-3 (GENERAL BUSINESS) WITH SP (SPECIAL USE PERMIT). THE PROPERTY IS COMMONLY KNOWN AS 802 WEST HOUSTON STREET.

Fabio Angell asked for the approval of an ordinance amending the official zoning map from PS (Public Service) to C-3 (General Business with SP (Special Use Permit). He stated the Planning and Zoning Commission approved the change by a vote of 4:0.

Mayor Brown opened the public hearing.

Nate Lord, developer, stated there would be 90 units in the building with an additional 30 units to the southwest of the building. He stated the General Business with a Special Use Permit would allow for multi-family housing.

Mayor Brown closed the public hearing.

Councilmember Calhoun made a motion to approve an ordinance amending the official zoning map from PS (Public Service) to C-3 (General Business with SP (Special Use Permit). Councilmember Bonner seconded the motion, which passed with a vote of 7:0.

RESOLUTIONS

30. CONSIDER APPROVAL OF A RESOLUTION DENYING THE APPLICATION FILED BY SOUTHWESTERN ELECTRIC POWER COMPANY (SWEPCO) TO INCREASE RATES.

Eric Powell, Public Works Director, asked for approval of a resolution denying the application filed by Southwestern Electric Power Company (SWEPCO) to increase rates. He stated the Council previously approved a

resolution suspending the proceedings and stated this resolution halts those proceedings to allow for review of the application by Cities Advocating Reasonable Deregulation (“CARD”).

Councilmember Bonner made a motion to approve the resolution denying the application filed by Southwestern Electric Power Company (SWEPCO). Councilmember Ware seconded the motion, which passed with a vote of 7:0.

31. CONSIDER APPROVAL OF A RESOLUTION SUPPORTING A PROPOSED AFFORDABLE SENIOR LIVING TAX CREDIT DEVELOPMENT.

Fabio Angell presented a resolution supporting a proposed affordable senior living tax credit development by Cobblestone Marshall Crossing, LP. He stated this facility is in line with the Mobilize Marshall Strategic Plan to establish alternatives for Senior Housing.

Council members asked questions and discussed.

Mike Fogel, Trinity Housing Development, responded to questions from council members.

Mark Rohr, City Manager, stated due diligence was performed on a tasteful and well kept unit by the company, similar to the one proposed.

Councilmember Calhoun made a motion to approve the resolution supporting a proposed affordable senior living tax credit development. Councilmember Morris seconded the motion, which passed with a vote of 7:0.

CITY MANAGER REPORTS AND REQUESTS FOR CITY COUNCIL CONSIDERATION

32. CONSIDER APPROVAL OF MODIFICATIONS TO THE FAÇADE IMPROVEMENT GRANT.

Fabio Angell asked for approval of modifications to the Façade Improvement Grant. He explained the new requirements of the program and the process for which a grant may be approved.

Council members asked questions and discussed.

Councilmember Bonner made a motion to approve modifications to the Façade Improvement Grant Program Policy. Councilmember Calhoun seconded the motion, which passed with a vote of 7:0.

Kenneth Moon, spoke regarding the inclusion of New Town small businesses in this program.

33. CONSIDER APPROVAL OF APPOINTMENTS TO THE VARIOUS CITY BOARDS, COMMISSIONS, AND COMMITTEES

Mark Rohr asked for approval of appointments of citizens who applied for positions to the various City boards, commissions, and committees as amended.

Councilmember Fenton made a motion to approve appointments of citizens who applied for positions to various City boards, commissions, and committees as amended. Mayor Brown seconded the motion, which passed with a vote of 7:0.

34. **CONSIDERATION OF ITEMS WITHDRAWN FROM THE
CONSENT AGENDA**

There were no items withdrawn from the Consent Agenda.

35. **ADJOURNMENT**

**Councilmember Calhoun made a motion for adjournment.
Councilmember Ware seconded the motion, which passed with a vote
of 7:0.**

APPROVED:

**Mayor of the City Council
of the City of Marshall, Texas**

ATTEST:

City Secretary

**Ordinances: O-21-01
O-21-02
Resolutions: R-21-04
R-21-05
R-21-06**

ITEM 5B

CONSENT AGENDA

PUBLIC WORKS ACTIVITY REPORT



TO: Members of the City Council

FROM: Eric Powell, PE 
Director of Public Works/City Engineer

DATE: February 16, 2021

SUBJECT: Public Works Department Monthly Activity Report

The Public Works Department Activity Report for the month of January 2021 is attached for your review.

PUBLIC WORKS DEPARTMENT

MONTHLY ACTIVITY REPORT

January 2021

DEPARTMENT DIVISIONS	NUMBER OF REQUESTS
DISTRIBUTION/COLLECTION	
Water main breaks/service leaks	29
Water meter leak/repairs	9
Sewer issues/repairs	83
Water taps	1
STREETS	
Potholes	280
Boom Axe – right of way mowing/clearing blind intersections	38
Illegal dumping	4
Fallen trees/limbs on roadways	4
Street repairs at water main break sites	20
Trim low hanging limbs	7
<i>Special Projects: 200 block N. Washington Redevelopment (assist with debris removal)</i>	
ROW/COMMUNITY APPEARANCE	
Litter pick-up	51
General lawn care (City facilities, cemeteries, median maintenance)	16
Illegal dumping	6
<i>Special Projects: Wonderland of Lights (removal of displays/lights)</i>	6
DRAINAGE	
Ditch cleaning (total of 825 ft.)	6
Storm drain clearing/repairs/sinkhole repairs	8
Culvert installation/repairs	7
<i>Special Projects: 200 block N. Washington Redevelopment (relocation of storm drain); new driveway at Fire Station #4</i>	
INFORMATION TECHNOLOGY	
Computer, internet, phone, email, alarm issues	264
BUILDING MAINTENANCE	
HVAC, electrical, plumbing, other miscellaneous issues	28

ITEM 5C

CONSENT AGENDA

FIRE DEPARTMENT ACTIVITY REPORT

MARSHALL FIRE DEPARTMENT
601 S. GROVE STREET
MARSHALL, TEXAS 75670
(903) 935-4580



January 2021 Summary Report

FIRE PREVENTION

Burn Permits Issued for January 2021: 30

Burn Permits Issued Year-to-Date 2021: 30

FIRE SUPPRESSION

Fire Incident Response for January 2021: 92 Calls for Service

(Fire, Rescue and EMS Assist, Hazardous Condition, Service Call, Good Intent Call, False Alarm and False Call).

Fire Incident Response Year-to-Date 2021: 92 Calls for Service

(Fire, Rescue and EMS Assist, Hazardous Condition, Service Call, Good Intent Call, False Alarm and False Call).

EMERGENCY MEDICAL SERVICES

EMS Response for January 2021: 510 Calls for Service

EMS Response Year-to-Date 2021: 510 Calls for Service

ITEM 5D

POLICE DEPARTMENT ACTIVITY REPORT



Marshall Police Department

Cliff Carruth
Chief of Police

Date: 02/15/2021

To: CITY COUNCIL MEMBERS

From: CHIEF CLIFF CARRUTH

Re: MONTHLY ACTIVITY REPORT

The Marshall Police Department responded to the following Calls for Service:

Calls for Service January 2021:	2,310
Calls for Service February 15, 2021:	1,131
Animal Service Calls January 2021:	51
Animal Service Calls February 15, 2021:	28
Motor Vehicle Crashes January 2021:	81
Motor Vehicle Crashes February 15, 2021:	35
New criminal cases assigned to detective January 2021:	46
New criminal cases assigned to detective February 15, 2021:	24

"Keeping our Community Safe"

ITEM 6A

RESOLUTION

**CONSIDER APPROVAL OF A
RESOLUTION CALLING FOR THE
CANCELLATION OF THE CITY
GENERAL ELECTION FOR DISTRICTS 1,
2 AND 4**

Memorandum

To: Mark Rohr, City Manager
From: Nikki Smith, City Secretary
Date: February 22, 2021
Re: Cancellation of City General Election for Districts 1, 2 and 4

Council members Marvin Bonner, Leo Morris and Amy Ware, candidates for re-election to City Council Districts 1, 2 and 4 are unopposed for the upcoming May 1, 2021 General Election.

Attached is a Resolution that would cancel the General Election for Districts 1, 2 and 4 and declare the unopposed candidates elected.

It is my recommendation that the City Council adopt the attached Resolution cancelling the General Election for Districts 1, 2 and 4 and declare Council members Marvin Bonner, Leo Morris and Amy Ware re-elected.

R-21-__
RESOLUTION
ORDER AND NOTICE OF CANCELLATION OF CITY GENERAL ELECTION
FOR DISTRICTS 1, 2 AND 4

To the Resident Qualified Voters of the City of Marshall, Texas:

WHEREAS, a general election was ordered to be held on May 1, 2021, by the City Council on the 28th day of January 2021, to elect Council members from Districts 1, 2, 3, and 4; and

WHEREAS, the deadline for filing an application for a place on the ballot was February 12, 2021 at 5:00 p.m.: and,

WHEREAS, the deadline for write-in candidates to file declarations of write-in candidacy was February 16, 2021 at 5:00 p.m.: and,

WHEREAS, the City Secretary of the City of Marshall has certified the unopposed status of Marvin Bonner, Leo Morris and Amy Ware.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARSHALL:

1.

