

2018

Annual Traffic Contact Report

DENTON POLICE DEPARTMENT





DEPARTMENT OF POLICE

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February 25, 2019

Denton City Council
215 E. McKinney Street
Denton, TX 76201

Dear Distinguished Members of the City Council:

The Texas Racial Profiling Law requires the Denton Police Department, along with all other law enforcement agencies in Texas, to collect certain information about motor vehicle traffic stops conducted by the department's officers. During the past year, the Denton Police Department has collected traffic and motor-vehicle data for the purpose of identifying and addressing, if necessary, areas of concern regarding racial profiling practices.

In 2017, the Texas Legislature enacted the Sandra Bland Act, which requires law enforcement agencies throughout the state to collect additional data and provide detailed analysis about the departments practices while conducting traffic and motor-vehicle related activity. In addition, the Texas Legislature enacted HB 3051, which introduced new racial and ethnic designations that are to be used when documenting traffic related activity.

The Denton Police Department is a Tier 2 agency for the purposes of reporting racial profiling data, which adds more requirement to the information that must be documented and submitted to the Texas Commission on Law Enforcement (TCOLE) prior to March 1 each year. Denton Police Officers routinely perform traffic stops or motor vehicle stops, and also equips the department's patrol vehicles with audio/video equipment to document motor vehicle contacts.

The Denton Police Department fully complies with the Texas Racial Profiling Law by detailing the gender, race and ethnicity of all persons issued a citation or arrested in conjunction with a traffic stop or motor-vehicle contact. In addition, officers document whether a vehicle search was conducted, a description of any contraband discovered during the search, and whether officers used force resulting in bodily injury during the stop.

The enclosed 2018 Annual Traffic Contact Report includes a detailed statistical analysis related to contacts made during motor vehicle stops as well as copies of relevant state law and departmental policies related to the topic of racial profiling. The analysis confirms there is no evidence that officers of the Denton Police Department engaged in racial profiling in 2018.

The Denton Police Department prohibits the practice of racial profiling and the department is in full compliance with Texas Racial Profiling Law.

Sincerely,

Frank Dixon
Chief of Police
Denton Police Department

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Requirements of Texas Racial Profiling Law

The State of Texas defines racial profiling as a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas Code of Criminal Procedure Article 3.05). Texas peace officers are prohibited from engaging in racial profiling and the State of Texas requires that a law enforcement agency, in accordance with Article 2.132 (7) of the Texas Code of Criminal Procedure, annually report to both its governing body and the Texas Commission on Law Enforcement (TCOLE), data collected on the race or ethnicity of individuals stopped for traffic violations and subsequently cited, searched, and/or arrested.

In addition to an annual racial profiling report, Article 2.132 requires that the police department:

- 1) Adopt a detailed written policy on racial profiling that defines acts constituting racial profiling and strictly prohibits such conduct
- 2) Implement racial profiling complaint procedures and educate the public about the process for filing a racial profiling complaint
- 3) Take corrective action against officers who violate the agency's racial profiling policy
- 4) Collect information on motor vehicle stops related to the race or ethnicity of the individual stopped, whether a search was conducted, whether the search was consensual, and whether the officer knew the race of the individual prior to conducting the stop.
- 5) Submit an annual report of the information collected to TCOLE and the Denton City Council.

Compliance Checklist

I. Adoption of Racial Profiling Policy Completed

Denton Police Department General Order 14.3, Bias Policing and Racial Profiling Policy, revised January 1, 2018 goes beyond statutory requirements and prohibits officers from engaging in bias policing, racial profiling, or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, color, ethnicity, ethnic background, national origin, citizenship, cultural group, religion, age, creed, sex, sexual orientation, disability, economic status or other identifiable group. (See Appendix for full text)

II. Complaint Procedures and Public Education Completed

Article 2.132 (b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Denton Police Department General Order 14.3.8 covers this requirement. In addition, the department's website has information regarding racial profiling, including directions on how to file a racial profiling complaint.

III. Corrective Actions Against Officers Who Engage in Racial Profiling **Completed**

Denton Police Department General Order 14.3.6 mandates disciplinary action up to and including indefinite suspension for officers who violate the racial profiling policy.

IV. Collection of Statistical Data on Motor Vehicle Stops **Completed**

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic stops in which a citation was issued, or an arrest was made because of these stops, including specific information on the race of the person cited or arrested. Information must also be collected concerning the searches of persons conducted, the reason the search was conducted, whether contraband was seized during the search, and a description of the contraband seized. In addition, information is collected describing the reason for an arrest, and whether physical force resulting in bodily injury was used during the stop.

V. Perform an audit and analysis of the information collected **Completed**

VI. Indicate whether the race/ethnicity was known before the stop **Completed**

VII. Produce an annual report on police contacts by March 1, 2019 **Completed**

VIII. Adopt a review policy for audio/video documentation of a stop **Completed**

Denton Police Department General Order 4.7, Body Worn Video Procedures, revised April 6, 2015, requires officers to use the body worn camera system when answering calls for service, conducting a traffic stop. The policy covers the uploading of the digital video, and specifies the actions to be recorded. (See Appendix for full text)

Agency Racial Profiling Report

TOTAL STOPS: 20,476

1. Gender

- 1.1 Female: 8,559
- 1.2 Male: 11,917

2. Race or ethnicity

- 2.1 Alaska Native/American Indian: 126
- 2.2 Asian/Pacific Islander: 489
- 2.3 Black: 3,326
- 2.4 Hispanic/Latino: 3,305
- 2.5 White: 13,230

