Council Chambers, City Hall
401 South Alamo
Marshall, TX 75670
903-935-4421

Members
Amy Ware, District 4 - Mayor
Marvin Bonner, District 1
Leo Morris, District 2
Jennifer Truelove, District 3
Reba Godfrey, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

PLEASE SILENCE ALL DEVICES
REGULAR CITY COUNCIL MEETING

February 22, 2024
6:00 PM

1. **Call to Order and Roll Call**

2. **Invocation and Pledges**

3. **Citizen Comments**
   Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on the 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 are requested to fill out a public comment form and will have three (3) minutes to speak 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 **Items to be Withdrawn From Consent Agenda**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 8, 2024 Special-Called Council meeting. (City Secretary)

   B. Consider approval of a three (3) year lease with ASCO Equipment for a new backhoe in the Distribution and Collection Division of Public Works. (Public Works)

   C. Consider approval of a resolution for a Promissory Note for Water Meters/Convention Center. (Finance)

6. **Consideration of Items Withdrawn From the Consent Agenda**

7. **Public Hearings & Ordinances**

   A. Conduct a public hearing and consider an ordinance amending the text specifically related to Chapter 32 Section 19 entitled “Definitions” and Section 21 entitled “Permitted Uses” and an amendment to the official zoning map creating a Manufactured Home Overlay (MHO). (Public Works)

B. Conduct a public hearing and consider an ordinance of the City of Marshall, Texas, amending Chapter 32 of the Code of Ordinances by adding to Section 21, Permitted Uses, Item 21.02, Short Term Rentals. (Public Works)

8. City Manager Reports and Requests for City Council Consideration

A. Marshall Police Department 2023 Year End Presentation and racial profiling report. (Police)

B. Marshall Fire Department 2023 Goals & Objectives Year End Report. (Fire)

9. Executive Session

A. An Executive Session pursuant to the Open Meetings Act, Chapter 551 of the Texas Government Code under Section 551.074 Personnel Matters: Discussion of appointment of Municipal Court Judge.

10. Action Item Following Executive Session

A. Consider the appointment of a Municipal Court Judge.

11. Adjournment

Posted: February 19, 2024
5:00 PM
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.

TO:	City Council
DATE:	February 22, 2024
ITEM #:	5.A
SUBJECT:	Consider approval of the minutes from the February 8, 2024 Special-Called Council meeting. (City Secretary)

Recommendation for Action: Consider approval of the minutes from the February 8, 2024 Special-Called Council meeting.

Executive Summary: Minutes from the Special-Called meeting held on February 8, 2024.

Budget Cost: N/A

Staff Contact: Nikki Smith, City Secretary

Attachments: 1. 2-8-24 minutes

Council Chambers, City Hall
401 South Alamo
Marshall, TX 75670
903-935-4421

Members
Amy Ware, District 4 - Mayor
Marvin Bonner, District 1
Leo Morris, District 2
Jennifer Truelove, District 3
Reba Godfrey, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

MINUTES
PLEASE SILENCE ALL DEVICES
SPECIAL-CALLED CITY COUNCIL MEETING
February 8, 2024
4:00 PM

1. Call to Order and Roll Call

Mayor Amy Ware called the Regular meeting to order in the Council Chambers, City Hall at 04:00 PM.

PRESENT:

Mayor and Council Members:
Mayor Amy Ware
Councilmember Marvin Bonner
Councilmember Leo Morris
Councilmember Reba Godfrey
Councilmember Micah Fenton
Councilmember Amanda Abraham

ABSENT: Councilmember Truelove

ADMINISTRATIVE STAFF PRESENT:

Terrell Smith, City Manager
Cliff Carruth, Police Chief
Eric Powell, Public Works Director
Christol Hall, HR/Civil Service Director
Anna Lane, Community Services Director
Randy Pritchard, Support Services Director
Nikki Smith, City Secretary/Payroll Accountant
Dawn Jones, Finance Director
Scott Rectenwald, City Attorney

2. Invocation and Pledges

Mayor Ware

3. Presentations & Proclamations

A. Presentation of the Employee of the Month - January (Human Resources)
Christol Hall, Human Resources Director, presented the Employee of the Month for January 2024 - Kervin Crawford.

4. Executive Session

A. An Executive Session pursuant to the Open Meetings Act, Chapter 551 of the Texas Government Code under Section 551.074 Personnel Matters: Interview of Municipal Court Judge candidate(s).

Councilmember Bonner made a motion to convene the Executive Session. Councilmember Godfrey seconded the motion, which passed by a vote of 6:0. The time was 4:06 PM.

Councilmember Godfrey made a motion to reconvene the Executive Session. Councilmember Bonner seconded the motion, which passed by a vote of 6:0. The time was 6:45 PM.

5. Action Item Following Executive Session

A. Consider the appointment of a Municipal Court Judge.

Councilmember Abraham made a motion to table this item. Councilmember Godfrey seconded the motion, which passed by a vote of 6:0.

6. Citizen Comments

Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on the 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 are requested to fill out a public comment form and will have three (3) minutes to speak unless additional time has been requested.

There were no citizen comments.

7. Items to be Withdrawn From Consent Agenda

There were no items withdrawn from the Consent Agenda.

8. 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.

Councilmember Godfrey made a motion to approve the Consent Agenda. Councilmember Fenton seconded the motion, which passed by a vote of 6:0.

A. Consider approval of the minutes from the January 25, 2024 Regular Council meeting. (City Secretary)

B. Approve resolution authorizing the Police Department to accept $55,000 in grant funding under the 2023 Justice Assistance Grant program. (Police)

9. Consideration of Items Withdrawn From the Consent Agenda

10. Public Hearing & Ordinance

A. Conduct a public hearing and consider an ordinance amending the text specifically related to Chapter 32 Section 19 entitled “Definitions” and Section 21 entitled “Permitted Uses” and an amendment to the official zoning map creating a Manufactured Home Overlay (MHO). (Public Works)
This item was tabled.

B. Conduct a public hearing and consider an ordinance of the City of Marshall, Texas, amending Chapter 32 of the Code of Ordinances by adding to Section 21, Permitted Uses, Item 21.02, Short Term Rentals; providing for regulations for the registration and use of short term rentals; providing for registration, providing for definitions; providing for inspections; providing for restrictions; providing for brochure and safety requirements; providing for neighborhood notification; providing for violations and penalties; providing fees; providing a repealing clause; providing a severability clause; providing a savings clause; providing a repealing clause; and providing for an effective date. (Public Works)
This item was tabled.

C. Conduct a public hearing and consider an ordinance amending the official zoning map from I-2 (Heavy Industry) to R-6 (Duplex Triplex Quadraplex), location 201 North Allen Blvd. (Public Works)
Eric Powell, Public Works Director, asked for approval of an ordinance to rezone 201 North Allen Blvd. from I-2 (Heavy Industry) to R-6 (Duplex, Triplex, Quadraplex).

Mayor Ware opened the public hearing.

No one came forward to speak.

Mayor Ware closed the public hearing.

Councilmember Morris made a motion to approve an ordinance amending the official zoning map from I-2 (Heavy Industry) to R-6 (Duplex Triplex Quadraplex), location 201 North Allen Blvd. Councilmember Fenton seconded the motion, which passed by a vote of 6:0.

D. Conduct a public hearing and consider an ordinance amending the official zoning map from R-2 (Single Family Detached) to C-2 (Retail Business), location 4300 Victory Drive. (Public Works)
Eric Powell asked for approval of an ordinance to rezone 4300 Victory Drive from R-2 (Single Family Detached) to C-2 (Retail Business).

Mayor Ware opened the public hearing.

No one came forward to speak.

Mayor Ware closed the public hearing.

Councilmember asked questions and discussed.

Councilmember Fenton made a motion to approve an ordinance amending the official zoning map from R-2 (Single Family Detached) to C-2 (Retail Business), location 4300 Victory Drive. Councilmember Bonner seconded the motion, which passed by a vote of 6:0.

11. City Manager Reports and Requests for City Council Consideration

A. Pavement Management Plan. (Public Works)
Eric Powell provided information regarding the initial Pavement Management Program and the planning process and methodology for this program.

Councilmembers asked questions and discussed.

Council provided directions for the approach to take, to split the work between reconstruction and overlay.