That the general election to be held in the City of Marshall, Texas, on the 1st day of May, 2021, at which election candidates for the office of Councilmember Districts 1, 2 and 4 were to be submitted to the resident qualified voters of said City for their action thereon is hereby canceled.

2.

In accordance with Section 2.053 of the Texas Election Code, the following unopposed candidates are hereby declared duly elected to the respective office shown:

Marvin Bonner, City Councilmember District 1
Leo Morris, City Councilmember District 2
Amy Ware, City Councilmember District 4

3.

A copy of this Resolution signed by the Mayor of the City Council and attested by the City Secretary shall serve as proper notice of cancellation of said general election. The City Secretary is authorized and directed to post on Election Day a properly executed copy of said Notice of Cancellation of City General Election at City Hall and at each polling place that would have been used had the election not been cancelled.

PASSED, APPROVED, AND ADOPTED this 25th day of February 2021.

AYES: _____
NOES: _____
ABSTAINED: _____

MAYOR OF THE CITY COUNCIL
OF THE CITY OF MARSHALL, TEXAS

ATTEST:

CITY SECRETARY

R-19-06
RESOLUCIÓN
ORDEN Y AVISO DE CANCELACIÓN DE LA CIUDAD DE ELECCIÓN GENERAL
PARA LOS DISTRITOS 1, 2 Y 4

A los votantes calificados residentes de la Ciudad de Marshall, Texas:

CONSIDERANDO, que las elecciones generales se le ordenó que se celebrarán el 1 de mayo de 2021, por la Consejo de la Ciudad en el día 28 de enero de 2021, para elegir a comisarios de los distritos 1, 2, 3, y 4, y

CONSIDERANDO, que el plazo para la presentación de una solicitud para un lugar en la boleta electoral fue 12 de febrero 2021 a las 5:00 pm: y,

CONSIDERANDO, que el plazo para la amortización de los candidatos a presentar declaraciones de escritura en la candidatura fue 16 de febrero 2021 a las 5:00 pm: y,

CONSIDERANDO, el Secretario Municipal de la Ciudad de Marshall ha certificado el estado sin oposición de Marvin Bonner, Leo Morris, y Amy Ware.

POR LO TANTO, SE RESUELVE POR LA CONSEJO MUNICIPAL DE LA CIUDAD DE MARSHALL:

1.

Que las elecciones generales que se celebrarán en la ciudad de Marshall, Texas, el día 1 de mayo 2021, en el que los candidatos electorales para el cargo de Consejo de los Distritos 1, 2 y 4 se iba a presentar al residente calificado los votantes de dicha Ciudad por su acción al respecto quedará cancelada.

2.

De conformidad con el artículo 2.053 del Código Electoral de Texas, los siguientes candidatos sin oposición se declaran debidamente electos para los respectivos cargos indicados:

Marvin Bonner, Consejo de la Ciudad del Distrito 1
Leo Morris, Consejo de la Ciudad del Distrito 2
Amy Ware, Consejo de la Ciudad del Distrito 4

3.

Una copia de esta Resolución firmada por el Presidente de la Consejo de la Ciudad y certificado por el Secretario de la Ciudad deberá servir como aviso correspondiente de la cancelación de dicha elección general. La Secretaria de la Ciudad se autoriza y ordena publicar en el Día de Elecciones una copia correcta ejecución de dicho aviso de cancelación de la Elección General de la Ciudad en el Ayuntamiento y en cada lugar de votación que se habría utilizado si no la elección fue cancelada.

PASADO, APROBADO Y ADOPTADO este día 25 de febrero de 2021.

SIS: _____

NO: _____

ABSTENIDO: _____

PRESIDENTE DE LA CONSEJO
DE LA CIUDAD DE MARSHALL, TEXAS

ATESTIGUA:

SECRETARIA DE LA CIUDAD

ITEM 6B

RESOLUTION

**CONSIDER APPROVAL OF A
RESOLUTION ANNOUNCING THE
APPOINTMENT OF ELECTION
OFFICERS FOR THE GENERAL
ELECTION**

MEMORANDUM

To: Mark Rohr, City Manager

From: Nikki Smith, City Secretary

Date: February 22, 2021

Subject: Approval of a Resolution announcing the appointment of Election Officers for the May 1, 2021 General Election

Attached is a Resolution announcing the appointment of Election Officers for the May 1, 2021 General Election.

I recommend approval of the Resolution.

R-21-XX
RESOLUTION

A RESOLUTION OF THE CITY OF MARSHALL, TEXAS ANNOUNCING THE APPOINTMENT OF ELECTION OFFICERS FOR THE MAY 1, 2021 GENERAL ELECTION.

To the Resident Qualified Voters of the City of Marshall, Texas:

WHEREAS, a General Election was ordered to be held on May 1, 2021 by the City Council on the 28th day of January 2021, to elect Council members for Districts 1,2,3, and 4; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALL, TEXAS:

That the following named persons are hereby appointed as election officers for the May 1, 2021 General Election to elect Council members from District 3:

<u>DISTRICT NO.</u>	<u>VOTING PLACE</u>	<u>ELECTION OFFICERS</u>
3	Marshall Convention Center	<u>Steve Woodley</u> Presiding Judge
		<u>Monica Nabors</u> Election Clerk
		<u>Deborah McAteer</u> Election Clerk
		<u>Ronald McCowan</u> Election Clerk
		<u>Melissa AlAhmadi</u> Election Clerk

That Jeff Kroyer is hereby appointed Presiding Judge of the Early Voting Ballot Board with Kent Alford serving as Alternate Presiding Judge and Dr. Jerry Hopkins and Pam Fisher serving as clerks.

That Jeff Kroyer will serve as Presiding Judge of the Central Counting Station and Kent Alford will serve as Alternate Presiding Judge and Dr. Jerry Hopkins and Pam Fisher will serve as clerks.

PASSED, APPROVED, AND ADOPTED THIS ____ DAY OF _____, 2021.

AYES: _____

NOES: _____

ABSTAIN: _____

MAYOR OF THE CITY COUNCIL
OF THE CITY OF MARSHALL, TEXAS

ATTEST:

CITY SECRETARY

R-21-XX
RESOLUCION

UNA RESOLUCION DE LA CIUDAD DE MARSHALL, TEXAS QUE ANUNCIA LA CITA DE OFICIALES DE ELECCION PARA LAS ELECCIONES GENERLES DEL 1 DE MAYO DEL 2021.

A los votantes Calificados de la Ciudad de Marshall, Texas:

CONSIDERANDO QUE, una Elección General fue ordenada para el 1 de Mayo del 2021 por la Consejo de la Ciudad el día 28 de Enero del 2021, para elegir a miembros de Consejo para los Distritos 1,2,3 y 4; ahora, por lo tanto

SEA ESTO RESUELTO POR LA CONSEJO DE LA CIUDAD DE MARSHALL:

Que las siguientes personas nombradas son designadas como oficiales electorales para las Elecciones Generalas del 1 de mayo de 2021 para elegir a los miembros de Consejo de los Distrito 3:

<u>EL DISTRITO NO.</u>	<u>VOTAR</u>	<u>OFICIALES DE ELECCION</u>
3	Marshall Convention Center	<u>Steve Woodley</u> Juez que Preside <u>Monica Nabors</u> Juez Alterno <u>Deborah McAteer</u> Secretaria de Elección <u>Ronald McCowan</u> Secretario de Elección <u>Melissa AlAhmadi</u> Secretaria de Elección

Que Jeff Kroyer es nombrado Juez Presidiendo la Junta de votación temprana con Kent Alford sirviendo como Juez Alterno Presidiendo y Dr. Jerry Hopkins and Pam Fisher sirviendo como Secretaria.

También Jeff Kroyer servirá como Juez Presidiendo el conteo en la Estación Central y Kent Alford servirá como Juez Alterno Presidiendo y Dr. Jerry Hopkins and Pam Fisher servirá como secretaria.

PASADO, APROBADO, Y ADOPTADO EL DIA ____ DE _____ DEL 2021.

SI: _____

No: _____

ABSTENIDO: _____

El ALCALDE DE LA CONSEJO
DE LA CIUDAD DE MARSHALL, TEXAS

ATESTIGUA:

SECRETARIA DE LA CIUDAD

ITEM 6C

RESOLUTION

**CONSIDER APPROVAL OF A
RESOLUTION TO UPDATE THE
AUTHORIZED CITY OF MARSHALL
REPRESENTATIVES AT TEXPOOL**

MEMORANDUM

To: Mark Rohr, City Manager

From: Debbie Manuel, Acting Finance Director

Date: February 22, 2021

Subject: Resolution Updating the Authorized Representative at TexPool

This update is necessary to add Mark Rohr and Debbie Manuel as Authorized Representatives at TexPool.