3. Was race or ethnicity known prior to stop?

- 3.1 No: 18,292
- 3.2 Yes: 2,184

4. Reason for stop?

- 4.1 Moving traffic violation: 15,439
- 4.2 Pre-existing knowledge: 489
- 4.3 Vehicle Traffic Violation: 2,126
- 4.4 Violation of Law: 2,388

5. Street address or approximate location of the stop

- 5.1 City Street: 15,000
- 5.2 County Road: 135
- 5.3 Private Property or Other: 894
- 5.4 State Highway: 556
- 5.5 US Highway: 3,891

6. Was a search conducted?

- 6.1 No: 20,032
- 6.2 Yes: 444

7. Reason for search?

- 7.1 Consent: 101
- 7.2 Contraband in Plain View: 15
- 7.3 Incident to Arrest: 144
- 7.4 Inventory: 23
- 7.5 Probable Cause: 161

8. Was contraband discovered

- 8.1 No: 208
- 8.2 Yes: 236

9. Description of contraband

- 9.1 Alcohol: 32
- 9.2 Currency: 2
- 9.3 Drugs: 158
- 9.4 Other: 33
- 9.5 Stolen Property: 7
- 9.6 Weapons: 4

10. Result of the stop

- 10.1 Arrest: 42
- 10.2 Citation: 15,387
- 10.3 Citation and Arrest: 199
- 10.4 Verbal Warning: 2,147
- 10.5 Written Warning: 2,691
- 10.6 Written Warning and Arrest: 10

11. Arrest based on

- 11.1 Outstanding Warrant: 26
- 11.2 Violation of City Ordinance: 11
- 11.3 Violation of Penal Code: 196
- 11.4 Violation of Traffic Law: 18

12. Was physical force resulting in bodily injury used during stop?

- 12.1 No: 20,390
- 12.2 Yes: 86

Data and Analysis

Article 2.132 (7) of the Texas Code of Criminal Procedure, requires police departments to submit an annual report to the agency’s governing body and the Texas Commission on Law Enforcement (TCOLE), detailing the race or ethnicity of individuals stopped for traffic violations and subsequently cited and/or arrested, person searched, items seized, and physical force used.

Racial Profiling Law requires an analysis of the information collected during a motor vehicle stop to include:

- Total motor vehicle stops conducted of persons who are recognized as members of five specified race/ethnicity groups: White, Hispanic/Latino, Black, Asian/Pacific Islander, and Alaska Native/American Indian.
- Total motor vehicle stops by race/ethnicity to include the number of stops in which a search occurred, and the type of search conducted.
- Total motor vehicle stops by race/ethnicity to include the number of stops in which contraband was discovered, and the type of contraband seized.
- Total motor vehicle stops by race/ethnicity to include the number of stops in which physical force was used, and whether the use of force resulted in injury

Racial Profiling Law also requires that information related to each complaint files with the Denton Police Department alleging that an officer has engaged in racial profiling.

Demographic Analysis

Chart 1 identifies the percentage of the population for the City of Denton and Denton County by gender and by race/ethnicity. For the purposes of this report, the 2018 total population of the City of Denton is estimated to be 136,268, and the 2018 total population of Denton County is estimated to be 836,210. These demographic and population estimates were obtained from the U.S. Census Bureau 2017 estimates of population published in July 2017. The preliminary estimates for 2018 population will be available in April 2019, and a finalized estimate of 2018 population will be available in July 2019.

Chart 1. 2018 - City & County Demographics

	City of Denton		Denton County	
	Number	%	Number	%
GENDER				
Male	65,681	48.2%	411,415	49.2%
Female	70,587	51.8%	424,795	50.8%
2018 Estimated Population	136,268	100%	836,210	100%
	City of Denton		Denton County	
	Number	%	Number	%
RACE/ETHNICITY				
White	82,772	60.74%	500,848	59.90%
Hispanic	33,490	24.58%	163,864	19.60%
Black	13,344	9.79%	87,008	10.41%
Asian/Pacific Islander	5,979	4.39%	76,889	9.19%
Alaska Native/American Indian	683	0.50%	7,601	0.91%
2018 Estimated Population	136,268	100%	836,210	100%

Chart 2 illustrates the outcomes of motor vehicle contacts. In 2018, Denton Police Officers conducted 20,476 traffic stops. Of the total stops conducted, 42 (.02%) resulted in arrest, 15,387 (75.1%) resulted in the officer issuing a traffic citation, 199 (1.0%) resulted in citation with an arrest, 2,147 resulted in a verbal warning, 2,691 resulted in a written warning, and 10 (0.05%) resulted in a written warning with an arrest.

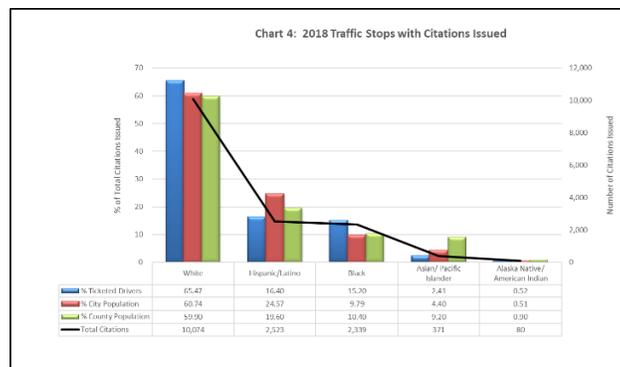
Chart 2. 2018 Outcome of Motor Vehicle Contacts

