The Tom Green County Sheriff's Office Annual Traffic Contact Report (2009)

DEL CARMEN CONSULTING, LLC

(I) Introduction

Opening Statement

January 28, 2010

Judge Mike Brown
San Angelo, Texas 76903

Dear Judge Brown,

Racial profiling has been regarded as one of the most pressing themes currently affecting law enforcement agencies in the United States. In 2001, the Texas legislature, in an attempt to address the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. Since 2001, the Tom Green County Sheriff's Office, in accordance with the law, has collected and reported traffic-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. During the past legislative session, the Racial Profiling Law was modified and new requirements are now in place. These will be represented, as prescribed by the law, in the 2010 racial profiling report due March 1, 2011.

In this particular report, you will find three sections that contain information on traffic-related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Tom Green County Sheriff's Office has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074) which later became the Texas Racial Profiling Law. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education) is included. In addition, you will find, in sections 2 and 3, documentation which demonstrates compliance by the Tom Green County Sheriff's Office relevant to the requirements as established in the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel, are included.

The last section of this report provides statistical data relevant to contacts, made during the course of traffic stops, between 1/1/09 and 12/31/09. This information has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard and to traffic-based contact data collected between 2002 and 2008. The final analysis and recommendations are also included in this report.

I am hopeful that the findings presented in this report serve as evidence of the Tom Green County Sheriff's Office's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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TCLEOSE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

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

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

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

Standard 1

Each law enforcement agency has a detailed written directive that:

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

Commentary

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

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

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

Standard 2

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

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

Commentary

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

Standard 3

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

Commentary

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

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

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

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

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

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

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

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

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

Standard 4

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

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

Commentary

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

Standard 5

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

Commentary

None

Standard 6

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

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

Commentary

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

Standard 7

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

Commentary

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

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

The Texas Law on Racial Profiling

S.B. No. 1074

AN ACT

relating to the prevention of racial profiling by certain peace officers.

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

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

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

body of each county or municipality served by the agency in a manner approved by the agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

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

(2) the registration number of the vehicle involved;

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

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

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

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

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

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

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

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

SECTION 12. This Act takes effect September 1, 2001.

_____ _____

President of the Senate Speaker of the House

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

_____
Secretary of the Senate

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

_____
Chief Clerk of the House

Approved:

_____
Date

_____
Governor

(II) Responding to the Law

Institutional Policy on Racial Profiling

TOM GREEN COUNTY SHERIFF DEPARTMENT

DIVISION ORDER

Title

BIAS BASED PROFILING POLICY

DATE	*DISTRIBUTION*	*NUMBER*	*REPLACES*	*NUMBER PAGES*
12-03-01	**ENFORCEMENT**	24	NEW	4

I. PURPOSE

The purpose of this policy is to reaffirm the Tom Green County Sheriff's Office commitment to unbiased law enforcement in all its encounters between a deputy and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our deputies from unwarranted accusations of misconduct when they act within the dictates of Sheriff's Office policy and the law/

II. POLICY

It is the policy of this office to provide law enforcement service in a pro-active manner and to aggressively investigate suspected violations of law. Deputies shall actively enforce state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Deputies are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall b]e applicable to all persons, whether drivers, passengers, or pedestrians.

Deputies shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by governmental agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude deputies from offering assistance, such as upon observing a substance leaking from a vehicle, flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about that person.

III. DEFINITIONS

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

Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, or other citizen contacts.

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a suspect for whom a deputy is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's

race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

1. Citing a driver who is speeding in a stream of traffic, where most other drivers are speeding, because of the cited driver's race, ethnicity or national origin.

2. Detaining the driver of a vehicle based on the determination that a person of race, ethnicity or national origin is unlikely to own or posses that specific make or model of vehicle.

3. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

A Sheriff's Office can derive two principles from the adoption of this definition of racial profiling:

1. Deputies may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while deputies may use race in conjunction with other known factors of the suspect.

2. Deputies may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains witnesses, complainants or other citizen contacts.

Race or Ethnicity- Of a particular decent, including Caucasian, African, Hispanic, Asian or Native American.

Pedestrian Stop- An interaction between an peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

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

IV. TRAINING

Deputies are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training requirements as mandated by law.

All deputies shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the deputy is licensed under Chapter 1701 of the Texas Occupations code or the date the deputy applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September, 1 2003.

V. COMPLAINT INVESTIGATION

1. The Sheriff's Office will accept complaints fromany person who gelieves he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.

2. Any employee who receives an allegation of racial profiling, including the deputy who initiated the stop, shall record the person's name, address, and telephone number, and forward the complaint through the appropriate channel or direct the individual(s) to the proper supervisor. Any employee contacted shall provide to that person a copy of a complaint form or the Sheriff's Office process for filing a complaint. All employees will report any allegation of racial profiling to their supervisor.

3. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive a disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the sheriff. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the sheriff.

4. If a racial profiling complaint is sustained against a deputy, it will result in appropriate corrective and/or disciplinary action up to and including termination.

5. If there is a Sheriff's Office video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this office into the complaint and written request of the deputy made the subject of the complaint, this office shall promptly provide a copy of the finding to that deputy.

VI. PUBLIC EDUCATION

This office will inform the public of its policy against racial profiling and the complaint process. Methods that mey be utilized to inform the public are the news media, radio, service or civic presentations, the internet, as well as governing board meetings. Additionally, information will be made available as appropriate in languages oter than English.