Approval of the Resolution is recommended.



Resolution Amending Authorized Representatives

page 29

Please complete this form to amend or designate Authorized Representatives. This document supersedes all prior Authorized Representative forms.

* Required Fields

1. Resolution

WHEREAS,

City of Marshall

Participant Name*

77705

Location Number*

("Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pool ("TexPool / Texpool Prime"), a public funds investment pool, were created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW THEREFORE, be it resolved as follows:

- That the individuals, whose signatures appear in this Resolution, are Authorized Representatives of the Participant and are each hereby authorized to transmit funds for investment in TexPool / TexPool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.
- That an Authorized Representative of the Participant may be deleted by a written instrument signed by two remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's TexPool / TexPool Prime account or (2) is no longer employed by the Participant; and
- That the Participant may by Amending Resolution signed by the Participant add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant;

List the Authorized Representative(s) of the Participant. Any new individuals will be issued personal identification numbers to transact business with TexPool Participant Services.

1. DEBBIE MANUEL INTERIM FINANCE DIRECTOR

Name Title

9039354519 9039354442 dmanuel@marshalltexas.net

Phone Fax Email

Debbie Manuel

Signature
2. MARK ROHR CITY MANAGER

Name Title

9039354418 9039383531 ROHR.MARK@MARSHALLTEXAS.NET

Phone Fax Email

Signature
3.

Name Title

Phone Fax Email

Signature

4.
 Name Title

 Phone Fax Email

 Signature

List the name of the Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

DEBBIE MANUEL

Name

In addition and at the option of the Participant, one additional Authorized Representative can be designated to perform only inquiry of selected information. *This limited representative cannot perform transactions.* If the Participant desires to designate a representative with inquiry rights only, complete the following information.

Name Title

 Phone Fax Email

- D. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool Participant Services receives a copy of any such amendment or revocation. This Resolution is hereby introduced and adopted by the Participant at its regular/special meeting held on the day of 20 .

Note: Document is to be signed by your Board President, Mayor or County Judge and attested by your Board Secretary, City Secretary or County Clerk.

CITY OF MARSHALL

Name of Participant*

SIGNED

Signature*

Printed Name*

MAYOR
 Title*

ATTEST

Signature*

Printed Name*

Title*

2. Mailing Instructions

The completed Resolution Amending Authorized Representatives can be faxed to TexPool Participant Services at 1-866-839-3291, and mailed to:

TexPool Participant Services
 1001 Texas Avenue, Suite 1150
 Houston, TX 77002

5. Approvals

page 32

Please enter the name of two individuals who are currently Authorized Representatives and who authorize the deletion(s) of the individual(s) above.

Note: This authorization must be executed by a current Authorized Representative of the Participant as set forth in the duly enacted Resolution of the Participant, which is on file with TexPool.

Authorized Representative Signature*

Printed Name*

Title*

Date*

Telephone Number

Authorized Representative Signature*

Printed Name*

Title*

Date*

Telephone Number

6. Mailing Instructions

The completed Authorized Representative Deletion/Update Form can be faxed to TexPool Participant Services at 1-866-839-3291, and mailed to:

TexPool Participant Services
1001 Texas Avenue, Suite 1150
Houston, TX 77002

ITEM 7A

PRESENTATION OF AND ACKNOWLEDGEMENT OF RECEIPT OF THE 2020 RECIAL PROFILING REPORT FOR THE MARSHALL POLICE DEPARTMENT



CITY OF MARSHALL

COMMISSION AGENDA INFORMATION SHEET

MEETING DATE: 2/11/21

PROJECT: Annual Racial Profiling Report

DESCRIPTION: Annual report from Chief of Police regarding racial profiling data from Police Department

COST: N/A

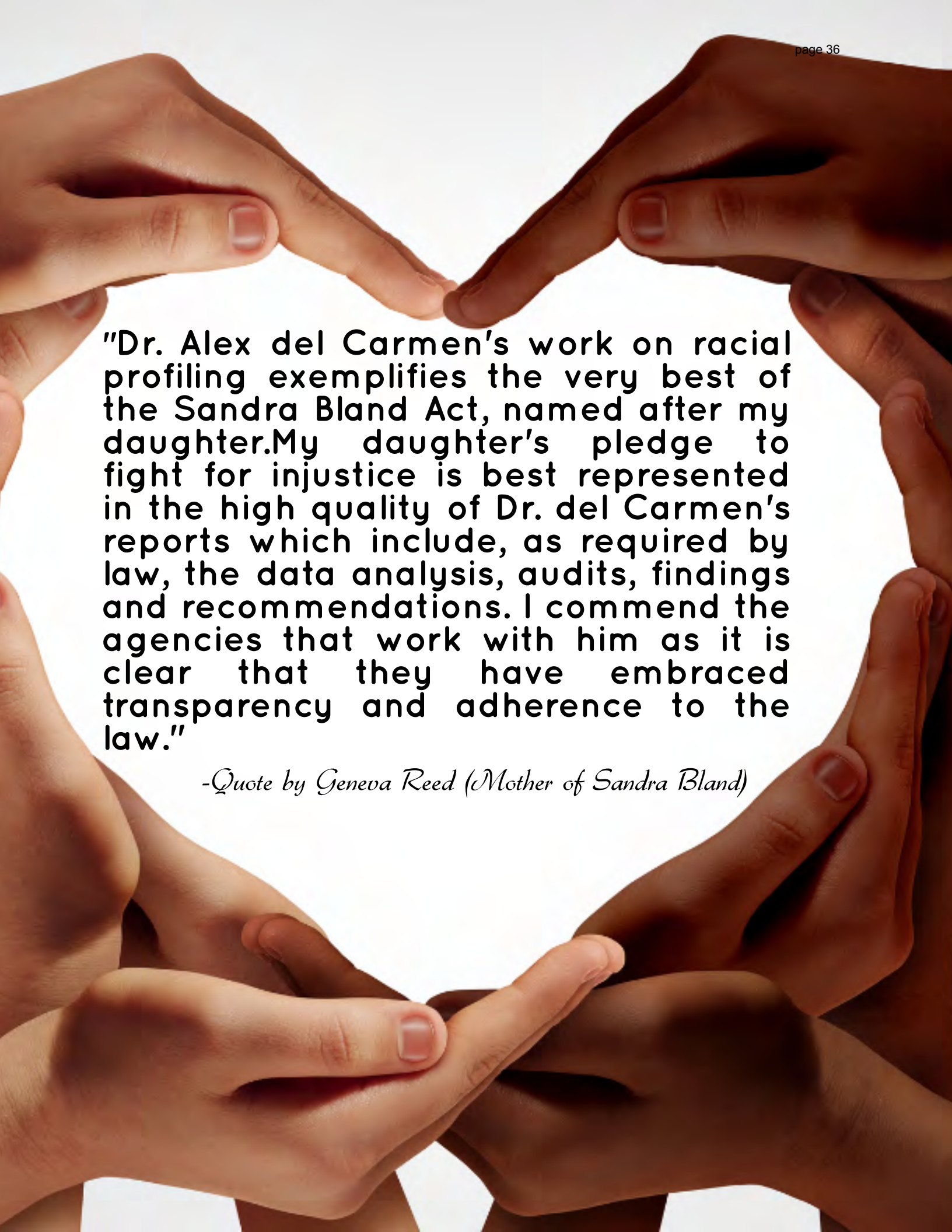
**RECOMMENDED
ACTION:** None required

CITY CONTACT: Chief Carruth

cc: File



Marshall POLICE DEPARTMENT 2020 RACIAL PROFILING REPORT SANDRA BLAND ACT



"Dr. Alex del Carmen's work on racial profiling exemplifies the very best of the Sandra Bland Act, named after my daughter. My daughter's pledge to fight for injustice is best represented in the high quality of Dr. del Carmen's reports which include, as required by law, the data analysis, audits, findings and recommendations. I commend the agencies that work with him as it is clear that they have embraced transparency and adherence to the law."

-Quote by Geneva Reed (Mother of Sandra Bland)



Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001, the Texas Racial Profiling Law. During the past year, the Marshall Police Department, in accordance with the law, has collected and reported motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Moreover, in 2017, the Sandra Bland Act was passed and signed into law (along with HB 3051 which introduced new racial and ethnic designations). The Sandra Bland Law requires that law enforcement agencies in the state collect additional data and provide a more detailed analysis. All of these requirements have been met by the Marshall Police Department and are included in this report.



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

The last section of this report includes statistical data relevant to contacts, made during the course of motor vehicle stops and in accordance with the law, between 1/1/20 and 12/31/20. In addition, this section contains the TCOLE Tier 2 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Marshall Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.