12. Adjournment

Councilmember Godfrey made a motion for adjournment. Councilmember Fenton seconded the motion, which passed by a vote of 6:0.

APPROVED:

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

ATTEST:

_____
City Secretary

TO:	City Council
DATE:	February 22, 2024
ITEM #:	5.B
SUBJECT:	Consider approval of a three (3) year lease with ASCO Equipment for a new backhoe in the Distribution and Collection Division of Public Works. (Public Works)

Recommendation for Action: Requesting approval to approve a three (3) year lease with ASCO Equipment for a new backhoe in the Distribution and Collection Division of Public Works.

Executive Summary: The Distribution and Collection Division of Public Works utilizes lease programs for the heavy equipment used on a daily basis. These machines range from small mini-excavators to large loaders. This particular piece of equipment is a four-wheel drive backhoe utilized for excavation of water and sewer lines, backfilling tranches and loading dump trucks with soil and debris from the contraction work. These units are utilized every day and are an intricate piece of the operation.

Adequate funds have been approved within the current operating budget (FY2024) and the remaining two years (FY2025 and FY2026) will be requested during budget submittal and review.

Budget Cost: $40,562 (Overall cost of lease is $121,686)

Staff Contact: Eric Powell, PE

Attachments: 1. City of Marshall Backhoe Lease PDF (00000002)

Proposal

Quote Expires - Feb 28, 2024

Jan 29, 2024

CITY OF MARSHALL

QUO-29464-W0H0D3

Dealer :

ASCO EQUIPMENT
2602 EAST FRONT STREET
TYLER, TX 75702

David Drummond

Customer :

CITY OF MARSHALL
P O BOX 698
MARSHALL, TX 75671-0698

Chris Miles : 903-930-3797

Equipment

Year	Serial Number	Description	Equipment Tag	Price
2024	On Order	Case 580SN Backhoe	Estimated Annual Lease Payment	$ 40,562.00
		4n1 Bucket		$ 0.00
		Hydraulic Thumb		$ 0.00
			Sub Total:	**$ 40,562.00**

Equipment Specification

New Case 580SN Backhoe Equipped with the following:
-Powershift H-Type Transmission
-12x16.5, 10PR lug tread Front
-19.5LX24, 10PR STD Rear
-1-WAY OR 2-WAY AUX & EHOE PKG
-Heavy Front CWT, Extndhoe
-Pilot Controls w/Power Lift
-Mechanical Quick Coupler
-Flip Over/Stabilizer Pads Combo
-RC & CS & 3SPL PKG
-Cab, LH Door w/Heater/AC
-Premium Air Susp Heated
-Auto Ride Control
-Standard Lights
-Cold Start Dual Battery
-CASE SiteWatch Telematics
-3yr Advanced Tele Subscription
-STD 4WD FRONT AXLE

Lease is for 3 Years @ 700 hours per year

First year's payment due at signing will be:	$40,562.00
Second year's payment due one year from first:	$40,562.00
Third year's payment due two years from first:	$40,562.00
Total payments over three year lease will be:	$121,686.00

Pricing Summary

Estimated Annual Payment Per Year	**$ 40,562.00**
Total Estimated Annual Payment Per Year for 3 Years	**$ 40,562.00**

Finance Option #1

Months	36
Rate	0
Est.Annual Pmt	$ 40,562.00

Do not wire money without verbal confirmation of wiring instructions by an ASCO team member.
There are numerous reports of people being taken advantage of by bad actors, so please be diligent to protect yourselves.

ADDITIONAL TERMS AND CONDITIONS

This proposal is subject to the additional ASCO Terms and Conditions which are attached to and made a part of this proposal by reference. Customer should read the Terms and Conditions and consult with an attorney or legal advisor to answer questions regarding this proposal or the Terms and Conditions. This proposal is a contract between the parties upon signature by the customer and acceptance by seller's management. Effective on the latest date shown below the signature of each party. **Price, terms, and delivery date are subject to approval by the management of ASCO. This proposal expires 10 days from the date stated above unless the proposal has been signed by both the customer and ASCO**

Accepted :

Customer

Proposed :

David Drummond

TERMS AND CONDITIONS
[MADE PART OF THE PROPOSAL FOR THE PURCHASE OF EQUIPMENT]

1. General. These Terms and Conditions are part of the Proposal, which becomes a contract upon Seller's acceptance of the Proposal.

2. Payment of Net Purchase Price. Unless otherwise stated in the Proposal, Buyer (sometimes referred to in the Proposal as the "Customer") will pay ASCO (the "Seller") the Net Purchase Price for the Equipment as stated in the Proposal on or before the delivery of the Equipment. Seller reserves the right to require from Buyer a cash down payment (the "Cash Down Payment") to be paid by check or wire transfer of funds prior to the order or the delivery of the Equipment from the Manufacturer. Any required Cash Down Payment must be received within 3 business days after the date that such payment is requested; otherwise, Seller will have the option of terminating this Proposal, in which event neither party will any further duties or obligations hereunder. The balance of the Sales Price (after crediting the "Cash Down Payment," if any) will be paid by Buyer by check or wire transfer of funds immediately preceding the delivery of the Equipment, and upon Buyer being notified by ASCO that the Equipment is available for delivery. Any Cash Down Payment is non- refundable due to Buyer's inability to obtain financing, or for any other reason resulting from Buyer's inability or unwillingness to purchase the Equipment; however, Buyer will be entitled to a refund of the Cash Down Payment upon ASCO'S failure to perform its obligations under the Proposal or should the Manufacturer fail to fulfill the order within a reasonable period of time. The amount of the Cash Down Payment may vary depending on circumstances or financing related to each sale. If Buyer is obtaining financing for the purchase of the Equipment from a third party lender, such financing must be obtained within 3 business days from the date of this Proposal; and if such financing is not obtained, this Proposal may be terminated at the option of either party. Unless otherwise described in this Proposal, no financing is being offered by Seller.

3. Cancellation Charge. A cancellation charge of 20% of the Total Purchase Price is payable by Customer on all cancelled orders**.**

4. Taxes, Delivery Fees and Other Fees. Any taxes related to the sale of the Equipment will be paid by Buyer at the time that such taxes become due. Unless otherwise stated in the Proposal, the Net Purchase Price DOES NOT include any applicable taxes, delivery fees, or other applicable fees.

5. Trade-in Equipment. If the Trade-in Equipment is not being delivered to Seller until after the effective date of this Proposal, Buyer represents and warrants to Seller that there will not be a material increase in the hours of use on the Trade-in Equipment or a material change in the condition of the Trade-in Equipment; and, if Seller determines in its sole opinion that such a material change has occurred, Seller will be entitled to reappraise the Trade-in Equipment at the time of receipt of such equipment and to adjust the Trade Allowance and Net Trade Allowance as stated in the Proposal. If Seller reappraises the Trade-in Equipment at an amount which is less than the original Trade Allowance by more than five percent (5%), Buyer may terminate this Proposal provided that such termination is made prior to the delivery of the Equipment; and, provided further that upon such termination, Seller has the option of retaining all or any portion of the Cash Down Payment as reimbursement for expenses incurred in regard to this transaction.

6. Non-Performance by Seller. Seller is excused from performance under the terms of this Proposal if delivery is delayed, or rendered impractical or impossible by work stoppages, strikes, delays in transportation, inability to obtain labor or materials, supply-chain delays, and by any other cause or reason beyond the reasonable control of Seller, including but not limited to acts of God, disease, pandemic, weather, and civil unrest or insurrection; and if Seller is unable to perform for the reasons stated in this paragraph, Buyer's sole remedy is termination of this Proposal and the return of its Cash Down Payment, if any.