VII. CITATION DATA COLLECTION & REPORTING (effective January 1st, 2002)

A deputy is required to collect information relating to traffic stops in which a citation is issued. On the citation deputies must include:

1. The violator's race or ethnicity;

2. Whether a search was conducted;

3. Was the search consensual; and

4. Arrest for this cited violation or any other violation.

By March of each year, the Sheriff's Office shall submit a report to the Tom Green County Commissioner's Court that includes the information gathered from the citation. The report will include:

1. A breakdown of citations by race or ethnicity;

2. Number of citations that resulted in a search;

3. Number of searches that were consensual; and

4. Number of citations that resulted in custodial arrest for this cited violation.

Not later than March 1st of each year, the Sheriff's Office shall submit a report to the Tom Green County Commissioner's Court containing this information from the preceding calendar year.

VIII. COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS (effective January 1st, 2003)

A deputy who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense, shall record and report the following information:

1. A physical description of each person detained as a result of the stop, including:

a) The person's gender;
b) The persons race or ethnicity, as stated by the person or as determined by the deputy to the best of his/her ability.

2. The street address or approximate location of the stop. The suspected offense or the traffic law or ordinance alleged to have been violated.

3. Whether the deputy conducted a search as a result of the stop and, if so, whether the person detained consented to the search.

4. Whether probable cause to search existed and , if so, the fact(s) supporting the existence of the probable cause.

5. Whether any contraband was discovered in the course of the search and, if so, the type of contraband discovered.

6. Whether the deputy made an arrest as a result of the stop and/or search and, if so, a statement of the offense charged.

7. Whether the deputy issued a warning or a citation as a result of the stop, and if so, a statement of the offense charged.

This Office shall compile and analyze the information contained in these individual reports. Not later than March 1st of each year, this office shall submit a report to the Tom Green County Commissioner's Court containing the information compiled from the preceding calendar year in a manner they approve. This report will include:

1. A comparative analysis of the information contained in the individual reports in order to:

a) Dtermine the prevalence of racial profiling by deputies in this Office; and
b) Examine the disposition of traffic and pedestrian stops made by this Office's deputies, including searches resulting from stops.

2. Information relating to each complaint filed with this office alleging racial profiling.

This report will not include identifying information about a deputy who makes a stop or about an individual who is stopped or arrested by a deputy..

Exemption to section VIII

If each law enforcement motor vehicle regularly used by a deputy employed by the Sheriff's Office to make stops is equipped with video camera and transmitter activated equipment; and each traffic and pedestrian stop made by a deputy employed by the Sheriff's Office that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment, then the Sheriff's Office is exempt from the compiling and reporting requirement detailed in Section VIII.

Also, upon certification to the Texas Department of Public Safety, not later than the date specified by rule the department, by the Tom Green County Commissioner's Court in conjunction with this Sheriff's Office that this office needs funds or video and audio equipment for the purpose of installing video and audio equipment in each vehicle as determined by the department, for this Office to accomplish that purpose, then the Sheriff's Office is exempt from the reporting requirement detailed in Section VIII.

IX. USE OF VIDEO AND AUDIO EQUIPMENT

Each motor vehicle regularly used by this Office to make traffic and pedestrian stops that is equipped with a video camera and transmitter activated equipment, and each traffic and pedestrian stop made by a deputy of this Office that is capable of being recorded by video and audio, or audio, as appropriate, is recorded.

This Office shall reatina the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this office alleging that one of our deputies has engaged in racial profiling with respect to a traffic or pedestrian stop, this office shall etain the video and audiotapes, or audiotape of the stop until final disposition of the complaint.

Supervisors will ensure deputies of this Office are recording their traffic and pedestrian stops. These recordings will br reviewed at least once every ninety (90) days.

If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the deputy making the stop must properly record and report the information as required in Section VIII.

Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the Tom Green County Sheriff's Office

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, the Tom Green County Sheriff's Office launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The Sheriff's Office made available, in the lobby area, information relevant to filing a complaint on a racial profiling violation by a Tom Green County peace officer. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

Racial Profiling Training

Racial Profiling Training

Since 2002, all Tom Green County peace officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Tom Green County Sheriff's Office have completed the TCLEOSE basic training on racial profiling. The main outline used to train the officers of Tyler has been included in this report.

It is important to recognize that the Sheriff of the Tom Green County Sheriff's Office has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Tom Green County Sheriff's Office fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

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

Racial Profiling 3256

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

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

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

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

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

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

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

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

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

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

Racial Profiling Requirements:

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

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

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

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

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

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

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

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

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)
1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be chTylerged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)
1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

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

2.0 RACIAL PROFILING AND THE COMMUNITY

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

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.
A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

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

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

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

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

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

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

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.
A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

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

C. A typical traffic stop resulting from racial profiling
1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

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

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

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

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

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

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

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

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

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)
Web address for legislation 77R-SB1074:
http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm

Report on Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/09---12/31/09, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

X

A check above indicates that the Tom Green County Sheriff's Office has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/09 ---- 12/31/09.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case

Additional Comments:

_____
_____
_____
_____
_____
_____
_____
_____
_____

Tables Illustrating Traffic Contact

Tier 1 Data

(I) Tier 1 Data

Traffic-Related Contact Information (1/1/09—12/31/09)