Table of Contents

Introduction

Letter to Council Members	1
Table of Contents	2

Responding to the Law

Public Education on Filing Compliments and Complaints	4
Racial Profiling Course Number 3256	5
Reports on Compliments and Racial Profiling Complaints	11
Tier 2 Data (Includes tables)	15

Analysis and Interpretation of Data

Tier 2 Motor Vehicle-Related Contact Analysis	31
Comparative Analysis	31
Summary of Findings	32
Checklist	34

Legislative and Administrative Addendum

TCOLE Guidelines	37
The Texas Law on Racial Profiling	42
Modifications to the Original Law	49
Racial and Ethnic Designations	57
The Sandra Bland Act	58
Marshall Police Department Racial Profiling Policy	73

Responding to the Law

page 40



Public Education on Filing Compliments and Complaints

Informing the Public on the Process of Filing a Compliment or Complaint with the Marshall Police Department

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

The police department made available, in the lobby area and on its web site, information relevant to filing a compliment and complaint on a racial profiling violation by a Marshall Police officer. In addition, each time an officer issues a citation, ticket or warning, information on how to file a compliment or complaint is given to the individual cited. This information is in the form of a web address (including in the document issued to the citizen), which has instructions and details specifics related to the compliment or complaint processes.

It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

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

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

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

Racial Profiling 3256

Instructor's Note:

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

Abstract

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

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

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

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

Evaluation Process and Procedures

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

Reference Materials

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



1.0 RACIAL PROFILING AND THE LAW

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

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

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

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

A. Written departmental policies

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

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

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

F. Vehicle stop report

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

G. Compilation and analysis of data

H. Exemption from reporting - audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

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



Page 44

Racial Profiling

Course Number 3256

Texas Commission on Law Enforcement

September 2001

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

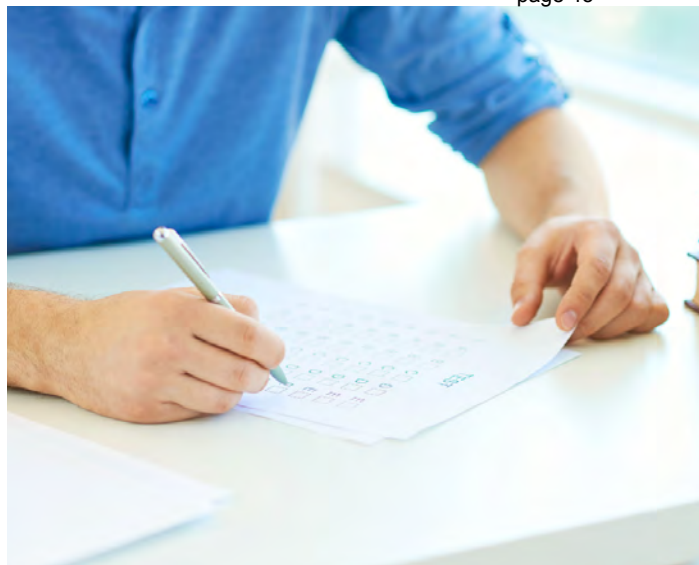
1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
6. 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.



Page 16

Racial Profiling

Course Number 3256

Texas Commission on Law Enforcement

September 2001

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

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

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

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

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

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)



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

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

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

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

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

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

B. Vehicle exterior

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

C. Pre-stop indicators

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

D. Vehicle interior

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

Resources

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

Web address for legislation 77R-SB1074: <http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Compliments and Racial Profiling Complaints



Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/20 - 12/31/20, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.



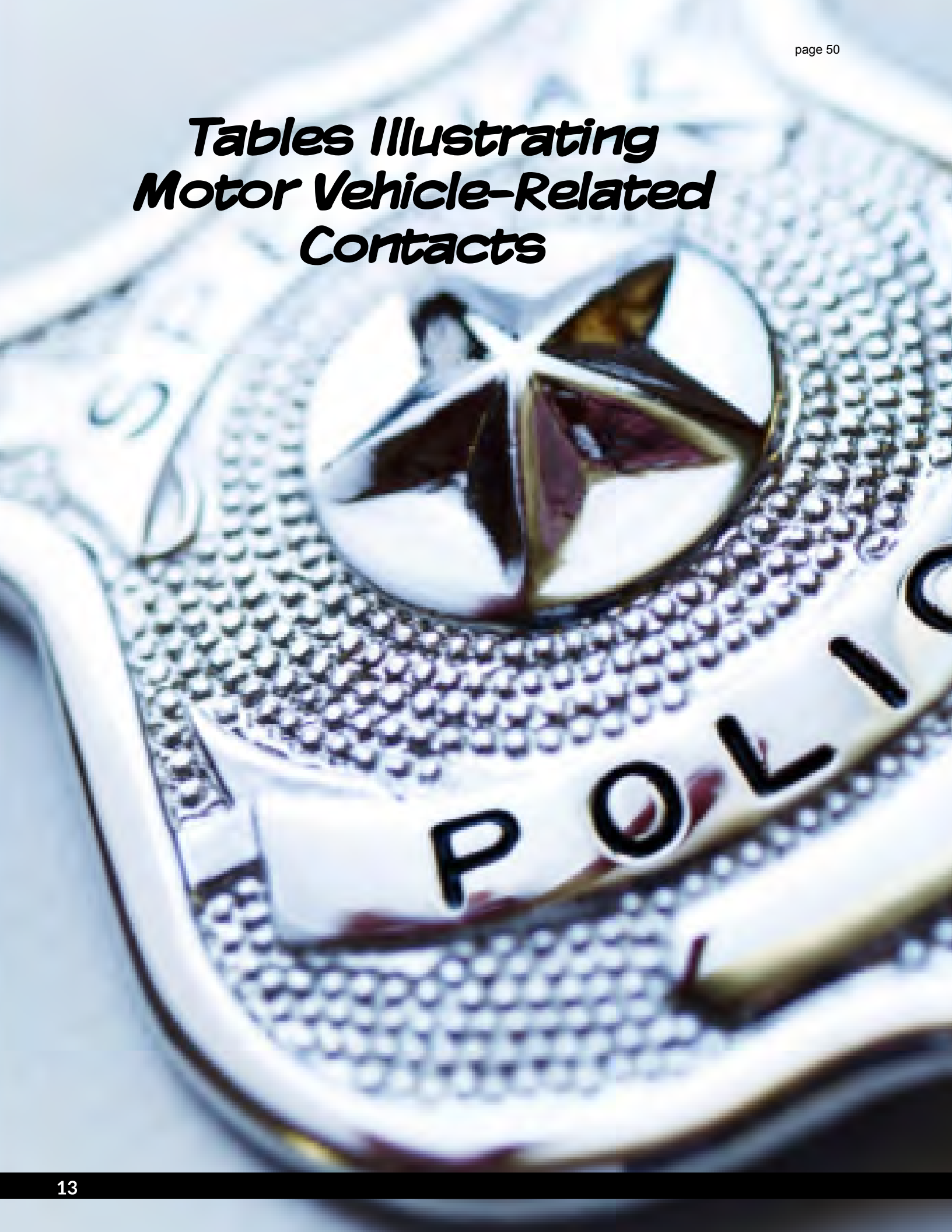
A check above indicates that the Marshall Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/20 - 12/31/20.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint Number	Alleged Violation	Disposition of the Case

Additional Comments:

Tables Illustrating Motor Vehicle-Related Contacts



Tier 2 Data



TIER 2 DATA

TOTAL STOPS: 5,457

STREET ADDRESS OR APPROXIMATE LOCATION OF STOP.

City Street	2,386
US Highway	1,696
County Road	8
State Highway	444
Private Property	923

WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP?

Yes	300
No	5,157

RACE OR ETHNICITY

Alaska Native/American Indian	7
Asian/Pacific Islander	45
Black	2,315
White	2,307
Hispanic/Latino	783

GENDER

Female Total: 2,195

Alaska Native/American Indian	2
Asian/Pacific Islander	11
Black	959
White	964
Hispanic/Latino	259

Male Total: 3,262

Alaska Native/American Indian	5
Asian/Pacific Islander	34
Black	1,356
White	1,34
Hispanic/Latino	524

REASON FOR STOP?

Violation of Law Total: 594

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	231
White	267
Hispanic/Latino	94

Pre-existing Knowledge Total: 47

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	23
White	19
Hispanic/Latino	5

Moving Traffic Violation Total: 3,423

Alaska Native/American Indian	4
Asian/Pacific Islander	36
Black	1,411
White	1,456
Hispanic/Latino	516

Tables Illustrating Motor Vehicle-Related Contacts

TIER 2 DATA continued

Vehicle Traffic Violation Total: 1,393

Alaska Native/American Indian	3
Asian/Pacific Islander	7
Black	650
White	565
Hispanic/Latino	168

Contraband (in plain view) Total: 166

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	112
White	44
Hispanic/Latino	10

WAS SEARCH CONDUCTED?

	YES	NO
Alaska Native/American Indian	0	7
Asian/Pacific Islander	4	41
Black	178	2,137
White	82	2,225
Hispanic/Latino	20	763
TOTAL	284	5,173

Probable Cause Total: 159

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	116
White	14
Hispanic/Latino	29

Inventory Total: 7

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	5
White	2
Hispanic/Latino	0

REASON FOR SEARCH?