7. Buyer's Default. Should Buyer default under the terms of this Proposal, ASCO may terminate this Proposal and retain the Cash Down Payment as liquidated damages; or, ASCO may seek such other relief as provided by law or in equity. Upon ASCO's failure to deliver the Equipment (other than its failure to timely deliver the Equipment due to the fault of Manufacturer or any third party, which shall not be a default by ASCO), Buyer may, as its sole remedies, terminate this Proposal and receive a refund of the Cash Down Payment; or, Buyer may enforce specific performance of ASCO'S obligations under this Proposal, provided that the Equipment can be obtained by ASCO from the Manufacturer within a reasonable period of time. An action for specific performance by either party must be initiated, if at all, within 90 days after the alleged breach of this Proposal. Until Buyer has fully paid for the Equipment, ASCO retains a lien on the Equipment in accordance with the *Texas Business and Commerce Code* and Buyer authorizes ASCO to perfect such lien by filing a financing statement with any governmental filing offices as required for perfecting such lien. *Under no circumstances will ASCO be liable to Buyer for any consequential, special, indirect, incidental, exemplary, or punitive damages, including without limitation, loss of profits, loss of business opportunity, or loss of prospective revenue, arising out of this Proposal or the Equipment to be provided under this Proposal. The prevailing party in any litigation shall be entitled to recover reasonable attorney's fees and court costs.*

8. Entire Agreement; Modification. This Proposal constitutes the entire agreement between the parties, and any modification or amendment must be in writing and signed by authorized representatives of both Buyer and Seller.

9. Jurisdiction and Venue. This Proposal shall be construed and enforced in all respects in accordance with the laws of the State of Texas and the laws of the United States applicable to transactions in Texas, and venue for any lawsuits or legal proceedings related to this Proposal or the Equipment will be in Lubbock County, Texas.

10. Delivery: The risk of loss will pass to Buyer immediately upon the Equipment being: (i) picked up by Buyer or (ii) delivered to customer's location. The delivery of the Equipment as described above is subject to performance and delivery by the manufacturer of the Equipment (the "Manufacturer"), which the Seller and Buyer agree may cause the actual delivery date to vary, and which Seller is unable to control. If Seller has provided Buyer with an "estimated lead time" for delivery of the Equipment, Buyer agrees that the lead time has been provided by the Manufacturer of the Equipment and Buyer is given notice that such time may vary depending on circumstances which are beyond the control of Seller. Seller's delivery of the Equipment to Buyer by any date stated in the Proposal, if any, is subject to Manufacturer's delivery of the Equipment to Seller in accordance with the lead time provided solely by the Manufacturer.

11. Completion of Blanks. Buyer authorizes Seller to unilaterally insert the serial number(s) and/ or model numbers of the Equipment on the previous pages of this Proposal for the purpose of identifying the Equipment or correcting errors.

12. Price Increases. If the equipment is being ordered from the manufacturer, the price stated herein is an estimate; and, to reflect any increases due to material availability or other factors beyond the control of Seller, the price stated in this Proposal is subject to increase to reflect any price increase imposed by the manufacturer between the date of this Proposal and the delivery date of the Equipment to Buyer.

13. Final Agreement; **Buyer's Performance**.. **All sales are expressly conditional on Buyer's agreement to these Terms and Conditions which are part of the Proposal. Buyer's execution of this Proposal; or, any order or statement of intent by Buyer to purchase the Equipment and/ or any other products or services as described in this Proposal from ASCO; or, any directions by Buyer to proceed with procurement or shipment of the Equipment or any other products or services described in this Proposal; or, acceptance by Buyer of the Equipment, products and/ or services; or, payment of all or part of such Equipment, products and/ or Services as described in this Proposal; shall constitute assent to these Terms and Conditions by Buyer. *Any different or additional terms and conditions proposed by Buyer in a purchase order or any other document, are objected to by ASCO and will not be binding upon ASCO unless specifically assented to in writing by an authorized representative of ASCO*. The person signing this Proposal on behalf of Buyer is an authorized representative with authority to sign this Proposal.**

14. DISCLAIMER OF WARRANTIES ON EQUIPMENT:

ASCO is not the manufacturer of the Equipment. The only warranties offered in regard to the Equipment are those of the Manufacturer. Warranty remedies offered by the Manufacturer of the Equipment are Customer's exclusive remedies. **ASCO EXPRESSLY DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, RELATED TO THE EQUIPMENT, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, MERCHANTABLE QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE. ASCO MAKES NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION OFTHE EQUIPMENT; HOWEVER, ASCO'S DISCLAIMER OF WARRANTIES DOES NOT AFFECT THE TERMS OF ANY MANUFACTURER'S WARRANTY.** Customer is solely responsible for selecting the Equipment; and, ASCO has not selected the Equipment and is not responsible for the suitability of the Equipment for any use or purpose intended by Customer. Customer expressly waives any claim that it may have against ASCO based on any manufacturer product liability arising out of or related to the Equipment.

All used equipment is sold **AS IS, WHERE IS**, and **WITH ALL FAULTS**. Used equipment quoted in the Proposal is subject to prior sale and availability is not guaranteed**.**

ACCEPTED AND AGREED :

Signature of Buyer: _____

Print Name: _____

Title: _____

Date: _____

ASSOCIATED SUPPLY COMPANY, INC.

Seller's Representative: _____

Branch Manager: _____

Date: _____

TO:	City Council
DATE:	February 22, 2024
ITEM #:	5.C
SUBJECT:	Consider approval of a resolution for a Promissory Note for Water Meters/Convention Center. (Finance)

Recommendation for Action: Requesting approval of a resolution for a Promissory Note for Water Meters/Convention Center.

Executive Summary: On January 11, 2024 Council approved a promissory note payable to First Securities Finance, Inc. to enable the City to finance water meters and related equipment. The documentation contained "….as security for the payment of the principal of and interest thereon, the City has agreed to pledge its ad valorem taxes".

The loan is to be secured with net revenue from the water and sewer fund, with the expectation that the new meter reading system will provide a cash flow that will pay for the water meters and related equipment. This loan is not a pledge of ad valorem taxes.

Staff noticed the incorrect verbiage after the resolution was signed but prior to submitting the agreement to First Securities Finance, Inc. First Securities Finance, Inc. has worked with us to realign the financing to fit the staff's intentions and recommendation.

Budget Cost:

Staff Contact: Dawn Jones, Finance Director

Attachments: 1. Resolution Authorizing Loan - Marshall

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTY OF HARRISON §
CITY OF MARSHALL §

We, the undersigned officers of the City of Marshall, Texas (the "City"), hereby certify as follows:

1. The City Council of the City convened in a regular meeting on February 22, 2024, at the designated meeting place (the "Meeting"), and the roll was called of the duly constituted officers and members of said City Council, to wit:

NAME	OFFICE
Marvin Bonner	District 1
Leo Morris	District 2
Jennifer Truelove	District 3
Amy Ware	Mayor/ District 4
Reba Godfrey	District 5
Amanda Abraham	Mayor Pro Tem/ District 6
Micah Fenton	District 7

and all of said persons were present, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS REGARDING A LOAN

(the "Resolution") was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion carrying with it the adoption of the Resolution, prevailed and carried by the following vote:

AYES: All members of the City Council shown present above voted "Aye" except as shown below.

NOES: __

ABSTAIN: __

2. That a true, full, and correct copy of the Resolution is attached to and follows this Certificate; that the Resolution has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing paragraph is a true, full, and correct excerpt from the City Council's minutes of the Meeting; that the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified

officially and personally, in advance, of the time, place, and purpose of the Meeting, and that the Resolution would be introduced and considered for adoption at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose, and that the Meeting was open to the public and public notice of the time, place, and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

3. That the Mayor and the City Secretary of the City have duly signed the Resolution and hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of the Resolution for all purposes.

SIGNED this February 22, 2024.

_____ _____

Mayor City Secretary

SIGNATURE PAGE FOR CERTIFICATE FOR RESOLUTION

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS REGARDING A LOAN

WHEREAS, the City of Marshall, Texas ("City") proposes to execute a promissory note (the "Note"), payable to First Security Finance, Inc. ("Lender") to enable the City (1) to finance water meters and related equipment, and (2) to pay costs of issuing the Note, all to be located within the boundaries of the City, in the maximum principal amount of $14,160,926.18 and as security for the payment of the principal of and interest thereon, the City has agreed to pledge its net revenues from its water and sewer system.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS AS FOLLOWS:

Section 1. The City Council agrees that it is appropriate for the officers of the City to execute the Note for the purposes described above, in the maximum principal amount of $14,160,926.18 and at the maximum interest rate of 4.98% and, in order to secure the principal of and interest on the Note, to pledge its net revenues from its water and sewer system.