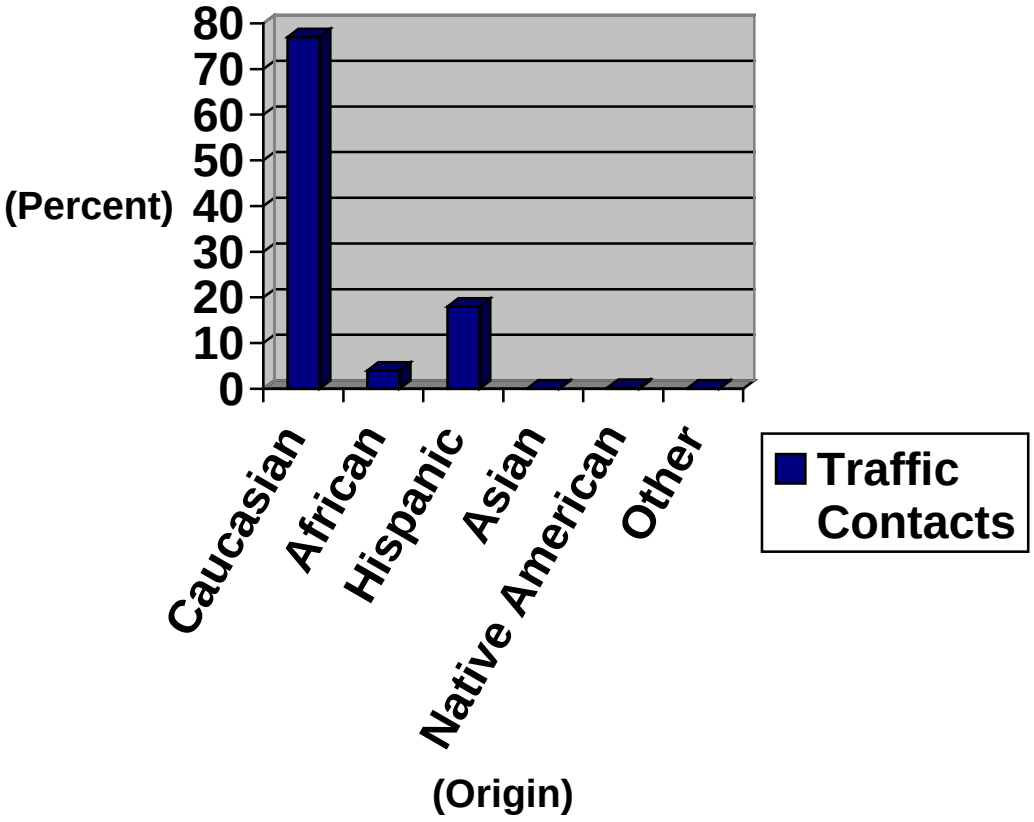
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	2,634	77	334	75	72	65	96	85	358	76
African	153	4	26	6	9	8	5	4	24	5
Hispanic	616	18	84	19	30	27	11	10	91	19
Asian	5	.1	1	.2	0	0	1	.9	1	.2
Native American	6	.2	0	0	0	0	0	0	0	0
Other	4	.1	0	0	0	0	0	0	0	0
Total	3,418	100**	445	100	111	100	113	100	474	100

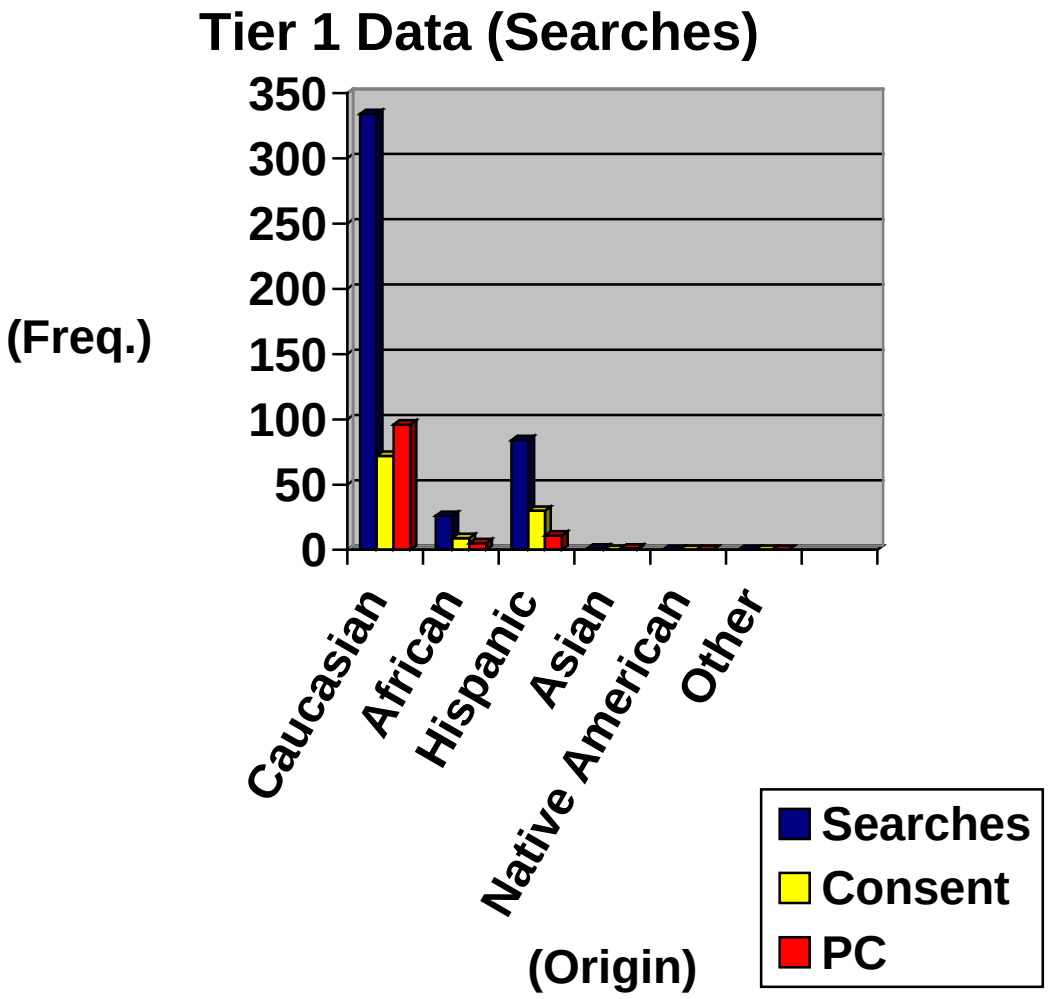
"N" represents "number" of traffic-related contacts