Consent Total: 103

Alaska Native/American Indian	0
Asian/Pacific Islander	4
Black	46
White	47
Hispanic/Latino	6

Incident to arrest Total: 8

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	6
White	2
Hispanic/Latino	0

Tables Illustrating Motor Vehicle-Related Contacts

TIER 2 DATA continued

WAS CONTRABAND DISCOVERED?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	0	4
Black	112	66
White	10	38
Hispanic/Latino	44	10
TOTAL	166	118

Did the finding result in arrest (total should equal previous column)?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	0	0
Black	112	0
White	10	0
Hispanic/Latino	44	0
TOTAL	166	0

DESCRIPTION OF CONTRABAND

Drugs Total: 134

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	94
White	33
Hispanic/Latino	7

Weapons Total: 8

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	6
White	2
Hispanic/Latino	0

Currency Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Alcohol Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Tables Illustrating Motor Vehicle-Related Contacts

TIER 2 DATA continued

Stolen Property Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Other Total: 32

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	19
White	8
Hispanic/Latino	5

RESULT OF THE STOP

Verbal Warning Total: 2,042

Alaska Native/American Indian	5
Asian/Pacific Islander	17
Black	864
White	877
Hispanic/Latino	279

Written Warning Total: 1,315

Alaska Native/American Indian	2
Asian/Pacific Islander	15
Black	530
White	633
Hispanic/Latino	135

Citation Total: 1,851

Alaska Native/American Indian	0
Asian/Pacific Islander	13
Black	736
White	762
Hispanic/Latino	340

Written Warning and Arrest Total: 5

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	2
Hispanic/Latino	1

Citation and Arrest Total: 6

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	4
Hispanic/Latino	1

Arrest Total: 238

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	155
White	69
Hispanic/Latino	14

Tables Illustrating Motor Vehicle-Related Contacts

TIER 2 DATA continued

ARREST BASED ON

Violation of Penal Code Total: 35

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	25
White	8
Hispanic/Latino	2

Violation of Traffic Law Total: 87

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	50
White	24
Hispanic/Latino	13

Violation of City Ordinance Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Outstanding Warrant Total: 116

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	69
White	36
Hispanic/Latino	11

WAS PHYSICAL FORCE RESULTING IN BODILY INJURY USED DURING STOP?

Yes Total: 2

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	0
Hispanic/Latino	0

No Total: 5,455

Alaska Native/American Indian	7
Asian/Pacific Islander	45
Black	2,313
White	2,307
Hispanic/Latino	783

NUMBER OF COMPLAINTS OF RACIAL PROFILING

Total	0
Resulted in disciplinary action	0
Did not result in disciplinary action	0



REGULATIONS

COMPLIANCE

POLICIES



DEL CARMEN
Consulting, LLC.
LAW ENFORCEMENT EXPERTS

Table 1. Motor Vehicle Contacts Including Tickets, Citations and Warnings. (1/1/20-12/31/20)

Race/Ethnicity	All Motor Vehicle Contacts		Tickets or Citations*		Verbal Warnings		Written Warnings	
	N	%	N	%	N	%	N	%
Alaska Native or American Indian	7	0	0	0	5	0	2	0
Asian or Pacific Islander	45	1	13	1	17	1	15	1
Black	2,315	42	737	40	864	42	532	40
White	2,307	42	766	41	877	43	635	48
Hispanic or Latino	783	14	341	18	279	14	136	10
TOTAL	5,457	100	1,857	100	2,042	100	1,320	100

*Includes stops for alleged violation of a law or ordinance, tickets/citations, and verbal and written warnings

"N" represents "number" of all motor vehicle-related contacts

** Race/Ethnicity is defined by HB 3051



Table 2. Motor Vehicle Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households that have vehicle access (in percentages). (1/1/2020 -12/31/20)

Race/Ethnicity*	Contacts (in percentages)	Households With Vehicle Access (in percentages)
Alaska Native or American Indian	0	0
Asian or Pacific Islander	1	0
Black	42	34
White	42	60
Hispanic or Latino	14	4
TOTAL	100	100

"N" represents "number" of all motor vehicle contacts

** Race/Ethnicity is defined by HB 3051

Table 3. Motor Vehicle Searches and Arrests. (1/1/20-12/31/20)

Race/Ethnicity	Searches		Consensual Searches		Custody Arrests	
	N	%	N	%	N	%
Alaska Native or American Indian	0	0	0	0	0	0
Asian or Pacific Islander	4	1	4	4	0	0
Black	178	63	46	45	158	63
White	82	29	47	46	75	30
Hispanic or Latino	20	7	6	6	16	6
TOTAL	284	100	103	100	249	100

"N" represents "number" of all motor vehicle contacts

** Race/Ethnicity is defined by HB 3051



Table 4. Instances Where Peace Officers Used Physical Force that Resulted in Bodily Injury

(1/1/20-12/31/20)

Instances Where Peace Officers Used Physical Force that Resulted in Bodily Injury	Location of Stop	Reason for Stop



Table 5. Search Data (1/1/20-12/31/20)

Race/Ethnicity	Searches		Contraband/ Evidence Found		Contraband/ Evidence Not Found		Arrests	
	N	%	N	%	N	%	N	%
Alaska Native or American Indian	0	0	0	0	0	0	0	0
Asian or Pacific Islander	4	1	0	0	4	3	0	0
Black	178	63	112	67	66	56	158	63
White	82	29	10	6	38	32	75	30
Hispanic or Latino	20	7	44	27	10	8	16	6
TOTAL	284	100	166	100	118	100	249	100

"N" represents "number" of all motor vehicle contacts

** Race/Ethnicity is defined by HB 3051



Table 6. Report on Audits.

The following table contains data regarding the number and outcome of required data audits during the period of 1/1/20-12/31/20.

Data Audits on Racial Profiling Data

Number of Data Audits Completed	Date of Completion	Outcome of Audit
1	January 20, 2020	Data reviewed is valid and reliable.
2	April 20, 2020	Data reviewed is valid and reliable.
3	August 20, 2020	Data reviewed is valid and reliable.
4	December 20, 2020	Data reviewed is valid and reliable.

Additional Comments:

Table 7. Instances Where Use of Force Was Used Which Caused Bodily Injury During a Motor Vehicle Contact. (1/1/20-12/31/20)

Race/Ethnicity	Use of Force Causing Bodily Injury	
	N	%
Alaska Native or American Indian	0	0
Asian or Pacific Islander	0	0
Black	2	100
White	0	0
Hispanic or Latino	0	0
TOTAL	2	100

"N" represents "number" of all motor vehicle contacts

** Race/Ethnicity is defined by HB 3051

Table 8. Reason for Arrests Resulting From a Motor Vehicle Contact. (1/1/20-12/31/20)

Race/Ethnicity	Violation of Penal Code		Traffic Law		City Ordinance		Outstanding Warrant	
	N	%	N	%	N	%	N	%
Alaska Native or American Indian	0	0	0	0	0	0	0	0
Asian or Pacific Islander	0	0	0	0	0	0	0	0
Black	25	71	50	57	0	0	69	59
White	8	23	24	28	0	0	36	31
Hispanic or Latino	2	6	13	15	0	0	11	9
TOTAL	35	100	87	100	0	0	116	100

"N" represents "number" of all motor vehicle contacts

** Race/Ethnicity is defined by HB 3051



Analysis and Interpretation of Data

Analysis and Interpretation of Data

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

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

As referenced earlier, in 2009, the Texas Legislature passed House Bill 3389, which modified the Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These changes included, but are were not limited to, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it required police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the 2009 law required adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year.

In 2017, the Texas Legislators passed H.B. 3051 which removed the Middle Eastern data requirement while standardizing the racial and ethnic categories relevant to the individuals that came in contact with the police. In addition, the Sandra Bland Act (S.B. 1849) was passed and became law. Thus, the most significant legislative mandate (Sandra Bland Act) in Texas history regarding data requirements on law enforcement contacts, became law and took effect on

January 1, 2018. The Sandra Bland Act not only currently requires the extensive collection of data relevant to police motor vehicle contacts, but it also mandates for the data to be analyzed while addressing the following:

1. A comparative analysis of the information compiled (under Article 2.133):

- 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;*
- 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;*
- c. Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches.*

2. Information related to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

In an effort to comply with The Texas Racial Profiling/Sandra Bland Law, the Marshall Police Department commissioned the analysis of its 2020 contact data. Hence, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2020 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Whites, Blacks, Hispanics or Latinos, Asians and Pacific Islanders, Alaska Natives and American Indians (Middle Easterners and individuals belonging to the “other” category, as optional categories), that came in contact with the police in the course of a motor vehicle related contact, and were either issued a ticket, citation, warning were issued or an arrest was made. Also, included in this data were instances where a motor vehicle contact took place for an alleged violation of the law or ordinance. The Tier 2 data analysis included, but was not limited to, information relevant to the number and percentage of contacts by race/ethnicity, gender, reason for the stop, location of stop, searches while indicating the type of search performed, result of stop, basis of an arrest and use of physical force resulting in bodily injury. It is important to recognize that the department opted to report its data in a more detailed manner (new template) which allows for a better and more reliable analysis.