Section 2. Any one or more of the Authorized Officers of the City listed in Section 3 below is hereby authorized to execute, acknowledge, and deliver in the name and on behalf of the City to the Lender the Note, including all attachments and exhibits thereto; and the Note shall be in substantially the form presented at this meeting with such changes as the signing officer shall determine to be advisable. Further, said Authorized Officers are authorized to execute, acknowledge, and deliver in the name and on behalf of the City any other agreement, instrument, certificate, representation, and document, and to take any other action as may be advisable, convenient, or necessary to enter into the Note, and the execution thereof by any such Authorized Officer shall be conclusive as to such determination.

Section 3. For the purpose of this resolution, any one of the City Manager, Mayor or Mayor Pro Tem are "Authorized Officers" duly authorized to enter into the transaction and execute documents contemplated by this resolution in the name and on behalf of the City.

Section 4. This Resolution shall take effect immediately.

38561484v.1

TO:	City Council
DATE:	February 22, 2024
ITEM #:	7.A
SUBJECT:	Conduct a public hearing and consider an ordinance amending the text specifically related to Chapter 32 Section 19 entitled “Definitions” and Section 21 entitled “Permitted Uses” and an amendment to the official zoning map creating a Manufactured Home Overlay (MHO). (Public Works)

Recommendation for Action:

Executive Summary:

Budget Cost:

Staff Contact:

Attachments: 1. Zoning Ord Changes.MH Overlay.SER edits 2.22.24

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 8 OF THE ZONING ORDINANCE BY CREATING A MANUFACTURED HOME OVERLAY IN THE ZONING MAP, AMENDING THE TEXT RELATED TO SECTION 19 TO REVISE AND UPDATE A DEFINITION FOR "MANUFACTURED HOMES", AND AMENDING TEXT RELATED TO SECTION 24 TO ADD RESTRICTIONS TO THE USE OF MANUFACTURED HOMES

WHEREAS, the City of Marshall enacted a zoning ordinance on December 13, 1951 and amended said ordinance on July 7, 1963, and on March 26, 1987 repealed and replaced all other zoning ordinances with Ordinance No. 0-87-13 ("the Zoning Ordinance" herein).

WHEREAS, a Zoning District Map was adopted as a part of Ordinance No. 0-87-13; and

WHEREAS, Chapter 32, Section 14 of the Code of Ordinances establishes a procedure for the City Council to enact zoning district changes and amendments; and

WHEREAS, the Planning & Zoning Commission, after due and proper notice in the manner and for the length of time required by law, held a public hearing for the purpose of considering proposed changes to the Zoning District; and

WHEREAS, after the close of said public hearing and pursuant thereto, the Planning & Zoning Commission filed a written report with the City Council, recommending changes in the Zoning District; and

WHEREAS, pursuant to said report and after notice in the manner and for the length of time required by law, the City Council held a public hearing in Marshall, Texas at City Hall on the 22nd day of February, 2024, at 6:00 p.m. for the purpose of considering a Zoning Amendment change, and at which hearing all property owners, interested parties, and interested citizens had an opportunity to be heard; and

WHEREAS the Zoning Ordinance's most recent amendment contains a definition of "Mobile Home, Manufactured Home, HUD Code Home" at Section 19.02 styled "Definition Words and Terms" which includes some outdated language, and which is not consistent with the City's Comprehensive Plan; and

WHEREAS the City Council has determined that the Zoning Ordinance relating to manufactured homes should be amended to include restrictions on the permitting, placement, and use of manufactured homes for the purposes of ensuring the safety and habitability of manufactured homes as well as to improve the ascetic appeal of neighborhoods in which manufactured homes are being used by citizens in accord with the City's Comprehensive Plan; and

WHEREAS, the City Council, after considering the proposed changes and after hearing all parties and citizens desiring to be heard, deems that the following changes are necessary and for the best interest of the general welfare of the citizens of the City of Marshall, Texas. .

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS THAT:

Section 1. The facts and opinions in the preamble of this ordinance are true and correct.

Section 2. Section 19.02, of the Zoning Ordinance, "Definition Words and Terms," is amended to replace that definition under the portion entitled "Mobile Home, Manufactured Home, HUD Code Home" with the following :

> "Manufactured Home. HUD code home: A structure transportable in one or more sections,which, in the traveling mode, is eight feet or more in width or 40 feet or more in length, or whenerected on site, is 1000 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems."

Section 3. Section 8 of the Zoning Ordinance, which adopts a zoning map is hereby amended to create a manufactured home overlay in the area bounded on the west by Norwood Street, on the south by Avenue D, on the east by Olive Street and on the north by West Loop 390 North, and said overlay being all of Blocks 9-22, 29-35 and part of blocks 24 and 28 of the George Gregg Addition, to allow manufactured homes in R-3 (Single Family Detached) and A&E (Agricultureand Estate), as is set forth in the map included with this ordinance as Exhibit "A."

Section 4. Section 24 entitled “Special Notes Concerning Lot Requirements including Exceptions and Variances”, Section 24.01, styled “General” of the Zoning Ordinance shall be amended to add a paragraph (13) as follows:

"(13) Regardless of the zoning for the property on which a Manufactured Home sits, the following restrictions shall apply: All manufactured homes must be underpinned to restrict visibility to underneath. A manufactured home cannot be more than 7(seven) years of age at the time it is placed on real property, and a site plan, photographs, specifications and floor plan of the home must be submitted at time of building permit application. A manufactured home must be anchored in compliance with current building codes adopted by the City.”

Section 5. This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Marshall, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

Section 6. This ordinance shall become effective immediately upon adoption.

PASSED on the 22nd day of February, 2024.

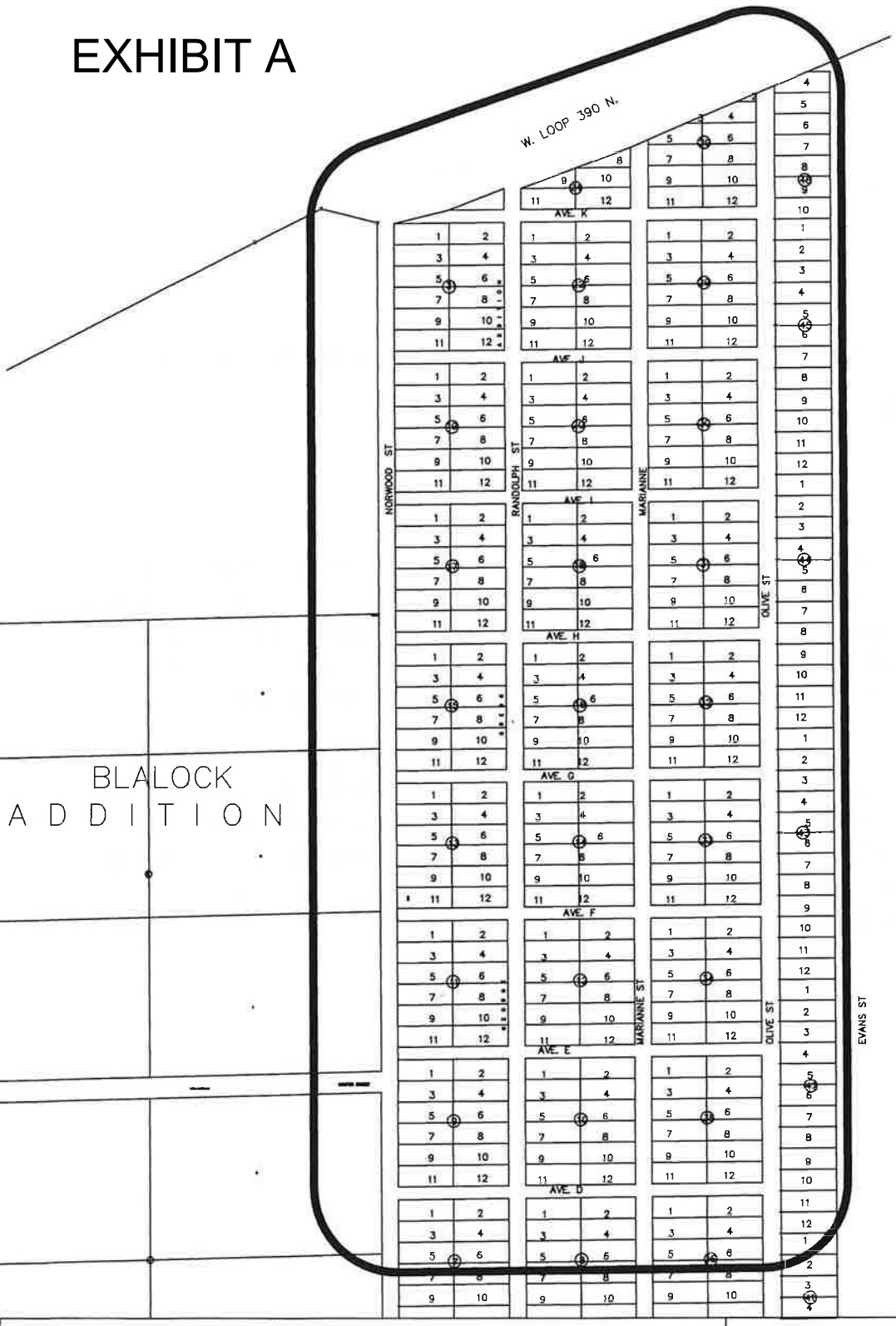
AYES: __
NOES: __
ABSTAINED: __

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

ATTEST:

_____
CITY SECRETARY

EXHIBIT A



Case No. A-23-01
Scale: 1"=400'
Date: 10-09-2023

PLANNING DEPARTMENT
CITY OF MARSHALL, TEXAS

Remarks: a request for text amendment and definitions to zoning ordinance 0-87-13 Specifically Manufactured Homes Designation

Location: Norwood, Ave. D, Olive St.

Applicant: City of Marshall

TO:	City Council
DATE:	February 22, 2024
ITEM #:	7.B
SUBJECT:	Conduct a public hearing and consider an ordinance of the City of Marshall, Texas, amending Chapter 32 of the Code of Ordinances by adding to Section 21, Permitted Uses, Item 21.02, Short Term Rentals. (Public Works)

Recommendation for Action:

Executive Summary:

Budget Cost:

Staff Contact:

Attachments: None

TO:	City Council
DATE:	February 22, 2024
ITEM #:	8.A
SUBJECT:	Marshall Police Department 2023 Year End Presentation and racial profiling report. (Police)

Recommendation for Action: Provide the end of 2023 presentation and racial profiling report.

Executive Summary: Chief Carruth will provide the end of year presentation for the Marshall Police Department for 2023. Chief Carruth will also present the 2023 Racial Profiling Report to the Council.

Budget Cost: No cost.

Staff Contact: Chief Cliff Carruth

Attachments: 1. Marshall 2023 Racial Profiling_

MARSHALL
POLICE DEPARTMENT

2023 RACIAL PROFILING REPORT

DEL CARMEN Consulting®
LAW ENFORCEMENT EXPERTS

"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)

January 18, 2024

Marshall City Council
401 S. Alamo Blvd.
Marshall, TX 75670

Dear Distinguished Members of the City Council,

In 2001 the Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. During the last calendar year, the Marshall Police Department, in accordance with the law, has collected and reported traffic and motor vehicle related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Further, 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 currently 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.

In this report, you will find three sections with information on motor vehicle-related contacts. In addition, when appropriate, documentation is included which demonstrates the manner in which the Marshall Police Department has complied with the Texas Racial Profiling Law. In section one, you will find the table of contents. Section two documents compliance by the Marshall Police Department relevant to the requirements established in the Texas Racial Profiling Law. That is, you will find documents relevant to the training of all police personnel on racial profiling prevention and the institutionalization of the compliment and complaint processes, as required by law.

Finally, section three contains statistical data relevant to contacts (as defined by the law) which were made during the course of motor vehicle stops that took place between 1/1/23 and 12/31/23. Further, this section contains the Tier 2 form, which is required to be submitted to this particular organization and the law enforcement agency's local governing authority by March 1 of each year. The data in this report has been analyzed and compared to information derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report.

In the last section of the report, you will find the original draft of the Texas Racial Profiling Law, SB1074, as well as the Sandra Bland Act (current law). 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. The findings in this report support the Marshall Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.

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Public Education on Responding to 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 3256
Texas Commission on Law Enforcement
September 2001

Racial Profiling 3256

Instructor's Note:

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

Abstract

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

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

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

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

Evaluation Process and Procedures

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

Reference Materials

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

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

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

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

Racial Profiling Requirements:

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

A. Written departmental policies

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

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

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

F. Vehicle stop report

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

G. Compilation and analysis of data

H.Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

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

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

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

1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

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

1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

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

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

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

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

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

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

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

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

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

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

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

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

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle

4. The officers visually check all observable parts of the vehicle

5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside

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

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

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

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

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

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

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

B. Vehicle exterior

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

C. Pre-stop indicators

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

D. Vehicle interior

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

Resources

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

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

Report on 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 1/1/23-12/31/23 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 services, for having violated the Texas Racial Profiling Law during the time period of 1/1/23-12/31/23.

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

TOTAL STOPS: 3,528

STREET ADDRESS OR APPROXIMATE LOCATION OF STOP.

City Street	1,426
US Highway	1,471
State Highway	409
County Road	1
Private Property	221

WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP?

Yes	561
No	2,967

RACE OR ETHNICITY

Alaska Native/American Indian	13
Asian/Pacific Islander	25
Black	1,243
White	1,578
Hispanic/Latino	669

GENDER

Female Total: 1,422

Alaska Native/American Indian	0
Asian/Pacific Islander	8
Black	540
White	649
Hispanic/Latino	225

Male Total: 2,106

Alaska Native/American Indian	13
Asian/Pacific Islander	17
Black	703
White	929
Hispanic/Latino	444

REASON FOR STOP?

Violation of Law Total: 384

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	134
White	173
Hispanic/Latino	76

Pre-existing Knowledge Total: 61

Alaska Native/American Indian	1
Asian/Pacific Islander	0
Black	23
White	21
Hispanic/Latino	16

Moving Traffic Violation Total: 2,122

Alaska Native/American Indian	11
Asian/Pacific Islander	21
Black	757
White	932
Hispanic/Latino	401

TIER 2 DATA

Vehicle Traffic Violation Total: 961

Alaska Native/American Indian	1
Asian/Pacific Islander	3
Black	329
White	452
Hispanic/Latino	176

WAS SEARCH CONDUCTED?

	YES	NO
Alaska Native/American Indian	0	13
Asian/Pacific Islander	0	25
Black	35	1,208
White	12	1,566
Hispanic/Latino	9	660
TOTAL	**56**	**3,472**

REASON FOR SEARCH?
Consent Total: 7

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	3
Hispanic/Latino	2

Contraband (in plain view) Total: 2

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

Probable Cause Total: 46

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	32
White	7
Hispanic/Latino	7

Inventory Total: 1

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

Incident to Arrest Total: 0

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

TIER 2 DATA

WAS CONTRABAND DISCOVERED?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	0	0
Black	28	7
White	7	5
Hispanic/Latino	6	3
TOTAL	**41**	**15**

Did the finding result in arrest?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	0	0
Black	0	28
White	1	6
Hispanic/Latino	0	6
TOTAL	**1**	**40**

DESCRIPTION OF CONTRABAND

Drugs Total: 36

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	25
White	7
Hispanic/Latino	4

Currency Total: 0

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

Weapons Total: 1

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

Alcohol Total: 10

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	7
White	1
Hispanic/Latino	2

Stolen Property Total: 0

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

Other Total: 1

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

RESULT OF THE STOP

Verbal Warning Total: 0

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

Written Warning Total: 1,318

Alaska Native/American Indian	4
Asian/Pacific Islander	10
Black	477
White	651
Hispanic/Latino	176

Citation Total: 2,206

Alaska Native/American Indian	9
Asian/Pacific Islander	15
Black	765
White	924
Hispanic/Latino	493

Written Warning and Arrest Total: 1

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

Citation and Arrest Total: 3

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

Arrest Total: 0

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

TIER 2 DATA

ARREST BASED ON
Violation of Penal Code Total: 1

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

Violation of Traffic Law Total: 0

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

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: 3

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

Was physical force used resulting in bodily injury during the stop?