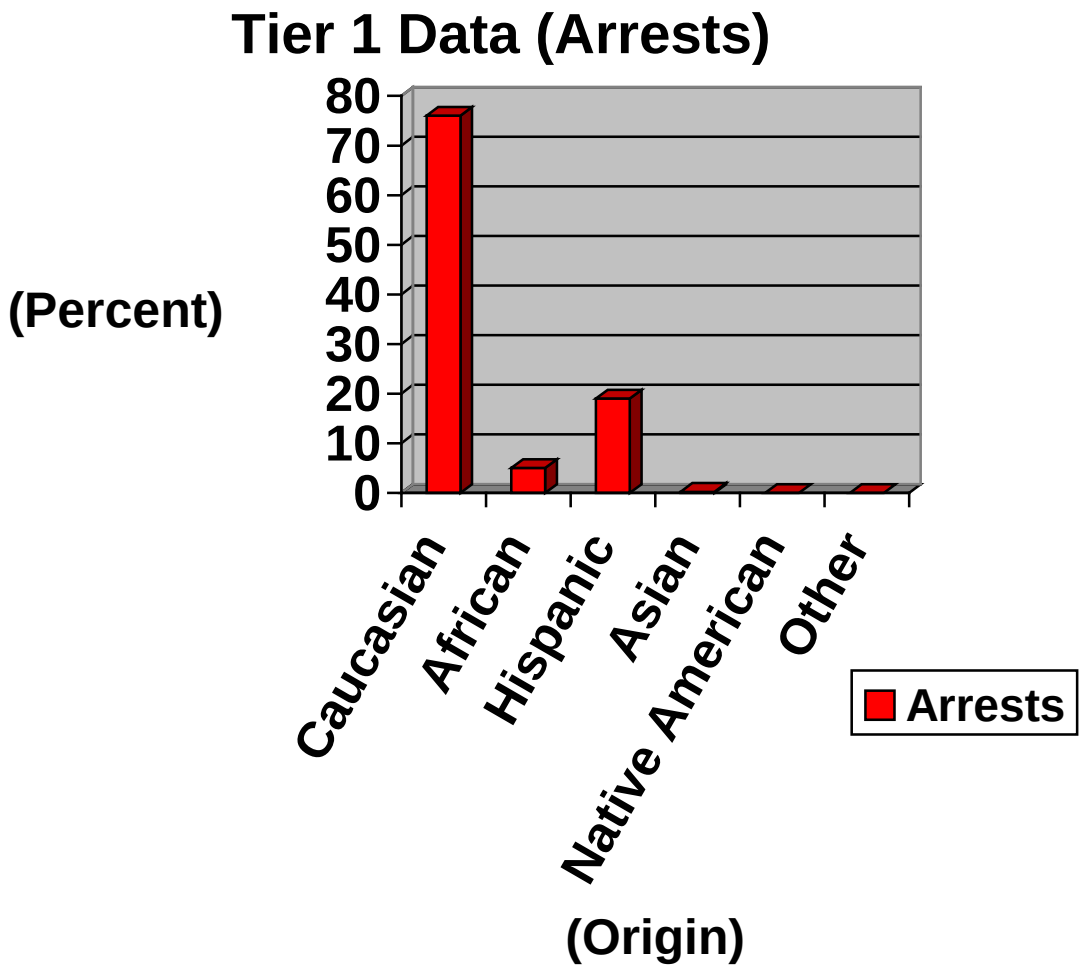
* Race/Ethnicity is defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".

**Figure has been rounded

Tier 1 Data (Traffic Contacts)




Tier 1 Data (Searches)
(Freq.)
350
300
250
200
150
100
50
0
Caucasian
African
Hispanic
Asian
Native American
Other
(Origin)
Searches
Consent
PC


Tier 1 Data (Arrests)
(Percent)
80
70
60
50
40
30
20
10
0
Caucasian
African
Hispanic
Asian
Native American
Other
Arrests
(Origin)

Tier 1 Baseline Comparison
(Fair Roads Standard)