It should be noted that the additional data analysis performed was based on a comparison of the 2020 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, one should consider that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Marshall Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households. It is anticipated that next year, when the 2020 Census findings are available, this information will be updated, accordingly.

There is no question that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Marshall Police Department in 2020 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

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

Tier 2 (2020) Motor Vehicle-Related Contact Analysis

When analyzing the enhanced and more detailed Tier 2 data collected in 2020, it was evident that most motor vehicle-related contacts were made with Blacks. This was followed by Whites and Hispanics. Of those that came in contact with the police, most tickets or citations were issued to Whites; this was followed by Blacks. However, in terms of written warnings, most of these were issued to Whites; followed by Blacks.

Regarding searches and arrests, the data showed that most searches took place among Blacks. When considering all searches, most were consented by Whites while most custody arrests were of Blacks. Overall, most searches resulted in contraband; of these, most searches producing contraband took place among Blacks; this was followed by Hispanics. Of the searches that did not produce contraband, most were of Blacks and Whites. Most arrests were made on Blacks; this was followed by Whites. Most of the arrests that originated from a violation of the penal code involved Blacks. This same was evident among those arrested as a result of a violation of a traffic law or those arrested due to an outstanding warrant. Overall, the police department reports two instances where force was used that resulted in bodily injury.

Comparative Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in Marshall who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of Whites and American Indians that came in contact with the police was the same or lower than the percentage of White and American Indian households in Marshall that claimed, in the 2010 census, to have access to

vehicles. The opposite was true of Blacks, Hispanics and Asians. That is, a higher percentage of Blacks, Hispanics and Asians came in contact with the police than the percentage of Black, Hispanic and Asian households in Marshall that claimed, in the 2010 census, to have access to vehicles. It should be noted that the percentage difference of Asian contacts with households is of less than 3 percent; thus, deemed by some as being statistically insignificant.

The analysis of the searches performed shows that most of the searches produced contraband. This is above national law enforcement trends. In addition, of those searches that produced contraband, the majority of them involved Black contacts.

Summary of Findings

The most recent Texas Racial Profiling Law requires that police department perform data audits in order to validate the data being reported. Consistent with this requirement, the Marshall Police Department has engaged del Carmen Consulting, LLC in order to perform these audits in a manner consistent with normative statistical practices. As shown in table 6, the audits performed have shown that the data is valid and reliable. Further, as required by law, this report also includes an analysis on the searches performed. This analysis includes information on whether contraband was found as a result of the search while controlling for race/ethnicity. The search analysis demonstrates that the police department is engaging in search practices consistent with national trends in law enforcement.

While considering the findings made in this analysis, it is recommended that the Marshall Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals.

As part of this effort, the Marshall Police Department should continue to:

- 1) Perform an independent analysis on contact and search data in future years.
- 2) Commission data audits in 2021 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The comprehensive analysis of the data included in this report demonstrates that the Marshall Police Department has complied with the Texas Racial Profiling Law and all of its requirements. Further, the report demonstrates that the police department has incorporated a comprehensive racial profiling policy, currently offers information to the public on how to file a compliment or complaint, commissions quarterly data audits in order to ensure validity and reliability, collects and commissions the analysis of tier 2 data, and ensures that the practice of racial profiling is not tolerated.



Checklist

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

- ✓ Implement a Racial Profiling Policy citing act or actions that constitute racial profiling.
- ✓ Include in the racial profiling policy, a statement indicating prohibition of any peace officer employed by the Marshall Police Department from engaging in racial profiling.
- ✓ Implement a process by which an individual may file a complaint regarding racial profiling violations.
- ✓ Provide public education related to the compliment and complaint process.
- ✓ Implement disciplinary guidelines for officers found in violation of the Texas Racial Profiling Law.
- ✓ Collect, report and analyze motor vehicle data (Tier 2).
- ✓ Commission Data Audits and a Search Analysis.
- ✓ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ✓ Produce an annual report on police contacts (Tier 2) and present this to the local governing body and TCOLE by March 1, 2021.
- ✓ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.





Legislative & Administrative Addendum

TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

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

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

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

Standard 1

Each law enforcement agency has a detailed written directive that:

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

Commentary

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

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

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

Standard 2

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

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

Commentary

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

Standard 3

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

Commentary

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

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

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

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

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

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

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

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops

including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

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

Standard 4

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

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

Commentary

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

Standard 5

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

Commentary

None

Standard 6

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

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

Commentary

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

Standard 7

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

Commentary

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

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

The Texas Law on Racial Profiling

S.B. No. 1074 - An Act relating to the prevention of racial profiling by certain peace officers.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

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

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled

during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

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

(2) the registration number of the vehicle involved;

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

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

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

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

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

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

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

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

SECTION 12. This Act takes effect September 1, 2001

President of the Senate

Speaker of the House

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

Secretary of the Senate

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

Chief Clerk of the House

Approved:

Date

Governor

Modifications to the Original Law

(H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

- (A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);
- (B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);
- (C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);
- (D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly: SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a),(b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

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

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

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

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

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

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

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

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

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit ~~[to the governing body of each county or~~

~~municipality served by the agency]~~ an annual report of the information collected under Subdivision (6) to:

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

(a) In this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based

data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

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

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

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

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

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

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

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

(1) a sentence is imposed on the person;

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

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

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

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

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

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

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

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

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

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

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

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

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

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

- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

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

- (1) this chapter;

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

(3) a commission rule.

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

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

Racial and Ethnic Designations

(H.B. 3051)

H.B. No. 3051 - An Act relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

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

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

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

(A) Alaska native or American Indian;

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

(C) black;

(D) white; and

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

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

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

(1) Alaska native or American Indian;

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

(3) black;

(4) white; and

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

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

President of the Senate

Speaker of the House

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

Chief Clerk of the House

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

Secretary of the Senate

APPROVED: _____

Date

Governor

The Sandra Bland Act

(S.B. 1849)

S.B. No. 1849

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

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

ARTICLE 1. SHORT TITLE

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

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

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

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

(2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003,

Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

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

(2) The magistrate is not required to order the collection of information under Subdivision

(1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision

(1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

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

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

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

(3) recommended treatment.

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

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

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B

or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

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

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article: (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

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

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

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

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

(2) it is reasonable to divert the person;

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

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

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

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

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

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

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

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

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

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

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

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

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

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

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

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

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

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

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

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

otherwise if the:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The commission shall:
 - (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
 - (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
 - (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
 - (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
 - (5) revise, amend, or change rules and procedures if necessary;
 - (6) provide to local government officials consultation on and technical assistance for county jails;
 - (7) review and comment on plans for the construction and major modification or renovation of county jails;
 - (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
 - (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
 - (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
 - (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
 - (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;
 - (13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;
 - (14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;
 - (15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;
 - (16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:
 - (A) common issues concerning jail administration;
 - (B) examples of successful strategies for maintaining compliance with state law and the rules,

standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

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

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

(A) determine if a prisoner is pregnant; and

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

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

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

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

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

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

(22) [(20)] adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

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

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

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

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

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

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

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

as follows:

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

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

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

(b) The prisoner safety fund consists of:

- (1) appropriations of money to the fund by the legislature; and
- (2) gifts, grants, including grants from the federal government, and other donations received for the fund.

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

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

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

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

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

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

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

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other

than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection

(a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

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

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

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

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

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

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

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

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

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

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

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

section.

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

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows: commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

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

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

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

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

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

- (1) topics selected by the agency; and
- (2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:
 - (A) civil rights, racial sensitivity, and cultural diversity;
 - (B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]
 - (C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and
 - (D) unless determined by the agency head to be inconsistent with the officer's assigned duties:
 - (i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and
 - (ii) issues concerning sex offender characteristics.

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

as follows:

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

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

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

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

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

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

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

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

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

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

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

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

relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; [and]
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
- (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
- (E) the location of the stop; and
- (F) the reason for the stop; and

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

- (A) the Texas Commission on Law Enforcement; and
- (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

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

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

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

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

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

(2) the initial reason for the stop;

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

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

and a description of the contraband or evidence;

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

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

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

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

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

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

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

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

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b)

to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

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

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

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

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

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

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

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

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

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

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

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal

Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and
 (B) a glossary of terms relating to the information to make the information readily understandable to the public. This Act takes effect September 1, 2017.

 Senate Speaker of the House

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

 Secretary of the Senate

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

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

 Date

 Governor

 Chief Clerk of the House

**MARSHALL POLICE
DEPARTMENT
RACIAL PROFILING POLICY**

	MARSHALL POLICE DEPARTMENT	
	Policy 2.2 Bias Based Policing	
	Effective Date: 11/14/18	Replaces:
	Approved:  Cliff Carruth Chief of Police	
	Reference: TBP 2.01	

I. POLICY

We are committed to a respect for constitutional rights of individuals in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, national origin, ethnicity, age, or religion. We live and work in communities very diverse in population: respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions, particularly stops of individuals (for traffic and other purposes), investigative detentions, arrests, searches, and seizures of persons or property, shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U.S. Constitution, Article I, Section 9 of the Texas Constitution, statutory authority, and case law construing these provisions. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, sex, sexual orientation, gender, national origin, ethnicity, age, or religion. Officers shall base all such actions on a reasonable suspicion or probable cause that the person or an occupant of a vehicle committed an offense.