	YES	NO
Alaska Native/American Indian	0	13
Asian/Pacific Islander	0	25
Black	0	1,243
White	0	1,578
Hispanic/Latino	0	669
TOTAL	**0**	**3,528**

Tables Illustrating Motor Vehicle Related Contact Data

Table 1. Citations and Warnings

Race/ Ethnicity	All Contacts	Citations	Verbal Warning	Written Warning	Contact Percent	Citation Percent	Verbal Percent	Written Percent
Alaska Native/ American Indian	13	9	0	4	0%	0%	0%	0%
Asian/ Pacific Islander	25	15	0	10	1%	1%	0%	1%
Black	1,243	766	0	477	35%	35%	0%	36%
White	1,578	926	0	651	45%	42%	0%	49%
Hispanic/ Latino	669	493	0	176	19%	22%	0%	13%
TOTAL	3,528	2,209	0	1,318	100%	100%	0%	100%

Table 2. Motor Vehicle Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households that have vehicle access.

Race/Ethnicity	Contact Percentage	Households with Vehicle Access
Alaska Native/American Indian	0%	1%
Asian/Pacific Islander	1%	1%
Black	35%	34%
White	45%	60%
Hispanic/Latino	19%	4%
TOTAL	100%	98%

Table 3. Motor Vehicle Searches and Arrests.

Race/Ethnicity	Searches	Consent Searches	Arrests
Alaska Native/American Indian	0	0	0
Asian/Pacific Islander	0	0	0
Black	35	2	1
White	12	3	3
Hispanic/Latino	9	2	0
TOTAL	56	7	4

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

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

Table 5. Search Data

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Found No	Arrests	Percent Searches	Percent Contraband Found	Percent No Contraband	Percent Arrest
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/ Pacific Islander	0	0	0	0	0%	0%	0%	0%
Black	35	28	7	1	63%	68%	47%	25%
White	12	7	5	3	21%	17%	33%	75%
Hispanic/ Latino	9	6	3	0	16%	15%	20%	0%
TOTAL	56	41	15	4	100%	100%	100%	100%

Table 6. Report on Audits.

The following table contains data regarding the number and outcome of required data audits during the period of 1/1/23-12/31/23.

Audit Data	Number of Data Audits Completed	Date of Completion	Outcome of Audit
1	1	03/01/23	Data was valid and reliable
2	1	06/01/23	Data was valid and reliable
3	1	09/01/23	Data was valid and reliable
4	1	12/01/23	Data was valid and reliable

ADDITIONAL COMMENTS:

Table 7. Instance Where Force Resulted in Bodily Injury.

Race/Ethnicity	Number	Percent
Alaska Native/American Indian	0	0%
Asian/Pacific Islander	0	0%
Black	0	0%
White	0	0%
Hispanic/Latino	0	0%
TOTAL	0	0%

Table 8. Reason for Arrests from Vehicle Contact

Race/ Ethnicity	Violation of Penal Code	Violation of Traffic Law	Violation of City Ordinance	Outstanding Warrant	Percent Penal Code	Percent Traffic Law	Percent City Ordinance	Percent Warrant
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/ Pacific Islander	0	0	0	0	0%	0%	0%	0%
Black	0	0	0	1	0%	0%	0%	33%
White	1	0	0	2	100%	0%	0%	67%
Hispanic/ Latino	0	0	0	0	0%	0%	0%	0%
TOTAL	1	0	0	3	100%	0%	0%	100%

Table 9. Contraband Hit Rate

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Hit Rate	Search Percent	Contraband Percent
Alaska Native/ American Indian	0	0	0%	0%	0%
Asian/ Pacific Islander	0	0	0%	0%	0%
Black	35	28	80%	63%	68%
White	12	7	58%	21%	17%
Hispanic/Latino	9	6	67%	16%	15%

Analysis and Interpretation of Data

In 2001, the Texas Legislature passed Senate Bill 1074, which eventually 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 1 of each year. This law remained in place until 2009, when it was modified to include the collection and reporting of all motor vehicle-related contacts in which a citation was issued or an arrest was made. Further, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individuals before detaining them. In addition, it became a requirement that agencies report motor vehicle-related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1 of each year. The purpose in collecting and disclosing this information is to determine if police officers in any particular municipality are engaging in the practice of racially profiling minority motorists.

One of the central requirements of the law is that police departments interpret motor vehicle-related data. Even though most researchers would likely agree 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 in fact 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 previously noted, in 2009 the Texas Legislature passed House Bill 3389, which modified the Racial Profiling Law by adding new requirements; this took effect on January 1, 2010. The changes included, but are not limited to, the re-definition of a contact to include motor vehicle-related contacts in which a citation was issued or an arrest was made. In addition, it required police officers to indicate if they knew the race or ethnicity of the individual before detaining them. The 2009 law also required adding "Middle Eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1 of each year.

In 2017, the Texas Legislators passed HB 3051 which removed the Middle Eastern data requirement while standardizing the racial and ethnic categories relevant to the individuals that came in contact with police. In addition, the Sandra Bland Act (SB 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*.

As part of their effort to comply with The Texas Racial Profiling/Sandra Bland Law, the Marshall Police Department commissioned the analysis of its 2023 contact data. Hence, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2023 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), who came in contact with police in the course of a motor vehicle-related contact and were either issued a ticket, citation, or warning or an arrest was made. Also included in this data were instances when 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.

The analysis on the data performed in this report, was based on a comparison of the 2023 motor vehicle contact data with a specific baseline. When reading 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 accepted our recommendation to rely, as a baseline measure, on the Fair Roads Standard. This particular baseline is established on data obtained through the U.S. Census Bureau (2020) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It should be noted that the 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 whether they are 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 2023 but live outside city limits. In some jurisdictions 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.

In 2002, some civil rights groups in Texas expressed their concern 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). In essence this constitutes a comparison that may result in ecological fallacy. Despite this risk, as noted earlier, 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 the city of Marshall.

Tier 2 (2023) Motor Vehicle-Related Contact Analysis

When examining the enhanced and more detailed Tier 2 data collected in 2023, it was evident that most motor vehicle-related contacts were made with Whites, followed by Blacks. Of those who came in contact with police, most tickets or citations were issued to Whites and Blacks; this was followed by Hispanics. However, in terms of written warnings, most of these were issued to Whites, followed by Blacks.

While reviewing 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 also of Whites. Overall, most searches resulted in contraband; of those that produced contraband, most were of Blacks; this was followed by Whites. Of the searches that did not produce contraband, most were of Blacks. Most arrests were made of Whites. Most of the arrests that originated from a violation of the penal code involved Whites. Overall, the police department does not report any instances where force was used that resulted in bodily injury.

Comparative Analysis

A comprehensive analysis of the motor vehicle contacts made in 2023 to the census data relevant to the number of "households" in Marshall who indicated in the 2020 census that they had access to vehicles, produced interesting findings. Specifically, the percentage of Whites, Asians, and American Indians who came in contact with police was the same or lower than the percentage of White, Asian, and American Indian households in Marshall that claimed in the last census to have access to vehicles. The opposite was true of Blacks and Hispanics. That is, a higher percentage of Blacks and Hispanics came in contact with police than the percentage of Black and Hispanic households in Marshall that claimed in the last census to have access to vehicles. It should be noted that the percentage difference among Black contacts with households is of less than 3%; thus, deemed by some as statistically insignificant.

The comprehensive analysis of the searches resulting in contraband shows that the most significant contraband hit rate is of Blacks. This was followed by Hispanics and Whites. This means that among all searches performed in 2023, the most significant percentage of these that resulted in contraband was among Blacks. The lowest contraband hit rate was among Whites.

Summary of Findings

As referenced earlier, the most recent Texas Racial Profiling Law requires that police departments 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 audit performed reveals 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 produced as a result of 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 the upcoming year.

2) Commission data audits in 2024 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The comprehensive data analysis performed serves as evidence 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 will not be 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, 2024.**
- **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 and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

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

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

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

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

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

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

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

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

Standard 4

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

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

Commentary

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

Standard 5

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

Commentary

None

Standard 6

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

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

Commentary

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

Standard 7

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

Commentary

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

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

The Texas Law on Racial Profiling

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 thatserve 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.

_____ _____ President of the 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.

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

Del Carmen Consulting©
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TO:	City Council
DATE:	February 22, 2024
ITEM #:	8.B
SUBJECT:	Marshall Fire Department 2023 Goals & Objectives Year End Report. (Fire)

Recommendation for Action: Report regarding the 2023 year-end report.