Race/Ethnicity	Arrest		Citation		Citation w/ Arrest		Verbal Warning		Written Warning		Written Warning w/ Arrest		All Stops	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Asian/Pacific Islander	0	0.0%	371	2.41%	2	1.0%	59	2.7%	57	2.1%	0	0.0%	489	2.39%
Black	9	21.4%	2,339	15.20%	33	16.6%	522	24.3%	422	15.7%	1	10.0%	3,326	16.24%
Hispanic/Latino	16	38.1%	2,523	16.40%	39	19.6%	382	17.8%	343	12.7%	2	20.0%	3,305	16.14%
Alaska Native/American Indian	1	2.4%	80	0.52%	0	0.0%	23	1.1%	22	0.8%	0	0.0%	126	0.62%
White	16	38.1%	10,074	65.47%	125	62.8%	1,161	54.1%	1,847	68.6%	7	70.0%	13,230	64.61%
TOTAL	42	100.0%	15,387	100.0%	199	100.0%	2,147	100.0%	2,691	100.0%	10	100.0%	20,476	100.0%

Chart 3 illustrates race/ethnicity demographics for all traffic stops conducted by Denton officers between January 1, 2018 and December 31, 2018 as compared to the population of the city and the county.



Chart 4 illustrates race/ethnicity demographics for all motorists receiving citations between January 1, 2018 and December 31, 2018 as compared to the population of the city and the county.



The racial groups contacted during all traffic stops (20,476) was compared to the number of ticketed or arrested drivers (15,387) in each racial group.

White Motorists. Of all motorists stopped in Denton in 2018, 13,230 (64.61%) were White. Of the total citations issued in 2018, 10,074 (65.47%) were received by White drivers. The White population in the City of Denton is estimated to be 82,772 (60.74%), while the White population in Denton County population is estimated to be 500,848 (59.9%).

Hispanic/Latino Motorists. Of all motorists stopped in Denton in 2018, 3,305 (16.14%) were Hispanic/Latino. Of the total citations issued in 2018, 2,523 (16.40%) were received by Hispanic/Latino drivers. The Hispanic/Latino population in the City of Denton is estimated to be 33,490 (24.58%), while the Hispanic/Latino population of Denton County is estimated to be 163,864 (19.60%).

Black Motorists. Of all motorists stopped in Denton in 2018, 3,326 (16.24%) were Black. Of the total citations issued in 2018, 2,339 (15.20%) were received by Black drivers. The Black population in the City of Denton is estimated to be 13,344 (9.79%), while the Black population of Denton County is estimated to be 87,008 (10.41%).

Asian/Pacific Islander Motorists. Of all motorists stopped in Denton in 2018, 489 (2.39%) were Asian/Pacific Islander. Of the total citations issued in 2018, 374 (2.41%) were received by Asian/Pacific Islander drivers. The Asian/Pacific Islander population in the City of Denton is estimated to be 13,344 (4.39%), while the Asian/Pacific Islander population of Denton County is estimated to be 76,889 (9.19%).

Alaska Native/American Indian. Of all motorists stopped in Denton in 2018, 126 (0.62%) were Alaska Native/American Indian. Of the total citations issued in 2018, 80 (0.52%) were received by Alaska Native/American Indian drivers. The Alaska Native/American Indian population in the City of Denton is estimated to be 683 (0.50%), while the Alaska Native/American Indian population of Denton County is estimated to be 7,601 (0.91%).

Chart 5 illustrates the comparison between the population of the city and the percentage of drivers stopped and cited. Compared to the population of the City of Denton, Hispanic/Latino and Asian/Pacific Islander drivers were both stopped and cited at a lower percentage compared to the percentage of these two groups living in the City of Denton. All other groups were both stopped and cited at a higher percentage compared to the percentage living in the City of Denton.

Chart 5. 2018 - Comparison of Stops and Citations to City Population

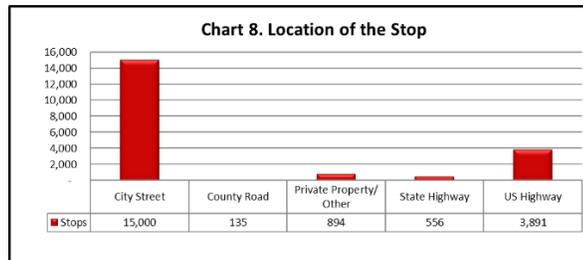
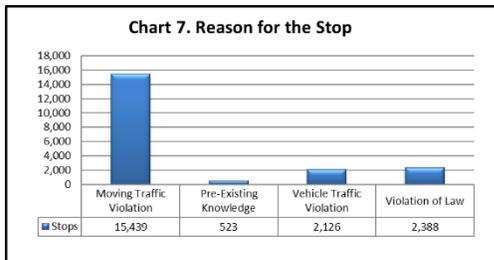
RACE/ETHNICITY	All Traffic Stops			Citations Issued			Stops vs Citations Issued		
	% Stopped	% City Pop	Diff	% Cited	% City Pop	Diff	% Stopped	% Cited	Diff
White	64.61	60.74	3.87	65.47	60.74	4.73	64.61	65.47	-0.86
Hispanic	16.14	24.58	-8.44	16.40	24.58	-8.18	16.14	16.40	-0.26
Black	16.24	9.79	6.45	15.20	9.79	5.41	16.24	15.20	1.04
Asian/Pacific Islander	2.39	4.39	-2.00	2.41	4.39	-1.98	2.39	2.41	-0.02
Alaska Native/American Indian	0.62	0.50	0.12	0.52	0.50	0.02	0.62	0.52	0.10

There were three race/ethnic groups with percentages of traffic stops and citations issues that exceeded that group’s population estimates for the City of Denton. Chart 6 illustrates for each group the number of traffic stops conducted, the number of citations issued, the difference between these two numbers, and the difference expressed as a percentage of the total population.