The purpose of this policy is to reaffirm the Marshall Police Department's commitment to unbiased policing in all its encounters between 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 our officers from unwarranted accusations of misconduct when they act within the dictates of Departmental policy and the Law.

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

II. PURPOSE

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

III. DEFINITIONS

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

- A. Bias: Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.
- B. Biased policing: Stopping, detaining, searching, or attempting to search, citing or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- C. Ethnicity: A cluster of characteristics which may include race but also cultural characteristics or traits which are shared by a group with a common experience or history.
- D. Gender: Unlike sex, a psychological classification based on cultural characteristics or traits.
- E. Probable cause: Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.
- F. Race: A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
- G. Racial and Bias Based Profiling: A law enforcement-initiated action based on an individual's race, ethnicity, national origin, ethnic background, gender, sexual

orientation, religion, economic status, age, cultural group, or any other identifiable group, rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. Racial and Bias Based 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, persons needing assistance, or other citizen contacts.

- H. Acts Constituting Racial and Biased Based Profiling: Acts initiating law enforcement action, such as motor vehicle stops, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, national origin or ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.
- I. Reasonable suspicion: Articulable, objective facts which lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."
- J. Sex: A biological classification, male or female, based on physical and genetic characteristics.
- K. Stop: The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is an investigative detention.
- L. Contact: A law enforcement contact, including motor vehicle stop, for an alleged violation of law of ordinance.

IV. Prohibition Against Racial and Bias Based Profiling

- A. Peace officers of the Department are strictly prohibited from engaging in racial or bias based profiling. The prohibition against racial or bias based profiling does not preclude the use of race, ethnicity, national origin, or ethnic background, gender, age, cultural group, or any other identifiable group, as factors in a detention decision by a peace officer. Race, ethnicity, national origin, gender or age may be legitimate factors in such a decision when used as part of a description of a suspect or witness for whom a peace officer is searching.
- B. Peace officers of the Department are prohibited from requesting consent to search unless there is reasonable basis of criminal activity. In all cases where consent is requested, whether granted or not, the officer will document the facts which constitute the reasonable basis of criminal activity and the name and date of birth

of the subject who granted consent in the comments section of the Mobile Data Computer (MDC), electronic citation writer and or necessary reports. When any intelligence is gathered during the consent search the officer will forward that intelligence to the appropriate division through departmental e-mail or by memorandum. Officers who do not have a MDC will be required to document consent to searches in an incident report.

- C. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to Department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
- D. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on the individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel should thank him or her for cooperating.
- E. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their name, departmental identification number, and name of the immediate supervisor. Officers are not required to stop law enforcement activities to provide information to bystanders or persons not involved with said law enforcement activity. Officers are not required to identify themselves when doing so would compromise an official investigation.
- F. All personnel are accountable for their actions. Personnel shall justify their actions when required.

Supervisory responsibilities

- A. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
- B. Supervisors shall use the disciplinary mechanisms of the Department to ensure compliance with this order and the constitutional requirements of law enforcement.
- C. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
- D. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of

control over bias also exposes the Department to the consequences of liability. Supervisors shall be held accountable for repeated instances of biased enforcement by their subordinates.

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

Disciplinary consequences

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

Training (TBP: 2.01)

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

V. COMPLAINTS

Complaint Process and Public Education:

- A. Any person who believes a peace officer employed by the Department has engaged in racial or biased based profiling may file a complaint with the Department, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or be discriminated against because they have filed such a complaint.
- B. The Department shall accept and investigate citizen complaints alleging racial or biased based profiling by its peace officers. Such complaints shall be in writing, or the city employee, officer, or official receiving the complaint should reduce the same to writing, and should include the time, place, and details of the incident of alleged racial or biased based profiling, the identity or description of the peace officer or officers involved, and the identity and manner of contacting the complainant.
- C. Any Department employee who receives a citizen complaint alleging racial or biased based profiling shall forward the complaint to the Internal Affairs Section within 24 hours of receipt of the complaint. All such complaints shall be reviewed

and investigated by the Internal Affairs Section or assigned supervisor within a reasonable period of time, and the results of the review and investigation shall be filed with the Internal Affairs Section.

- D. In investigating a complaint alleging racial or biased based profiling, the Internal Affairs investigator or supervisor assigned shall seek to determine if the officer who is the subject of the complaint has engaged in a pattern of racial or biased based profiling that includes multiple acts constituting racial or biased based profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.
- E. In the event a complaint of racial or biased based profiling filed by an individual involves an occurrence that was recorded on audio or video, the individual assigned the investigation shall, upon commencement of the investigation of the complaint and upon written request of the officer, promptly provide a copy of the recording to the peace officer who is a subject of the complaint.
- F. The Marshall Police Department shall provide education to the public concerning the racial profiling complaint process. A summary of the public education efforts made during the preceding year shall be included with the annual report filed with T.C.O.L.E and the governing body of the City Marshall under Section 20.28 below.
- G. Any peace officer who is found, after investigation, to have engaged in racial profiling in violation of this policy shall be subject to corrective action, which may include reprimand; diversity, sensitivity or other appropriate training or counseling; paid or unpaid suspension; termination of employment, or other appropriate action as determined by the Chief.
- H. The Department's compliment-complaint process will be posted to the Department's website. The department will make available the name, address, telephone number and email address where a person may make a compliment or complaint regarding every traffic stop. This information will be included on the violator's copy of departmental citation. Whenever possible, the media will be used to inform the public of the Department's policy and complaint process.
- I. When a motor vehicle contact is made and a citation or written warning is not issued, the MPD Information card which includes the compliment/complaint information will be issued to the driver.
- J. If a person is arrested from a motor vehicle contact, they will be issued a copy of the MPD Information card.
- K. Information for making a compliment or complaint regarding any MPD employee will be posted to the departmental website.

- L. Complaints alleging incidents of bias based profiling will be fully investigated.
- J. Complainants will be notified of the results of the investigations when such investigation is completed.
- K. Compliments or complaints may be made in person, in writing, by telephone, or by electronic mail at the following:
 Marshall Police Department
 2101 East End Blvd North
 Marshall, TX 75672
 903-935-4575
compliment-complaint@marshallpd.com
- L. The information listed in item N above will be provided when requested by any Member of the public, and will be provided to persons who temporarily were temporarily detained as a result of a motor vehicle stop.

VI. RECORD KEEPING

- A. The Department will maintain all required records on all traffic stops pursuant to state law.
- B. The information collected above will be reported to the city council annually.
- C. The information will also be reported to TCOLE in the required format.
- D. Information will be collected relating to motor vehicle stops in which a ticket, warning, or citation is issued or an arrest is made as a result of these stops. Including information related to:
 - 1. The race or ethnicity of the person detained
 - 2. Whether a search was conducted, and if so, whether the individual detained consented to the search;
 - 3. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
 - 4. Whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code (means physical pain, illness, or any impairment of physical condition), during the stop;

- a. The location of the stop
 - b. The reason for the stop
- E. Patrol supervisors shall review, at least monthly, one randomly selected body camera and one randomly selected in-car video recording for each officer under their supervision. This data will be used to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.
- F. Video reviews will be documented on the MPD Video Review Log and submitted to the Patrol Captain monthly. Logs will be maintained in the files of the MPD administrative division.

Contact Information

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

Del Carmen Consulting, LLC
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

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

Copyright: This report may not be altered or reproduced outside the agreed terms, in any manner whatsoever without the written permission of the author.

Copyright 2021 Del Carmen Consulting, LLC
All Rights Reserved.

ITEM 7B

**CONSIDER APPROVAL OF A CONTRACT
EXTENSION WITH PETE MCCARTY OIL
COMPANY, INC. TO PROVIDE FUEL FOR
THE CITY OF MARSHALL**



TO: Members of the City Council

FROM: Eric Powell, PE
Director of Public Works/City Engineer 

DATE: February 16, 2021

SUBJECT: Extension of a contract with Pete McCarty Oil Co. to provide fuel for the City of Marshall

In March 2020, the City Council approved a contract with Pete McCarty Oil Company, Inc. to provide fuel for the City of Marshall.

The original contract period expires on March 31, 2021; however, provisions were included to allow the City to extend the contract for up to two (2) additional periods (in one year increments), provided that the vendor again agreed to the terms as outlined in the original contract. Pete McCarty Oil Company has indicated that they wish to enter into the first contract extension period (April 2021 – March 31, 2022), at the same price structure as approved in the original contract.

I hereby recommend approval for this contract extension with Pete McCarty Oil Company, Inc. to provide fuel for the City of Marshall.

CITY OF MARSHALL, TEXAS
(Bid No. 2020-001/FUEL)

Contract and Agreement
(Extension #1)

This contract and agreement is entered into by and between the City of Marshall, Texas and Pete McCarty Oil Co., Inc of Marshall, Texas.