(II) Traffic-Contacts and Fair Roads Standard Comparison

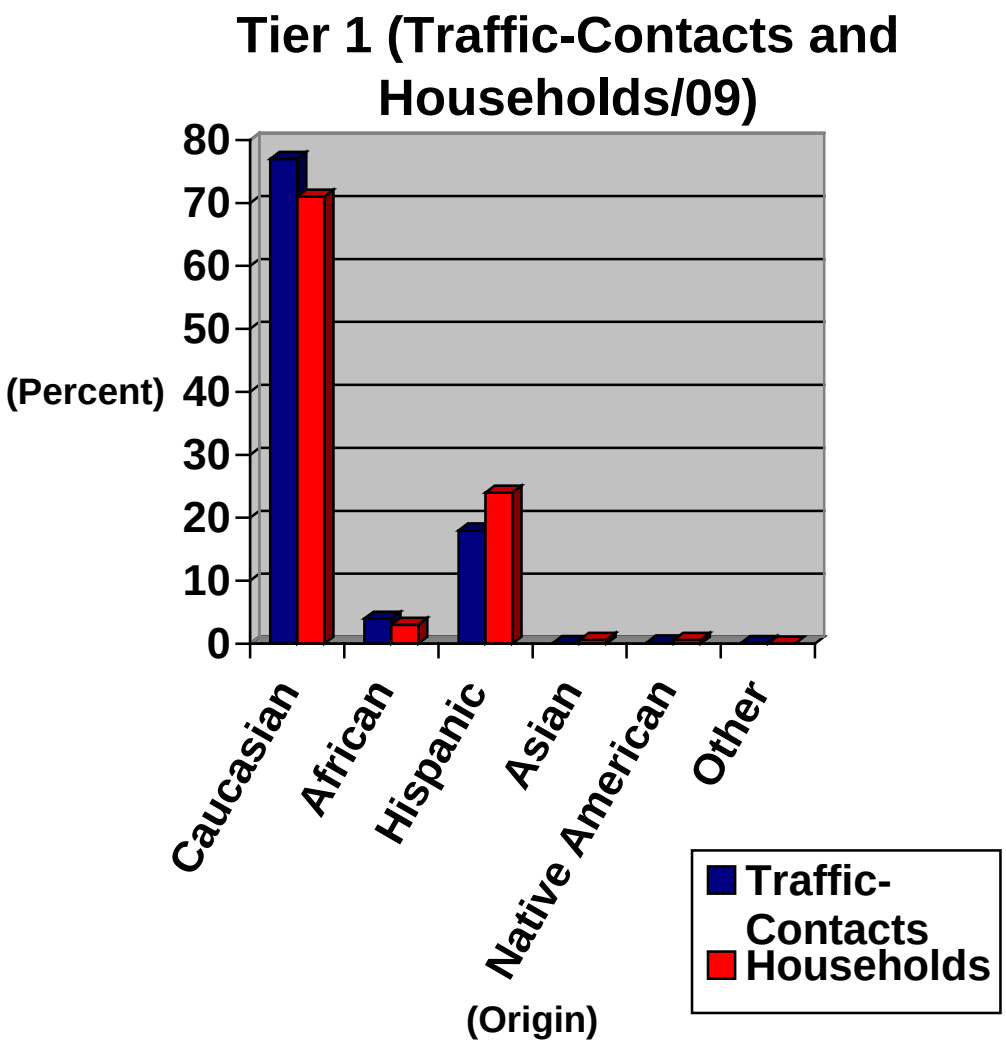
Comparison of traffic-related contacts with households in Tom Green County that have vehicle access (in percentages). (1/1/09—12/31/09)

Race/Ethnicity*	Traffic-Contacts (in percentages)	Households with Vehicle Access (in percentages)
Caucasian	77	71
African	4	3
Hispanic	18	24
Asian	.1	.6
Native American	.2	.6
Other	.1	N/A
Total	100**	96.2***

* Race/Ethnicity are defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".

**Represents rounded figure

***Amount does not total 100% since Census data does provide value of "other" category.


Tier 1 (Traffic-Contacts and Households/09)
80
70
60
50
40
30
20
10
0
(Percent)
Caucasian
African
Hispanic
Asian
Native American
Other
(Origin)
Traffic-Contacts
Households

Tier 1 Data
(Eight-Year Comparative Analysis)
(2002—2009)