Chart 6. 2018 - Groups Exceeding City's Population Percentages for Stops and Citations

RACE/ETHNICITY	Population	Stops	Citations	Diff in Stops vs. Citations	Diff as % of Population
White	82,772	13,230	10,074	3,156	3.81%
Black	13,344	3,326	2,339	987	7.40%
Alaska Native/American Indian	683	126	80	46	6.73%

The majority of motor vehicle contacts were made with males, most of whom were White drivers. This was followed by Hispanic/Latino drivers and Black drivers. In a majority of cases, officers did not know the race/ethnicity of the subject prior to the stop, and that most often the reason for the stop was a moving traffic violation, as shown in Chart 7. The location of the stop was most often made on a city street, as shown in Chart 8.



Searches Conducted

The Denton Police Department is required to collect information on the number of searches conducted, and the reason for the searches. Of the 20,476 motor vehicle contacts in 2018, there were 444 (2.2%) searched conducted during the stop. The reason for each search is illustrated in Chart 9. Of the 444 searches in 2018, 101 (22.7%) were consent searches, 15 (3.4%) were for contraband in plain view, 144 (32.4%) were searches incident to arrest, 23 (5.2%) were inventory searches, and 161(36.3%) were probable cause searches.

Chart 9. 2018 Reason for Searches Conducted During Motor Vehicle Contacts

Race/Ethnicity	Consent		Contraband in Plain View		Incident to Arrest		Inventory		Probable Cause		Total Searches	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Asian/Pacific Islander	0	0.0%	0	0.0%	1	0.7%	0	0.0%	2	1.2%	3	0.7%
Black	22	21.8%	6	40.0%	28	19.4%	4	17.4%	56	34.8%	116	26.1%
Hispanic/Latino	23	22.8%	5	33.3%	32	22.2%	6	26.1%	28	17.4%	94	21.2%
Alaska Native/American Indian	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.6%	1	0.2%
White	56	55.4%	4	26.7%	83	57.6%	13	56.5%	74	46.0%	230	51.8%
TOTAL	101	100.0%	15	100.0%	144	100.0%	23	100.0%	161	100.0%	444	100.0%

Was Race Known Before the Stop

The Denton Police Department is required to collect information on whether the race/ethnicity of the driver was known before the stop was conducted. Of the 20,476 motor vehicle contacts in 2018, there were 2,184 (10.7%) in which the race/ethnicity of the driver was known prior to the stops. There were 18,292 (89.3%) in which the race/ethnicity of the driver was not known prior to the stop. Chart 10 illustrates this measure for each race/ethnic group.

Chart 10. Race Known or Not Known by Race/Ethnicity

Race/Ethnicity	Known		Not Known	
	Total	%	Total	%
Asian/Pacific Islander	30	1.4%	459	2.51%
Black	385	17.6%	2,941	16.08%
Hispanic/Latino	274	12.5%	3,031	16.57%
Alaska Native/American Indian	7	0.3%	119	0.65%
White	1,488	68.1%	11,742	64.19%
TOTAL	2,184	100.0%	18,292	100.0%

Contraband Found

The Denton Police Department is required to collect information on contraband found during a search, including a description of the type of contraband seized. Of the 444 searches conducted in 2018, contraband was found in 236 (52.9%) and not found in 208 (46.8%).

Of the 236 cases in which contraband was seized, a total of 32 (13.6%) involved Alcohol, 2 (0.8%) involved Currency, 158 (66.9%) involved Drugs, 7 (3.0%) involved Stolen Property, 4 (1.7%) involved Weapons, and 33 (14.0%) involved Other contraband. Chart 11 illustrates the type of contraband found for each race/ethnic group.

Chart 11. Contraband Seized by Race/Ethnicity

Race/Ethnicity	Alcohol		Currency		Drugs		Other		Stolen		Weapons		Total	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Asian/Pacific Islander	1	3.1%	0	0.0%	1	0.6%	0	0.0%	0	0.0%	0	0.0%	2	0.8%
Black	7	21.9%	0	0.0%	47	29.7%	13	39.4%	2	28.6%	1	25.0%	70	29.7%
Hispanic/Latino	7	21.9%	0	0.0%	41	25.9%	5	15.2%	0	0.0%	1	25.0%	54	22.9%
Alaska Native/American Indian	0	0.0%	0	0.0%	1	0.6%	0	0.0%	0	0.0%	0	0.0%	1	0.4%
White	17	53.1%	2	100.0%	68	43.0%	15	45.5%	5	71.4%	2	50.0%	109	46.2%
TOTAL	32	100.0%	2	100.0%	158	100.0%	33	100.0%	7	100.0%	4	100.0%	236	100.0%

Use of Force During the Stop

The Denton Police Department is required to collect information on whether the physical force was used during a stop, and if injury occurred as a result. Of the 20,476 motor vehicle contacts in 2018, use of physical force was reported in a total of 108 (0.53%). Of the 108 cases reported, 22 (0.11%) did not result in injury, while 86 (0.42%) resulted in some form of bodily injury. Racial profiling law does not require the type of physical injury to be documented. Chart 12 illustrates this measure for each race/ethnic group.

Chart 12. Physical Force Resulting in Injury by Race/Ethnicity

Race/Ethnicity	No Force Used		Force Used		Force-No Injury		Force - Injury	
	Total	%	Total	%	Total	%	Total	%
Asian/Pacific Islander	487	2.4%	2	1.9%	1	4.5%	1	1.2%
Black	3,299	16.2%	27	25.0%	10	45.5%	17	19.8%
Hispanic/Latino	3,291	16.2%	14	13.0%	2	9.1%	12	14.0%
Alaska Native/American Indian	123	0.6%	3	2.8%	0	0.0%	3	3.5%
White	13,168	64.7%	62	57.4%	9	40.9%	53	61.6%
TOTAL	20,368	100.0%	108	100.0%	22	100.0%	86	100.0%

Factors Affecting Outcomes

The purpose of collecting and reviewing traffic stop data is to determine whether Denton Police Officers have engaged in the practice of racial profiling. An analysis of traffic enforcement and census data on the racial demographics of Denton residents will not indicate whether police officers have engaged in racial profiling. The number of drivers stopped is not limited to the driving population of Denton. It includes all residents of Denton as well as non-resident drivers contacted by Denton officers in 2018.