Executive Summary:

Budget Cost: N/A

Staff Contact: Reggie Cooper, Fire Chief

Attachments:

1. MARSHALL FIRE 2023 YEAR END REPORT 2023 GOALS AND OBJECTIVES

MARSHALL
FIRE DEPARTMENT

Terrell Smith – City Manager Reginald K. Cooper – Fire Chief

2023 Annual Report

I am pleased to present the Marshall Fire Department's 2023 Year-End-Report. This past year saw both challenges and accomplishments across our three divisions of Fire Prevention, Fire Suppression, and Emergency Medical Services. The Marshall Fire Department as a diverse Public Safety Organization, when fully staffed, is comprised of 51 employees, serving and protecting the City of Marshall and its citizenry of more than 23,900. The department also serves the Harrison County citizenry with Emergency Medical Services and Fire/Rescue mutual aid. Operating under a 5.1-million-dollar budget, the department provides various disciplines of labor that include: Fire Suppression; Emergency Medical Services (EMS) - both Basic Life Support (BLS) and Advanced Life Support (ALS) transport; Hazardous Material Response; Fire Prevention and Education; Arson Investigation; and Heavy Rescue, including confined space rescue. In 2023 Marshall recorded no fire deaths. Additionally, no firefighter deaths or serious injuries were reported.

ADMINISTRATION The Administration Division is responsible for the overall management of the Fire Department Public Safety Operations and its personnel; coordination of our operating budget; development of policy and procedures; and processing and maintaining Fire and EMS reports. The Division is comprised of the Fire Chief, Assistant Fire Chief, EMS Chief, Fire Marshal and the Administrative Assistant to the Fire Chief.

FIRE PREVENTION DIVISION The Fire Prevention Division is responsible for the prevention of injuries to persons and losses to property that are caused by fire and other emergencies through fire safety education; residential, mobile food unit and commercial building inspections; and fire/arson investigations. In 2023, the Fire Prevention Division issued 12 Fire Alarm/Sprinkler permits and performed over 20 inspections of these types of systems. There were 77 Certificate of Occupancy inspections, 37 Plan Reviews, 6 Fire Works Permits and 41 Special Events Permits. The prevention division performed over 300 commercial business inspections. The division approved 452 outdoor burning permits as required by ordinance. The prevention division investigated 34 fires in 2023, of which, 8 were determined to be incendiary (arson) fires. The Fire Prevention staff consists of a Fire Inspector, who serves under the direction of the Fire Marshal.

EMERGENCY MEDICAL SERVICES (EMS) DIVISION The EMS division has the responsibility for Emergency Medical and Ambulance Services for the City of Marshall and most of Harrison County. The EMS staff consists of the Chief of EMS, and the Physician Director. The EMS division currently operates three fully staffed/fully equipped Advanced Life Support (ALS) Medic units and three reserve Medic units which become ALS-capable when specific equipment is moved over from the front-line units. In 2023 these units responded to 5,697 emergency requests and emergency transfers, maintaining an average response time of 6 minutes 14 seconds. Also, the division organized and scheduled the necessary personnel, service, and equipment for numerous Special Events; assigning personnel for over 450-man hours for the year. EMS conducted system audit reviews on 96% of patient reports.

EMERGENCY OPERATIONS In 2023 Emergency Operations encompassing, Fire Suppression, EMS, Heavy Rescue, and Hazardous Material (HazMat) Response including Bio-Terrorism Response, answered the alarm for 6,875 calls for assistance. The brave firefighters who make up the Emergency Response segment of the department answered the alarm for 1207 incidents which include but are not limited to (34 structural, 16 non-structural fires), 23 vehicle fires, over 200 motor vehicle incidents, 6 rescues, 86 hazardous condition incidents, and 203 service calls. The Operations Division also responded to 207 false alarms in 2023. Each fire unit is staffed with Firefighter/EMT's. All Medic units (ambulances) are staffed with one Firefighter/Paramedic and a minimum of one Firefighter/EMT. The Heavy Rescue unit is strategically located in the city to allow for rapid and efficient response.

TRAINING DIVISION The Fire and EMS Training Division strives to meet every training need of the department. The Training Division provides instruction in Emergency Medical Services, Firefighting, Hazardous Materials, Rapid Intervention

Training (RIT), Leadership and Special Operations. The training staff consists of a training officer, who serves under the direction of the Chief of EMS. The training officer also coordinates the recruiting and hiring process.

2023 STATISTICAL SUMMARY

Population Served (City)……23,934
Population Served (County)……66,691
Protection Area in Square Miles (City)……..29.6
Protection Area in Square Miles (County)……..915
Number of Personnel……51
Number of Fire Stations...……3

Incidents Types

Total number of Incidents……6,875
EMS……....5592
Fire Service Calls …..……1207
Structure Fires…….....34
Non-Structure Fires...……16
Vehicle Fires……...……...23
Brush/Grass/Wildland fires.……31
Rubbish/ dumpsters…….25
Unauthorized Burning.…….82
Rescue calls…….6
Hazardous Conditions ……...86
HazMat Calls ……..6
False Alarms Canceled Enroute...……..207
Mutual Aid (Given)…..……..…….....……..6
Public Service calls……...……...203

Permits

Outdoor Burning Permits……..……..……452
Land Clearing Permits……..……....11
Special Use Burn Permits……2
Firework Permits…….....6
Food Truck Permits...…….21
Fire Alarm Permits……..……...12
Fire Suppression Permits…….……6
Special Events Permits……...…….41
Certificate of Occupancies……..…….77
Plan Reviews…….37
Demolition Permits ……..……...1
Inspections ……..……..426
Consultations ...…….……..189
DRC Meetings …..……..…….....……..17
KNOX Installations…….……36

Marshall Fire Department 2023 Goals and Objectives

The Marshall Fire Department's mission is to serve the citizens of Marshall by providing professional and compassionate fire prevention, suppression, and emergency medical services. It is critical that our goals and objectives contribute to the improvement of our department while also meeting as many of the city's strategic goals as possible.

As a strong department within our city, we will continue to assess our strengths, weaknesses, opportunities, and threats while designing our 2024 goals to be specific, measurable, attainable, relevant, and time-bound.

FIRE PREVENTION:

The Fire Marshal's Office is critical to our city's efforts to not only create a safe and secure community, but also to have a strong, diverse, and viable local economy. The Fire Marshal's Office work begins with education and progresses to inspections, investigations, community development, and overall public safety.

2024 goals include increasing staff expertise, working with Public Works in the continued establishment of our fire hydrant program, and improving overall communications.

Objectives:

Objective 1: The Fire Marshal's immediate goal for 2024 is to return to and maintain its office staff of two (2) personnel, which include an Assistant Fire Marshal/Fire Inspector. The position of Assistant Fire Marshal will be fulfilled, with our new Inspector obtaining investigations status through his attendance and completion of the Kilgore Police Academy to obtain his arson investigation certification.

We also intend to increase the number of certified Inspector/Fire Investigators in our department by adding members from the Suppression Division. The number of business fire safety inspections performed each year will increase as more certified personnel are hired. This will also improve our education program for both commercial and residential property owners and occupants.

Small businesses, homeowners, and residential occupants all contribute significantly to our economy, but many are unable to recover after a disaster. Our goal is to increase the total number of business inspections performed each year by 30%. Property damage caused by fire typically has a negative impact on many parties involved, including a direct impact on the business itself, as well as losses in tax revenue for the city and a potential overall effect on the community's schools and other businesses.

40%-60% of small businesses never reopen after a disaster; 90% fail if they do not reopen quickly enough; and downtime costs between $10,000 and $5 million per hour.

The fire safety and education provided during these inspections will help to reduce property loss.

Objective 2: Fire Hydrant Program – In 2007, the City of Marshall received an ISO rating of 2 on a scale of 1-10, with 10 being the worst. Businesses and homeowners are typically offered lower insurance rates if a city has a good ISO rating, which is due in part to a well-prepared fire department's ability to extinguish structure fires efficiently. Fire hydrants that are operational and strategically placed play an important role in our department's ability to extinguish these fires efficiently and safely. In the beginning of 2023, the Fire Department was tasked with re-establishing and maintaining a robust fire hydrant program as part of the City's goal of including a high quality and effective infrastructure.