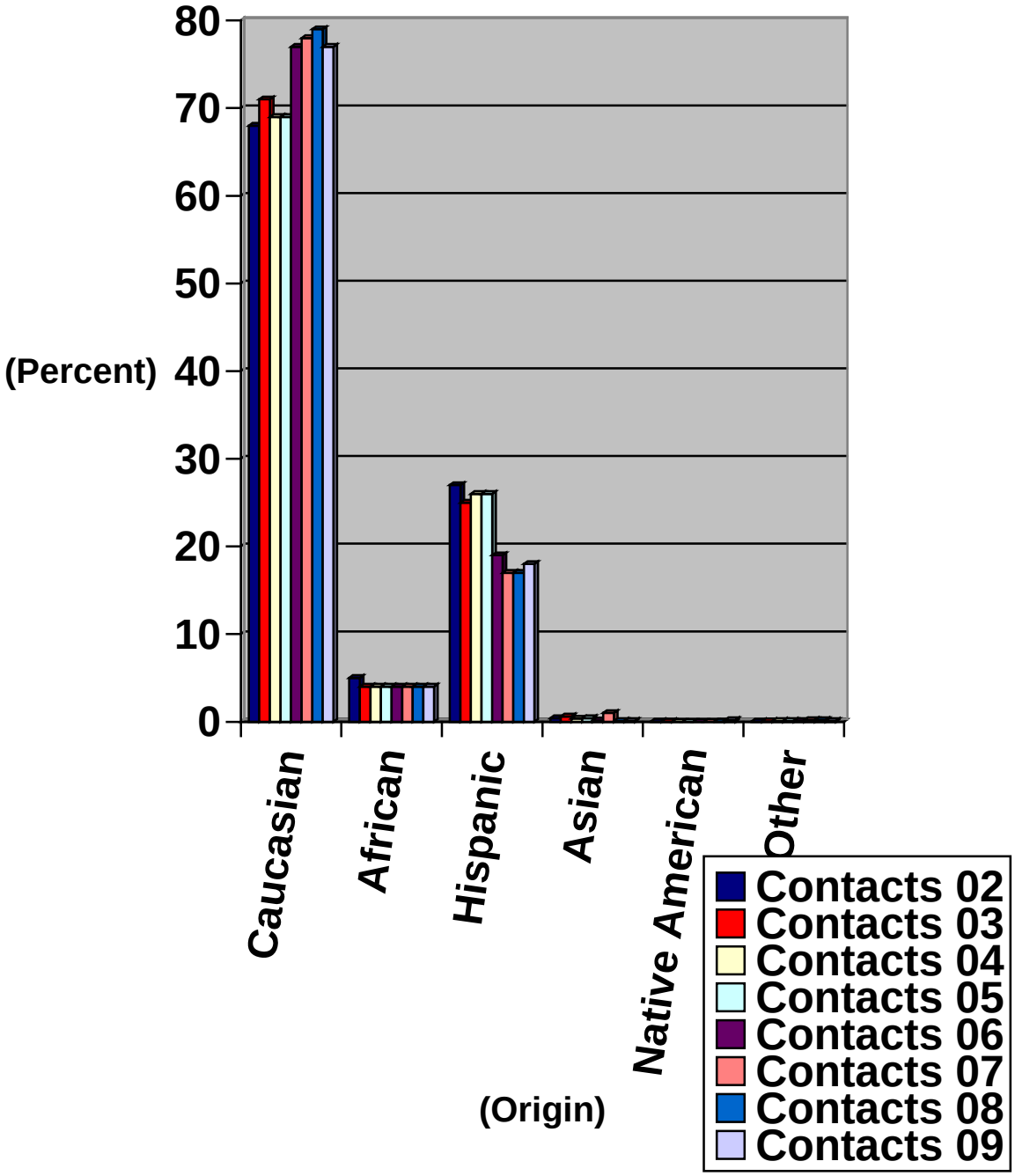
(III) Eight-Year Tier 1 Data Comparison

Comparison of Eight-Year Traffic-Related Contact Information (1/1/02---12/31/09)

Race/Ethnicity*	Traffic-Related Contacts (in percentages)							
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)
Caucasian	68	71	69	69	77	78	79	77
African	5	4	4	4	4	4	4	4
Hispanic	27	25	26	26	19	17	17	18
Asian	.4	.6	.36	.4	.15	1	.09	.1
Native American	.03	.03	0	0	0	0	.02	.2
Other	.03	.05	.08	.08	.1	.2	.2	.1
Total	100**	100**	100**	100**	100**	100**	100	100**

* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".
** Figure has been rounded.

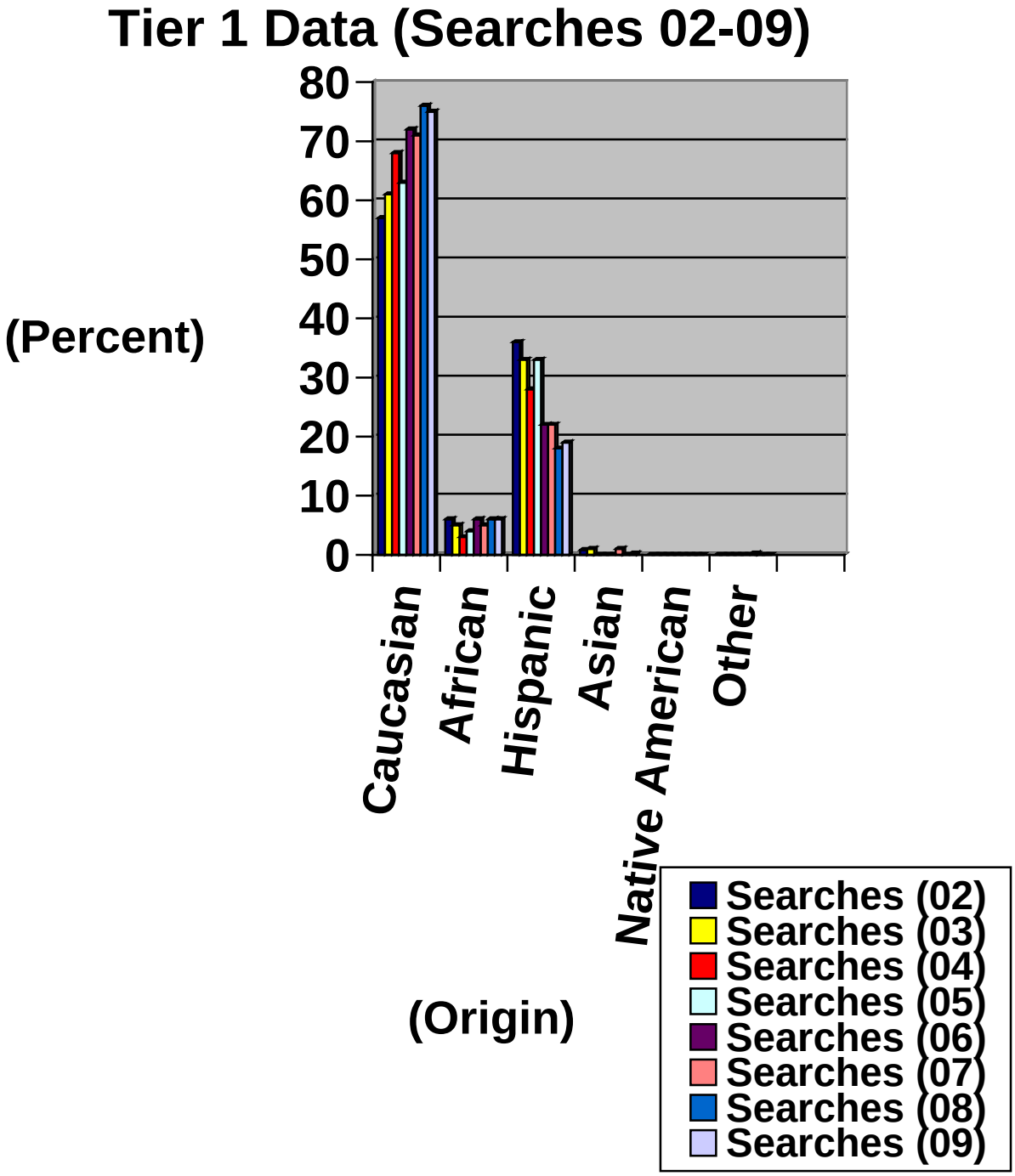
Tier 1 Data (Traffic-Contacts 02-09)



Comparison of Eight-Year Traffic-Related Search Information (1/1/02---12/31/09)