There are also inherent difficulties in collecting accurate data concerning race or ethnicity of drivers. Race/Ethnicity is self-reported by the individual driver. Officers are placed in the position of guessing based on preconceived notions related to physical characteristics or asking drivers such questions while the driver has been detained for a traffic violation.

Several factors can influence the prevalence of each racial group within the study that are not related to racist behavior by a specific officer. Among these factors are:

- the amount of time devoted to traffic enforcement
- racial make-up of an officer's assigned district
- targeted enforcement devoted to a specific location or problem
- officer discretion regarding which violations warrant enforcement action.

Case studies provide more in-depth information about the nature and quality of contacts between officers and citizens. In order to determine whether an officer has engaged in racial profiling of a motorist, the Denton Police Department investigates individual cases of racial profiling that are received through the department's internal or external complaint process. Any person who believes that a Denton Police Officer has engaged in bias policing or racial profiling may file a complaint with the department. In 2018, the Denton Police Department did not receive any complaints alleging racial profiling.

To facilitate the reporting of allegations of racial profiling, the department provides education to the public specific to racial profiling. The department utilizes its website to provide the public with information on how to report racial profiling issues. In addition, the department maintains compliance with TCOLE standards regarding racial sensitivity continuing education training for police officers. All Denton Police Officers must complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement, including legal aspects, not later than the second anniversary of the date the officer was licensed.

Closing Statement

In summary, the Denton Police Department prohibits the practice of racial profiling and is in full compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling. The Department collects data regarding traffic stops in compliance with the law, trains officers regarding racial profiling, provides a formalized complaint process, and educates the public regarding the complaint process. A review of internal administrative records indicates that the Department did not receive any complaints alleging racial profiling in 2018.

APPENDIX ONE - RACIAL PROFILING LAW

Texas Code of Criminal Procedure

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

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

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

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

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

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

- (A) Alaska native or American Indian;
- (B) Asian or Pacific Islander;
- (C) black;
- (D) white; and
- (E) Hispanic or Latino.

(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;
- (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.

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

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. 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.

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

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which

the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

(g) On a finding by the Texas Commission on Law Enforcement 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.

(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.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 25, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.05, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 173 (H.B. 3051), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.01, eff. September 1, 2017.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

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

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

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

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

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

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

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

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

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

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 26, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.02, eff. September 1, 2017.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

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

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

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

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

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

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

(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.
- (d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).
- (e) The Texas Commission on Law Enforcement, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.
- (f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.
- (g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 27, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.06, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.03, eff. September 1, 2017.

Art. 2.136. LIABILITY.

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, 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. 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, 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, 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 video and audio equipment and body worn cameras for those purposes.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.04, eff. September 1, 2017.

Art. 2.138. RULES.

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

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

Art. 2.1385. CIVIL PENALTY.

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

penalty in an amount not to exceed \$5,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 29, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.05, eff. September 1, 2017.

Art. 3.05. RACIAL PROFILING.

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

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

APPENDIX TWO - THE SANDRA BLAND ACT

SB 1849, 2017 Texas Legislative Session

AN ACT

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

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

ARTICLE 1. SHORT TITLE

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

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

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

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION].

(a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision (2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

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

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or

intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

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

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

- (1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];
- (2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and
- (3) recommended treatment.

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

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

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

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

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article:

(1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

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

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

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

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

(2) it is reasonable to divert the person;

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

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

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

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

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

municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

- (1) establishing [a] new collaboratives; or
 - (2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].
- (b) The department shall require each entity awarded a grant under this section to:
- (1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]
 - (2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and
 - (3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

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

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

- (1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;
 - (2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and
 - (3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.
- (b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).
- (c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The commission shall:

- (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
- (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
- (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
- (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
- (5) revise, amend, or change rules and procedures if necessary;
- (6) provide to local government officials consultation on and technical assistance for county jails;
- (7) review and comment on plans for the construction and major modification or renovation of county jails;
- (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
- (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
- (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
- (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
- (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age

securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;

(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;

(15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;

(16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

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

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

(A) determine if a prisoner is pregnant; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The prisoner safety fund consists of:

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

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

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

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

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

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

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

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

Sec. 511.021. **INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL.** (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection (a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this

Act. A personal bond executed before the effective date of this Act is governed by the law in effect when the personal bond was 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:

(j) As part of the minimum curriculum requirements, the 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.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.

APPENDIX THREE - DENTON PD RACIAL PROFILING POLICY

General Order 14.3

Subject: Bias Policing and Racial Profiling Policy
Effective Date: January 1, 2018

14.3 PURPOSE

The purpose of this Order is to clearly state that racial profiling and bias policing is completely intolerable and contrary to the governing values of the Denton Police Department, to provide guidelines for officers to prevent such occurrences, to establish procedures to educate citizens how to report incidents of perceived racial profiling, and to protect police officers of the department when they act within the dictates of the law and policy from groundless accusations.

14.3.1 POLICY

It is the policy of the Department to patrol in a proactive manner, to assertively investigate suspicious persons and circumstances, and to actively enforce motor vehicle and penal laws. The Department is committed to a respect for constitutional rights in the performance of duties. 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 United States Constitution and statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Nothing in this Order limits non-enforcement contacts between officers and the public.