The Fire Marshal's Office acquired updated testing equipment and collaborated with our Suppression Division to test these fire hydrants, as well as with our Public Works department to repair and maintain hydrants and upgrade underground infrastructure as needed.

This year the Fire Hydrant program will be transitioned back to the Public Works Department. Our objective will be to complete the first round of fire hydrant testing and continued communication and work with Public Works in making sure our hydrants are all tested and working properly.

Objective 3: Internal and external communication and collaboration. In 2023, the Fire Marshal's Office was able to collaborate with the city's Planning and Development Director to create a system for welcoming new businesses to Marshall. Breaking down communication barriers and bringing potential business owners together through our DRC program will aid in the city's overall permit process, making it much more efficient. Our goals for 2024 are to add more education to our staff creating more cross-trained employees to our department This will help our city with its planning and development.

FIRE SUPPRESSION: Our Fire Suppression Division is the largest division of the Fire Department. This division works hard to protect lives and property in our community, assisting in making Marshall a safe and secure community. Our suppression team, which consists of 45 total firefighter/paramedics, handles approximately 100-150 fires per year and assists in an average of over 600 rescue/emergency medical type responses. Equipment and personnel are critical components in maintaining a safe and effective

working environment for our department as we strive to serve our community more efficiently.

2024 Goals: Acquire and maintain cutting-edge hardware, software, and expert training as of 2024. Add four more inspectors to the suppression line.

Objectives:

Objective 1: Due to unforeseen circumstances, deadlines for receiving capital equipment have been pushed to the absolute limit. We are expecting a new Pierce Pumper to replace a 1994 antiquated fire engine. We have had to borrow fire engines from other organizations on occasion over the last year as our fire engine status has deteriorated. According to our 2015 Strategic Plan, we must not only purchase upgraded equipment, but also develop a viable replacement program for future capital equipment purchases.

As an equipment objective, we will also acquire and seek out new software that will improve operational efficiency and safety.

Objective 2: Improved Training and Education Strategy By sending more of our through the Texas Engineering Extension (TEEX) Program, we will achieve higher levels of advanced training and education. These training classes are available seasonally at Texas A&M as well as on-site. We will also redesign our in-house training program to meet our needs as well as the National Fire Protection Association's requirements (NFPA).

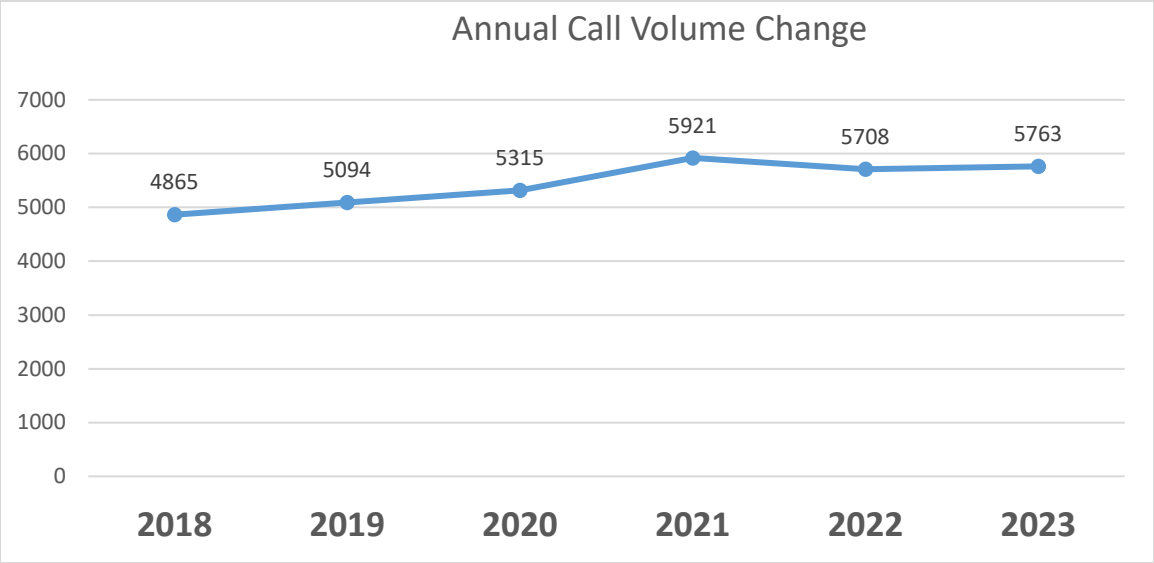
On a personal level, we will provide opportunities for firefighters and officers to advance to Instructor levels I, II, and III in both the fire and EMS fields. This will increase our opportunities to teach and train in-house, which will not only advance our personnel but will also reduce future training costs for the department and the city.

Training and education cannot be compromised, especially in a small department like ours. Firefighting is an inherently dangerous job that we take pride in, but high risk/low frequency areas of operation necessitate increasingly skilled and technical training.

EMERGENCY MEDICAL SERVICES: Of the 45 personnel assigned to Suppression, 9 are assigned daily to EMS operations. Our efforts have been successful in reducing wear and tear on our rotating fleet of ambulances, lowering ambulance replacement costs by purchasing smaller, more efficient ambulances, lowering fuel costs, and lowering wear and tear on our Medics, all of which have increased overall morale within our department.

Since we discontinued our long-distance transfer service to medical facilities in Tyler, Dallas, and Houston, our recent run volume has increased, exceeding our maximum

number of runs in 2011. The chart below reveals the increases in calls for service over the past five (5) years.



2024 Goals: Continue to invest in upgraded equipment and software while focusing on firefighter/paramedic physical and mental health.

Objective 1: Purchase a new ambulance. The new ambulance will be the sixt of our new body style, which was mentioned in the original replacement plan. Our fleet consists of six ambulances in total. A remount program will significantly reduce the costs of future ambulances once all ambulances have been replaced to the new style.

Objective 2: Continue replacing old defibrillator monitors and stretchers.

Objective 3: Make use of a new department line item that provides cancer screening to FF/Medics.

Objective 4: Promote a mental health training program in collaboration with the Longview, Kilgore, and Jacksonville Fire Departments.

SWOT Analysis

Strengths – Strong EMS team of Paramedics. Fire Prevention and Firefighting skills.

Weaknesses – Personnel retention, equipment, salaries. As a weakness, from a salary standpoint, our department competitively ranks in the lower percentile of regional fire departments.

Diversity: Our department currently is not reflective of the community we serve.

Opportunities – With a new city manager and aggressive council, we have the opportunity to rebuild our department's staffing levels. We also have the opportunity to reinvest in our educational and training programs.

Threats – The majority of firefighters feel undervalued which in turn could cause an increase in turnover, along with a decrease level of quality service

Constant personnel issues may cause considerable changes in our method of operations including but not limited to reduction in services and temporary station closures.

Challenges

Some of the major challenges within our department will be with personnel retention, salary adjustments, and capital and small equipment purchases; along with proper preventative and as needed maintenance. Many of these challenges start with buy-in from our personnel into a new system of leadership.

Other challenges will be in purchasing, scheduling and obtaining capital equipment in a timely manner. Since 2021, COVID 19, issues with ordering and receiving equipment has been a constant concern. Though approved by Council, orders of ambulances, fire engines and small vehicles has taken an increasingly enormous amount of time for delivery.

As a result of our new city manager, we have already made enormous strides and enormous accomplishments. We will keep collaborating to make this city the best city imaginable.

TO:	City Council
DATE:	February 22, 2024
ITEM #:	9.A
SUBJECT:	An Executive Session pursuant to the Open Meetings Act, Chapter 551 of the Texas Government Code under Section 551.074 Personnel Matters: Discussion of appointment of Municipal Court Judge.

Recommendation for Action: Convene in Executive Session to conduct interviews for Municipal Court Judge.

Executive Summary: Interviews for Municipal Court Judge will be held.

Budget Cost: N/A

Staff Contact: Terrell Smith, City Manager

Attachments: None

TO:	City Council
DATE:	February 22, 2024
ITEM #:	10.A
SUBJECT:	Consider the appointment of a Municipal Court Judge.

Recommendation for Action: Appoint a Municipal Court Judge following the executive session.

Executive Summary: An appointment of a Municipal Court Judge can be made following the executive session.

Budget Cost: n/a

Staff Contact: Terrell Smith, City Manager

Attachments: None