Race/Ethnicity*	Search-Related Contacts (in percentages)							
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)
Caucasian	57	61	68	63	72	71	76	75
African	6	5	3	4	6	5	6	6
Hispanic	36	33	28	33	22	22	18	19
Asian	.8	1	0	0	0	1	0	.2
Native American	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	.2	0	0
Total	100**	100	100**	100**	100	100**	100	100

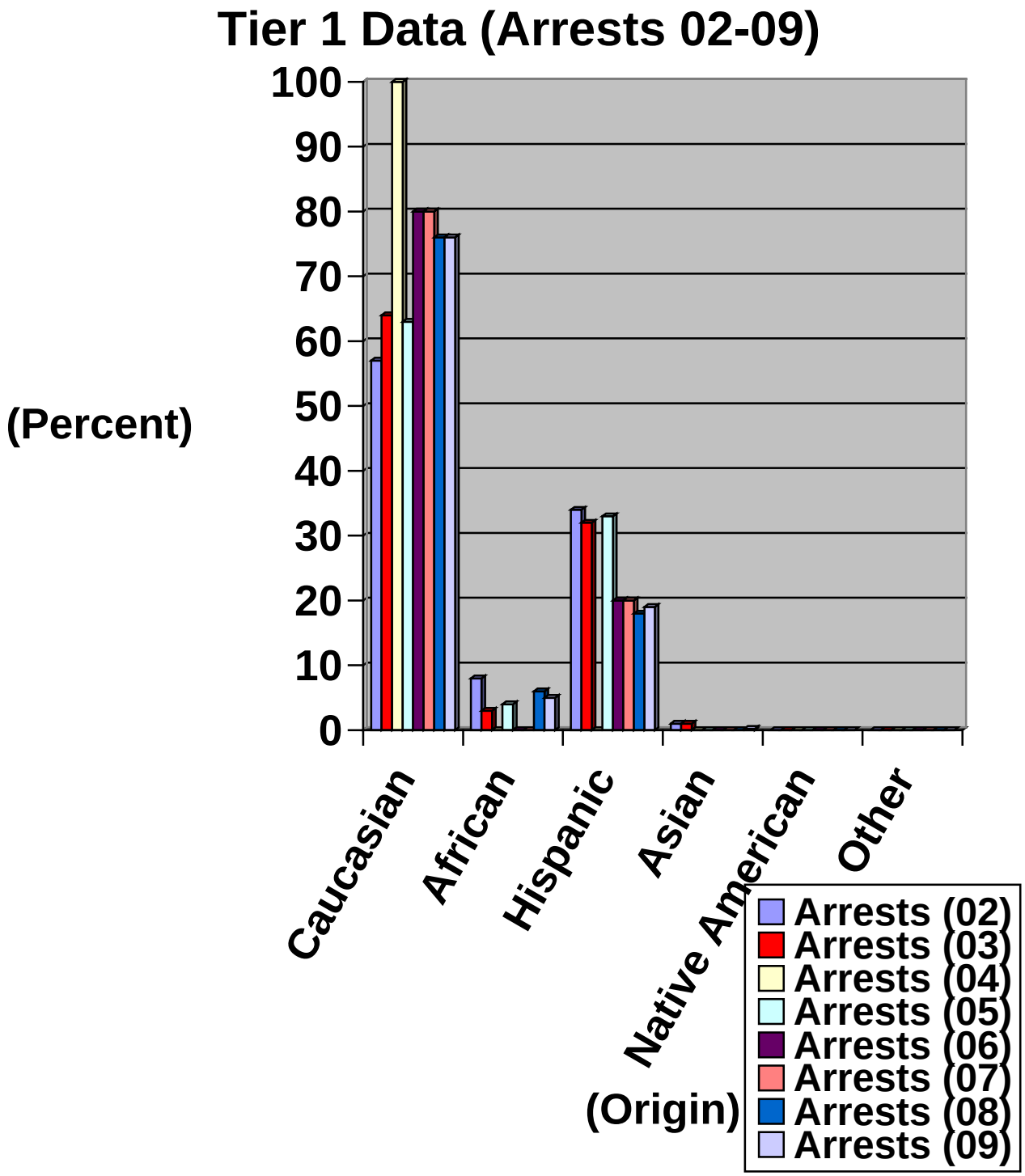
* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".
** Figure has been rounded.


Tier 1 Data (Searches 02-09)
(Percent)
80
70
60
50
40
30
20
10
0
Caucasian
African
Hispanic
Asian
Native American
Other
(Origin)
Searches (02)
Searches (03)
Searches (04)
Searches (05)
Searches (06)
Searches (07)
Searches (08)
Searches (09)

Comparison of Eight-Year Traffic-Related Arrest Information (1/1/02---12/31/09)

Race/Ethnicity*	Traffic-Related Contacts (in percentages)							
	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)
Caucasian	57	64	100	63	80	80	76	76
African	8	3	0	4	0	0	6	5
Hispanic	34	32	0	33	20	20	18	19
Asian	1	1	0	0	0	0	0	.2
Native American	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	100	100	100	100	100	100	100	100

* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".
** Figure has been rounded.


Tier 1 Data (Arrests 02-09)
(Percent)
100
90
80
70
60
50
40
30
20
10
0
Caucasian
African
Hispanic
Asian
Native American
Other
(Origin)
Arrests (02)
Arrests (03)
Arrests (04)
Arrests (05)
Arrests (06)
Arrests (07)
Arrests (08)
Arrests (09)

Analysis and Interpretation of Data

Analysis

In 2001, the Texas Legislature passed Senate Bill 1074 which later became the Texas Racial Profiling Law. The law came into effect on January 1, 2002 and requires that all police departments in Texas collect traffic-related data and report this information to their local governing authority by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of profiling minority motorists.