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.

Bias – Prejudice or partiality which may be based on preconceived ideas, a person’s upbringing, culture, experience, or education.

Biased Policing – A law enforcement-initiated action based on an individual’s race, 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.

Community Care-Taking Function – Allows detentions of persons and vehicles without suspected criminal activity. Officers who observe persons in need of help may initiate contact without reasonable suspicion or probable cause. The reasonableness of the stop must be based on:

- The nature and level of the distress exhibited by the person who is being helped;
- The person’s location;
- Whether the person was alone or had access to other means of assistance; and
- The extent to which the person is a danger to himself or others.

Consensual Encounter – A consensual encounter is a contact between a citizen and an officer that is voluntary and in which the citizen is free to leave. Officers can approach, contact, and question citizens in public places without any suspicion of criminal conduct. Under these circumstances, citizens are free to engage the officers’ questions or not and are free to leave at any time. Officers or citizens can initiate consensual encounters. As long as the officer’s speech and conduct do not clearly imply that the citizen is required to answer questions or requests, the encounter remains consensual.

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.

Probable Cause – Facts or apparent facts and circumstances within an officer’s knowledge and of which the officer has 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.

Race – A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Native American descent, or Middle Eastern descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.

Racial Profiling – A law enforcement-initiated action based on an individual’s race, ethnicity, or national origin rather than on the individual’s behavior or on information identifying the individual as having engaged in criminal activity.

Reasonable Suspicion – Articulate, objective facts which lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be “objectively reasonable.”

Sex – A biological classification, male or female, based on physical and genetic characteristics.

Stop – The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is an investigative detention

14.3.3 PROHIBITION

Officers are prohibited from engaging in bias policing, racial profiling, or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person’s race, color, ethnicity, ethnic background, national origin, citizenship, cultural group, religion, age, creed, sex, sexual orientation, disability, economic status or other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes.

Any deliberate recording of any misleading information related to the actual or perceived race, ethnicity or gender of the person stopped for investigative or enforcement purposes is prohibited and a cause for disciplinary action, up to and including indefinite suspension.

14.3.4 PROCEDURES

Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.

Employees shall observe and respect the constitutional rights of all persons and shall not engage in discrimination, oppression, or favoritism.

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

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

All personnel shall treat everyone with the same courtesy and respect that they would want others to treat Department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.

Personnel should facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.

All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by an individual against the Department or its officers or employees, per General Order 10.2.

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

All personnel are accountable for their actions. Personnel shall justify their actions when required.

14.3.5 SUPERVISORY RESPONSIBILITIES

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.

Supervisors shall use the disciplinary mechanisms of the Department to ensure compliance with this Order and the constitutional requirements of law enforcement.

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.

Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the Department to liability.

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.

Supervisors shall facilitate the filing of any complaints regarding law enforcement service per General Order 10.2.

14.3.6 DISCIPLINARY CONSEQUENCES

Actions prohibited by this Order shall be cause for disciplinary action, up to and including indefinite suspension.

14.3.7 COMPLAINTS

Any person who believes that a Denton police officer has engaged in bias policing or racial profiling with respect to that person may file a complaint with the Department. No person shall be discouraged, intimidated, or coerced from filing such a complaint. No person shall be discriminated against because they have filed such a complaint.

Information on filing a compliment or complaint about a Denton police officer, including the Department's telephone number, mailing address, and e-mail contact information will be provided on each citation, ticket, or warning issued by the Department.

The Department shall accept and investigate citizen complaints alleging incidents of bias policing and racial profiling. Such complaints shall be investigated according to General Order 10.2.

Complainants and officers will be notified of the result(s) of the investigation when such investigation is completed.

14.3.8 RECORD KEEPING

The following information shall be collected on all motor vehicle stops that result in the issuance of a written or verbal warning, the issuance of a citation/ticket, or an arrest:

- 1) The race or ethnicity of the individual detained;
- 2) Whether a search was conducted and, if so, whether the individual detained consented to the search;
- 3) Whether the officer knew the race or ethnicity of the individual detained before detaining that individual, and
- 4) Whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07 of the Texas Penal Code, during the stop;
- 5) The location of the stop; and
- 6) The reason for the stop.

Appropriate documentation of each motor vehicle stop shall be completed using a Department-issued ticket writer or on a handwritten citation/warning.

Officers are expected to “check out” with Dispatch each time he/she makes a motor vehicle stop , and upon clearing the stop, ensure that the necessary data is collected using the above listed methods. Consensual encounters do not require reasonable suspicion or probable cause. They are not of the same category as detentions or arrests. Therefore, documentation is not required for these instances. In addition, a “frisk” for weapons of a person’s outer clothing is not a search and should not be documented as such for purposes of this policy.

14.3.9 REPORTING

The information collected shall be compiled in an annual report covering the period of January 1 through December 31 of each year and shall be submitted to the Texas Commission on Law Enforcement and City Council. The annual report shall neither include identifying information about any individual stopped or arrested nor shall it include identifying information about any peace officer involved in a stop or arrest.

Officers may use personal cameras during extra duty/ off duty employment only when:

- There is no department provided camera available
- The officer consents that all video collected on the camera is the property of the agency
- The officer has the responsibility to ensure the video captured meets the standards required by the District Attorney's office for use as evidence.
- The officer is responsible for uploading all video into evidence.com and troubleshooting this process.
- The video on the camera is subject to supervisory review on demand without explanation.
- A supervisor may prohibit the use of the camera by the officer if the officer fails to adhere to this policy.