I. Contracting Parties:

Receiving Party: City of Marshall, Texas

Performing Party: Pete McCarty Oil Co., Inc.

II. Statement of Services to be performed:

Furnish 87 octane unleaded fuel and Number 2 diesel fuel to the City of Marshall within the time period designated and for the price(s) stated by the bidder in their bid proposal for Bid No. 2020-001/Fuel signed and dated on March 10, 2020. Bid No. 2020-001/Fuel, including the terms and conditions contained therein, is incorporated and made a part of this contract by reference as if fully set forth and copied at length.

III. Contract Amount:

Pete McCarty Oil, Co., Inc. of Marshall, Texas agrees to furnish approximately 120,000 gallons of 87 octane unleaded fuel and approximately 50,000 gallons of Number 2 diesel fuel to the City of Marshall for a profit margin of **\$0.09/per gallon.**

IV. Payment for Goods or Services:

The Receiving Party shall pay the Performing Party for goods or services within thirty (30) days from receipt of properly submitted itemized bill(s) signed by authorized City employees.

V. Term of Contract:

Period of contract (Extension #1): This contract extension is to begin on April 1, 2021 and end on March 31, 2022.

The City of Marshall reserves the right to extend the contract(s) for a third annual period provided both parties agree to such extension in writing no less than sixty (60) days prior to the end of each annual period and is also conditioned that any annual increase is not higher than the CONSUMER PRICE INDEX for the previous twelve (12) month period.

VI. Patent and Royalty Disclaimer:

The bidder, without exception, shall indemnify and save harmless the City of Marshall and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patent or unpatented invention, process or article manufactured or used in the performance of the contract including its use by the City of Marshall. If the bidder uses any design, device or materials covered by patent copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost arising from use of such design, device in any way involved in the work.

RECEIVING PARTY

Receiving Party certifies that it has authority to contract for the above services.

City of Marshall, Texas
P.O. Box 698
Marshall, Texas 75671

Name of Receiving Party

Authorized Signature

Date

PERFORMING PARTY

The undersigned signatory for the Performing Party hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this Contract; and that the officer has full and complete authority to enter into this contract on behalf of the Performing Party.

Pete McCarty Oil Co., Inc.
P.O. Box 1436
Marshall, Texas 75671

Name of Performing Party

Authorized Signature

Date

PETE McCARTY OIL CO., INC.

P. O. BOX 1436
MARSHALL, TEXAS 75671-1436
PHONE (903)938-5105 • FAX (903)938-5108

**City of Marshall
P. O. Box 698
Marshall, TX 75671**

ATTN: Randy Pritchard

21 January 2021

Dear Mr. Pritchard,

We would like to take this opportunity to extend our fuel contract with the city under the current terms for a period of another twelve months.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Davidson", with a long horizontal flourish extending to the right.

**Don Davidson
President**

ITEM 7C

**CONSIDER APPROVAL OF AN
EXPENDITURE IN EXCESS OF \$50,000 AS
AN INCENTIVE FOR PROJECT
COMPOSITE**



February 12, 2021

The Honorable City Council of Marshall, Texas
P.O. Box 698
Marshall, Texas 75670

The Marshall Economic Development Corporation has requested to appear before the City Council on February 25, 2021, for consideration of an expenditure in excess of \$50,000 for Project Composite. This project was delayed from a previously scheduled date of October 8, 2020 due to ongoing project discussions. Marshall EDC has met with the Project Composite prospect group since this time and over the course of the last year. The prospect now seeks to move forward with plans to revive a manufacturing business. They are considering a proposed site in an existing building in northern Harrison County.

Marshall EDC respectfully requests the approval of an incentive package for the project. Full details of the proposed project will be provided by separate delivery to each Council Member to maintain confidentiality until such time for the City Council's consideration.

We thank you for the opportunity to present this project before the City Council of Marshall.

Respectfully,

A handwritten signature in blue ink, appearing to read "Rush Harris".

Rush Harris
Executive Director
Marshall Economic Development Corporation

ITEM 7D

CONSIDER APPROVAL OF SMALL BUSINESS GRANT FUND APPLICATIONS

Memorandum

Date: February 22, 2021

To: Mark Rohr, City Manager

From: Shameia Ruffins, Community Development Coordinator

Subject: Approval of Small Business Grant Fund Recommendations

The following recommendations have been made by staff in relation to the Small Business Grant Fund. This fund was approved on September 24, 2020 by the City Commission with a 6:0 vote.

The purpose of the SBGF is to help Marshall small businesses adapt their business model to changing business conditions because of the COVID-19 pandemic. This is a reimbursement grant for up to \$2,500 of eligible costs including equipment, software, supplies, safety equipment, and financial support. Eligible businesses include, but are not limited to, retail (storefront), food and beverage, personal care (barbershop, nail salons, spas, etc.), automobile, mobile (food) vendors, maintenance, education/training, health/wellness, art galleries, gyms, and small manufacturing businesses. Businesses must have 25 or fewer employees and have been open and operating as of January 1, 2020.

Funding for the program is provided to the City of Marshall through the U.S. Department of Housing and Urban Development's Community Block Development Grant. Currently, the City has delegated \$138,536.000 of our received COVID money to the Small Business Grant Fund. The approved application process says that upon receipt, staff will review the application for completion. Based on the review, City staff will make recommendations for approval by City Commission.

Thus far, we have approved 26 applications of which 8 were approved during the previous commission meeting held on January 14, 2021. A total of 6 pending applications today would bring us to a total of 32 applications. Staff has assisted several business owners on getting their application started, and will continue to spread the word on this local opportunity. We anticipate this to be an ongoing agenda item over the next few weeks as we continue to receive applications.

Staff is looking for the City Commission's approval for the six (6) Small Business Grant Fund applications that were received in completion between January 20, 2021 and February 12, 2021.

See Attached Documents

Staff Recommendations

KK'S Embroidery-\$2,500.00

Staff is recommending the max reimbursement of \$2,500 to KK'S Embroidery under the eligibility category of financial support.

KK'S Embroidery was affected by the pandemic in several areas, one being that the business was closed temporarily for 6 weeks causing a huge drop in sales especially during this school season. Employee's hours were cut in half as business hours were limited during the reopening of business. Masks and protective shields have also played a major part in keeping staff safe during this pandemic. Receipts totaling \$16,380.00 have been submitted.

Ed's Sports Center Designs - \$2,500.00

Staff is recommending the max reimbursement of \$2,500 to Ed's Sports Center Designs under the eligibility category of financial support.

Ed's Sports Center Designs have been negatively impacted as a business due to Covid-19 Pandemic. Sales have been drastically down due to the shelter in place laws ordered by the CDC at the beginning of the pandemic causing sales to reach a all time low. Receipts totaling \$3000.00 were submitted.

East Texas Office Supplies Inc.-\$2,500.00

Staff is recommending the max reimbursement of \$2,500 to East Texas Office Supplies Inc. under the eligibility category supplies and financial support.

East Texas Office Supplies like many other businesses had to adapt their business by purchasing tons of sanitizing products masks etc. This business also had to continue to pay rent as well as employee salaries. East Texas Office Supplies have been very helpful during this pandemic as far as getting hundreds of companies the necessary supplies including sanitizing supplies during this pandemic. Receipts totaling \$3,512.94 were submitted.

The Tortilla Factory-\$2,500.00

Staff is recommending the max reimbursement of \$2,500 to The Tortilla Factory under the eligibility category of financial support.

The Tortilla Factory adjusted to the new laws according to the CDC by shutting down all entry ways to outside customers, also building glass windows to protect them from the virus. Although the business remained open the store pretty much converted to an 'To Go' only place of business. Employees were still required to report to work. Receipts totaling \$35,740 were submitted.

Green's Professional Services-\$2,500.00

Staff is recommending the max reimbursement of \$2,500 to Green's Professional Services under the eligibility category supplies and financial support.

Green's Professional Services adapted to the rules/guidelines of the CDC by purchasing necessary PPE such as face masks, personal sanitizers for each work station. The company also remained open during this pandemic even extending office hours to accommodate the needs of its customers. Green's Professional Services has since then contracted with Texas Document Solutions to keep the office sanitized on a regular basis. Receipts totaling \$18,882.01 was submitted.

Cole's Garage-\$2,500.00

Staff is recommending the max reimbursement of \$2,500 to Cole's Garage under the eligibility category financial support.

Cole's Garage adapted to the pandemic like many other small businesses especially when it came down to occupancy. That's right one person (customer) at a time was only allowed when arranging for services for vehicle repairs. Cole's Garage still needed personnel during office hours so employee wages still had to be paid. Receipts totaling \$2,780.00 were submitted.

ITEM 7E

REPORT ON 2021 WINTER STORM RESPONSE



TO: Members of the City Council

FROM: Eric Powell, PE 
Director of Public Works/City Engineer

DATE: February 22, 2021

SUBJECT: Report on 2021 Winter Storm Response

A report on the response to the 2021 winter storm will be provided at the City Council meeting on Thursday.

ITEM 8

CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA

ITEM 9

ADJOURNMENT