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

During the past legislative session, the Texas Legislature passed House Bill 3389 which modified the existing Racial Profiling Law by adding new requirements; this was due to take effect on January 1st, 2010. These new changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it will require officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the new law requires adding "middle eastern" to the racial and ethnic category and submitting the annual traffic data report to TCLEOSE before March 1st of each year, starting March 1st, 2011. I am pleased to inform you that these changes have already been addressed by the Tom Green County Sheriff's Office. Further, the report to be submitted in 2011 will illustrate these changes, are required by law.

The Tom Green County Sheriff's Office, in an effort to comply with The Texas Racial Profiling Law (S.B. 1074), commissioned the analysis of its 2009 traffic contact data. Thus, three different types of data analyses were performed. The first of these involved a careful evaluation of the 2009 traffic stop data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, and individuals belonging to the “other” category, that came in contact with the police in the course of a traffic-related stop, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a traffic-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2009 traffic-contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate

baseline to be used when analyzing traffic-related contact information. Of the baseline measures available, the Tom Green County Sheriff's Office opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Tom Green County Sheriff's Office in 2009 but live outside county limits. In some cases, the percentage of the population that comes in contact with the police but lives outside county limits represents a substantial volume of all traffic-related contacts made in a given year.

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

The final analysis was conducted while using the 2002--2009 traffic contact data. Specifically, all traffic-related contacts made in 2009 were compared to similar figures reported in 2002, 2003, 2004, 2005, 2006, 2007 and 2008. Although some researchers may not support the notion that in eight years, a “significant” and “permanent” trend can take effect, when considering this analysis, it was determined that comparing eight years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. That is, the eight-year comparison has the potential of revealing indicators that a possible trend of traffic-based contacts with regards to members of a specific minority group, may in fact, develop.

Tier 1 (2009) Traffic-Related Contact Analysis

When analyzing the Tier 1 data collected in 2009, it was evident that most traffic-related contacts were made with Caucasian drivers. This was followed by Hispanic and African American drivers. With respect to searches, most of them were performed on Caucasian drivers. This was followed by Hispanics and African Americans. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in traffic-related contacts; this was followed by Hispanics and African Americans.

Fair Roads Standard and U.S. Census Analysis

The data analysis of traffic contacts to the census data relevant to the number of "households" in Tom Green County who indicated, in the 2000 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of Caucasian and African American descent that came in contact with the police was higher than the percentage of Caucasian and African American households in Tom Green County that claimed, in the 2000 census, to have access to vehicles. It should be noted that the percentage difference among African American contacts with households with access to vehicles was of less than 3%; thus, deemed by some as being statistically insignificant. With respect to Hispanic, Asian and Native American drivers, a lower percentage of contacts were detected. That is, the percentage of Hispanic, Asian and Native American drivers that came in contact with the police in 2009 was lower than the percentage of Hispanic, Asian and Native American households in Tom Green County with access to vehicles.

Eight-Year Comparison

The eight-year comparison (02-09) of traffic-contact data showed some similarities. As illustrated in table 3, the percentage of drivers (from different racial/ethnic groups) that came in contact with the Tyler Police in 2009 was similar to the percentage of drivers, from the same racial/ethnic groups that came in contact with the Tom Green County Sheriff's Office in 2008, 2007, 2006, 2005, 2004, 2003 and 2002. When comparing 2009 to the previous years, there was a decrease among Caucasians and an increase among Hispanics.

It is clear that commonalities in the data existed, when analyzing the search-related contacts for all eight years. An increase in percentage was detected among Hispanics while a percentage decrease was noted among Caucasians. When considering the arrests made, the data revealed that the percentage of arrests increased among Hispanics while a decrease in percentage was evident among African Americans.

Summary of Findings

The comparison of traffic contacts showed that the Tom Green County Sheriff's Office came in contact (in traffic-related incidents) with a smaller percentage of Hispanic, Asian and Native American drivers than the percentage that resided in Tom Green County and had access to vehicles. Further, the data suggested that the percentage of Caucasian and African American drivers that came in contact with the police in 2009 was higher than the percentage of Caucasian and African American households in Tom Green County with access to vehicles.

A careful examination of the eight-year traffic-related contact data suggested that the Tom Green County Sheriff's Office has been, for the most part, consistent in the racial/ethnic composition of motorists it comes in contact with during a given year. The consistency of contacts for the past 8 years is in place despite the fact the city demographics may have changed, thus, increasing the number of subjects likely to come in contact with the police.

While considering the findings made in this analysis, it is recommended that the Tom Green County Sheriff's Office should continue to collect and evaluate additional information on traffic-contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the traffic-related contacts police officers are making with all individuals; particularly with African Americans. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all traffic contacts made with the public.

It should be noted that the Tom Green County Sheriff's Office has addressed all previous recommendations as these pertained to independent audits. The results of these audits suggest that the Department is collecting and reporting data in an accurate manner. With regard to the current report, the Tom Green County Sheriff's Office is encouraged to:

1) Perform an independent search analysis on the search data collected in the first quarter of 2010.

2) Commission quarterly audits in 2010 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The information and analysis provided in this report serves as evidence that the Tom Green County Sheriff's Office has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements **<u>were</u>** met by the Tom Green County Sheriff's Office in accordance with The Texas Racial Profiling Law:

☒ Clearly defined act or actions that constitute racial profiling

☒ Statement indicating prohibition of any peace officer employed by the Tom Green County Sheriff's Office from engaging in racial profiling

☒ Implement a process by which an individual may file a complaint regarding racial profiling violations

☒ Provide public education related to the complaint process

☒ Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law

☒ Collect data (Tier 1) that includes information on

a) Race and ethnicity of individual detained
b) Whether a search was conducted
c) If there was a search, whether it was a consent search or a probable cause search
d) Whether a custody arrest took place

☒ Produce an annual report on police contacts (Tier 1) and present this to local governing body by March 1, 2010.

☒ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

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

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