4.7.2 DEFINITIONS FOR THE PURPOSES OF THIS ORDER

Call for service – Any call by a citizen requesting assistance from the Department.

Pedestrian Stop – 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.

Private Space- A place where a person has a reasonable expectation of privacy including but not limited to a residence.

Traffic Stop – A peace officer that stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

4.7.3 DIGITAL VIDEO DOCUMENTATION & EVIDENCE

Digital video will be uploaded to the server automatically. If an officer notices that his/her equipment is not performing or uploading correctly, the officer should notify his/her supervisor immediately.

Officers shall not deliberately disable any Department provided video recording equipment during an event that requires recording.

Officers wishing to preserve a non-evidentiary digital recording for their personal protection or that of the Department, or other potential beneficial future use, will have the video

uploaded automatically and wirelessly (as with all other videos). The officer will categorize the video as “confrontational” to preserve that video for 241 days.

Body worn cameras will be placed on the downloading docking station prior to the end of an officer’s tour of duty. The officer is also required to make necessary documentation and categorize the videos stored on the body worn camera prior to ending their tour.

Officers shall not use digital videos, photographs, or any other evidence for personal use (i.e., posting to Facebook, MySpace, etc.) without permission of the Chief of Police (see General Order 14.1 Social Media Policy). Officers should refrain from viewing a video if they do not have a legitimate law enforcement or training purpose in viewing the video. Evidence.com maintains an audit trail of all views and modifications to digital evidence stored there. Officers will be accountable for their evidence.com account’s presence on any evidentiary audit trail. Officers should view any available recording prior to completion of their written reports.

Officers that have recorded evidentiary material on a body worn camera will designate the video in the appropriate categories to remove it from the purge cycle. Officers are not required to make a DVD of this video unless the prosecuting attorney requires the evidence to be presented in such a manner.

4.7.4 REQUIRED USE OF BODY CAMERA SYSTEMS

Prior to beginning a tour of duty, officers shall verify that their body worn camera is functioning properly. This includes making sure the camera is charged. The camera has a proper cable connection between the camera and battery pack. This also includes making sure the camera is assigned to them.

The Department recognizes that our officers are participants in fast evolving, dynamic situations. These situations might prevent or cause an officer to forget to activate their body worn camera systems. Officers should activate their cameras as soon as practical once these dynamic situations come under control. Officers shall routinely record all pedestrian and traffic stops as defined by this policy and in accordance with the exemption under Texas CCP (Article 2.135), Racial Profiling act. Officers will record the following:

- Any self-initiated detention
- Any consensual contact
- Any call for service where the officer meets the complainant in person
- Any citizen interaction that is potentially evidentiary in nature including but not limited to suspect interviews, victim interviews, witness interviews, to capture consent to search
- Any citizen contact that has become or is foreseeable to become confrontational.
- Any critical incident including but not limited to a use of force, foot pursuit, vehicle pursuit, emergency driving, response to an in-progress event when activation of the camera is safe and does not present a distraction.
- Any citizen contact that the officer wants recorded

Officers are not required to record the following types of contacts or functions

- Contacts with confidential informants
- Contacts with citizens not related to enforcement activities such as community meetings or casual conversations with a citizen
- Interviews of victims of traumatic events where the victim insists on not being recorded
- Prolonged guard details including but not limited to guarding a prisoner at a hospital, or perimeter security at a crime scene
- The body worn camera should not be used as a substitute for a still camera or a higher quality video camera for the purposes of documenting a crime scene.
- SRO's or other officers are not required to record meetings with DISD staff and
- students that do not involve a criminal investigation

Officers can discontinue recording when:

- The subject is in custody controlled in a vehicle.
- To seek guidance from a supervisor or other officer
- The officer will step away from the subject and narrate that the video is being temporarily discontinued to confer with a colleague

The officer will reactivate the video prior to re-contacting the subject.

Officers shall not use body worn cameras to intentionally capture themselves or another employee in a compromising or embarrassing situation in an area where that employee has an expectation of privacy including but not limited to a restroom, locker room, or private residence.

The Department recognizes that body worn cameras are being deployed in conjunction with in car video system. Officers are to focus primarily on activating the body worn camera. If the in-car camera is not activated by emergency equipment, its activation is secondary to the body worn camera system.

4.7.5 LEGAL CONSIDERATIONS

The Department recognizes that Texas requires the consent of one involved party to lawfully record an interaction between two parties. Officers are not required to notify citizens that they are being recorded. Officers are not required to comply with a citizen's demand to turn off their body worn camera. Officers may block or face the camera away from a citizen that is partially disrobed or in a similar type compromising position at the officer's discretion based on the totality of the circumstances and perceived threats. The body worn camera will remain on and recording in these events.

The Department recognizes that the body worn camera is a fixed recording device. The camera will not always capture the perceptions of the officer. The camera may also capture evidence that the officer does not see. This will be considered when using a video to evaluate an officer's actions.

4.7.6 VIDEO MANAGEMENT

Direction from the City's Legal Department should always be sought prior to the release or copying of video footage for purposes other than routine requests, (i.e., DWI DVDs for the DA's office, or internal requests within parameters of this policy). The department will not release the following videos to the public:

- Videos that are non-evidentiary filmed in the private space of a third party.
- Videos involving cases being actively investigated.
- The chief of police may choose to release a video of a case under investigation in order to further positive community relations.
- Videos involving officers being investigated internally.
- Videos maintained by the department involving a case being investigated by another law enforcement agency.

Body worn camera videos will be stored in the cloud-based storage provided through Evidence.com. Officers cannot publish any video or photographic evidence they obtain without written authorization from the Department.

Officers are allowed to share their videos with other department employees for the purpose of allowing another officer to use the video evidence in a criminal case investigation.

Officers shall not have access to delete files that they generate.

Command level officers may authorize reproduction/ downloading of a video for use in law enforcement training. The command officer will make written authorization in the comment area of the video on evidence.com. This will preserve the consent in the audit trail of the video.

Deputy Chiefs may authorize video for publication in public mediums. The DC will make written authorization in the comment area of the video on evidence.com. This will preserve the consent in the audit trail of the video.

4.7.7 DIGITAL VIDEO STORAGE

The Department will set parameters for storage of data on Evidence.com. The department will comply with the state requirement of maintaining videos of officers engaged in an official capacity for a minimum of 90 days. The department reserves the right to establish any category it sees fit and adjust the storage parameters on Evidence.com as long as it remains compliant with state law.

The Department will allow officers to categorize videos for storage. The Department will allow administrators to delete videos accidentally captured on a body worn camera that do not depict officers acting in an official capacity including but not limited to officers captured accidentally in a restroom, locker room, or their residence. These videos will be categorized as accidental. These videos will be deleted by an evidence.com admin user when requested in writing by a command level officer in the chain of command of the officer captured on video.

4.7.8 JUVENILE RECORDS MANAGEMENT

Juvenile information will be managed as follows:

- Video footage involving the criminal investigation or detention of a juvenile will be categorized ONLY as juvenile on evidence.com.
- If an investigation will not be referred for prosecution, the investigator will notify an evidence.com administrator via email that the video record should be manually deleted. The administrator will move the video into the deletion queue and note in the audit trail why the video is being deleted as soon as practical.
- Any department employee will document their reason for viewing a juvenile video in the comment section. This will ensure that the audit trail shows who viewed the video, when they viewed the video, the IP address of the device that viewed the video, and why they viewed the video.
- Juvenile videos shall not be authorized for use as training aids.
- Juvenile records shall not be published to the media or the public without an opinion from a city attorney.

4.7.9 BODY WORN VIDEO SYSTEM MAINTENANCE

Any body worn cameras in need of repair or not properly functioning should be brought to the attention of the officer's immediate supervisor. That supervisor should notify the program administrator to have the problem addressed.

APPENDIX FIVE - DENTON PD RACIAL PROFILING TRAINING

Denton Police Department Lesson Plan

Course/Lesson: Basic Peace Officer Course / Racial Profiling Course #: 1000 & 3256

Developed by: Sgt. Vernell Dooley		Agency: Denton PD		Date Prepared: 06/04/2014	
Revised by: Todd Kidwell		Agency: Denton PD		Date Revised: 09/11/2018	
Reason for Change(s)		Course Updated <input type="checkbox"/> TCOLE Update <input type="checkbox"/> Instructor Revision <input checked="" type="checkbox"/> Other: Law Changes			
Type/Level of Course	In-Service <input type="checkbox"/>	Basic Peace Officer Course <input checked="" type="checkbox"/>		Corrections <input type="checkbox"/>	Management <input type="checkbox"/>
	Legislative Mandate <input type="checkbox"/>	Intermediate <input type="checkbox"/>	Advanced/Specialized <input type="checkbox"/>	Other:	
Time Allotted:	3-4 hours		Class Size Limit:	Pre-requisite: Basic Peace Officer Cadet or Peace Officer	
Method(s) of Instruction	Discussion <input checked="" type="checkbox"/>	Demonstration <input type="checkbox"/>	Role Play <input type="checkbox"/>	Instructor Led or Lecture <input checked="" type="checkbox"/>	
	Practical Exercise <input checked="" type="checkbox"/>	Practice <input type="checkbox"/>	Independent <input type="checkbox"/>	Other:	
Learning Objectives:	After this instruction, the student will be able to: <ol style="list-style-type: none"> 1. Identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling. 2. Identify Supreme Court and lowe court decisions involving appropriate actions in traffic stops. 3. Identify logical and social arguments against racial profiling. 4. Identify elements of a racially-motivated traffic stop. 5. Identify elements of a traffic stop which would constitute reasonable suspicion of drug courier and criminal activity. 				
Learning Techniques (describe below)	Question and Answer <input checked="" type="checkbox"/>	Conference <input type="checkbox"/>	Illustration (Visuals/Examples) <input checked="" type="checkbox"/>		
	Practice and Drill <input checked="" type="checkbox"/>	Role Playing <input type="checkbox"/>	Other:		
Application Stage	For each learning technique selected above, briefly summarize the planned application activities: <p>The instructor(s) will provide various examples and question and answer activities throughout the course. Various videos be used throughout the course to reinforce objects. Some practical exercise discussion will be based upon 2 of the videos used in the course.</p>				
Testing and Course Evaluation:	Exam: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Type: Performance <input type="checkbox"/> Oral <input type="checkbox"/> Written <input checked="" type="checkbox"/> Other:				
	Minimum standard: 70% on the Academy unit exam that incorporates this topic				
		Evaluation by Instructor/Coordinator: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> by:		Class Evaluations: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Instructional Media:	Handouts <input checked="" type="checkbox"/>	PowerPoint <input checked="" type="checkbox"/>	Flip Chart <input type="checkbox"/>	Audio/Visual <input checked="" type="checkbox"/>	Display <input type="checkbox"/> Chalk / White-Board <input checked="" type="checkbox"/> Other:
Equipment Needs: computer with sound for the required video exercises					
References: TCOLE Curriculum outline and Sgt. Dooley's 2014 Lesson Plan / Varous public you tube videos					
<ul style="list-style-type: none"> • Attach the lesson content to this form and submit all exam keys, along with the students' grades or their actual exams. • Performance exams: submit a description of the activity & its grading criteria, along with the critique forms or a pass/fail list. 					