

CEDAR HILL
POLICE DEPARTMENT

2016

RACIAL PROFILING ANALYSIS

PREPARED BY:

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Executive Summary

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested subsequent to traffic stops and whether or not those individuals were searched. Since the law provides no clear instruction to a governing body on how to review such data, the Cedar Hill Police Department requested this analysis and review to assist the City Council in reviewing the data.

The analysis of material and data from the Cedar Hill Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE CEDAR HILL POLICE DEPARTMENT GENERAL ORDERS, SPECIFICALLY GENERAL ORDER 203.00 OUTLINING THE DEPARTMENT'S POLICY CONCERNING RACIAL PROFILING, SHOWS THAT THE CEDAR HILL POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE CEDAR HILL POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE ANALYSIS OF STATISTICAL INFORMATION FROM CEDAR HILL POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE CEDAR HILL POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**
- **THE CEDAR HILL POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

Introduction

This report details an analysis of the Cedar Hill Police Department's policies, training, and statistical information on racial profiling for the year 2016. This report has been prepared to specifically comply with Article 2.132 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of racial profiling data. Specifically, the analysis will address Articles 2.131 – 2.135 of the CCP and make a determination of the level of compliance with those articles by the Cedar Hill Police Department in 2016. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into six analytical sections: Cedar Hill Police Department's policy on racial profiling; Cedar Hill Police Department's training and education on racial profiling; Cedar Hill Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; analysis of Cedar Hill Police Department's compliance with applicable laws on racial profiling; and a final section which includes completed data and information reporting forms required to be sent to TCOLE beginning in 2011.

For the purposes of this report and analysis, the following definition of racial profiling is used: racial profiling means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas CCP Article 3.05).

Cedar Hill Police Department Policy on Racial Profiling

A review of Cedar Hill Police Department's General Order 203.00 revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix C). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in General Order 203.00. The Cedar Hill Police Department's general orders provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined according to the agency's general order on the "Administration of Discipline" up to and including termination. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix B lists the applicable statute corresponding to the Cedar Hill Police Department regulation.

A COMPREHENSIVE REVIEW OF CEDAR HILL POLICE DEPARTMENT'S General Order 203.00 SHOWS THAT THE CEDAR HILL POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Cedar Hill Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas Peace officers. Information provided by the Cedar Hill Police Department reveals that racial profiling training and certification is current for all officers.

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

Cedar Hill Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Cedar Hill Police Department utilizes a brochure on “Racial Profiling Complaint Procedures.” This easy to read and accessible brochure outlines the racial profiling complaint process and other pertinent information in an easy to comprehend format. The brochure also lists contact numbers and a website where citizens may receive further information. Cedar Hill Police Department also developed a Facebook page in 2013 in which citizens can ask questions, provide comments, and contact the department.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

Cedar Hill Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic citations and detentions with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also required to be collected. The Cedar Hill Police Department submitted statistical information on all stops in 2016 and accompanying information on the race of the person detained. Accompanying this data was the relevant information on searches and arrests.

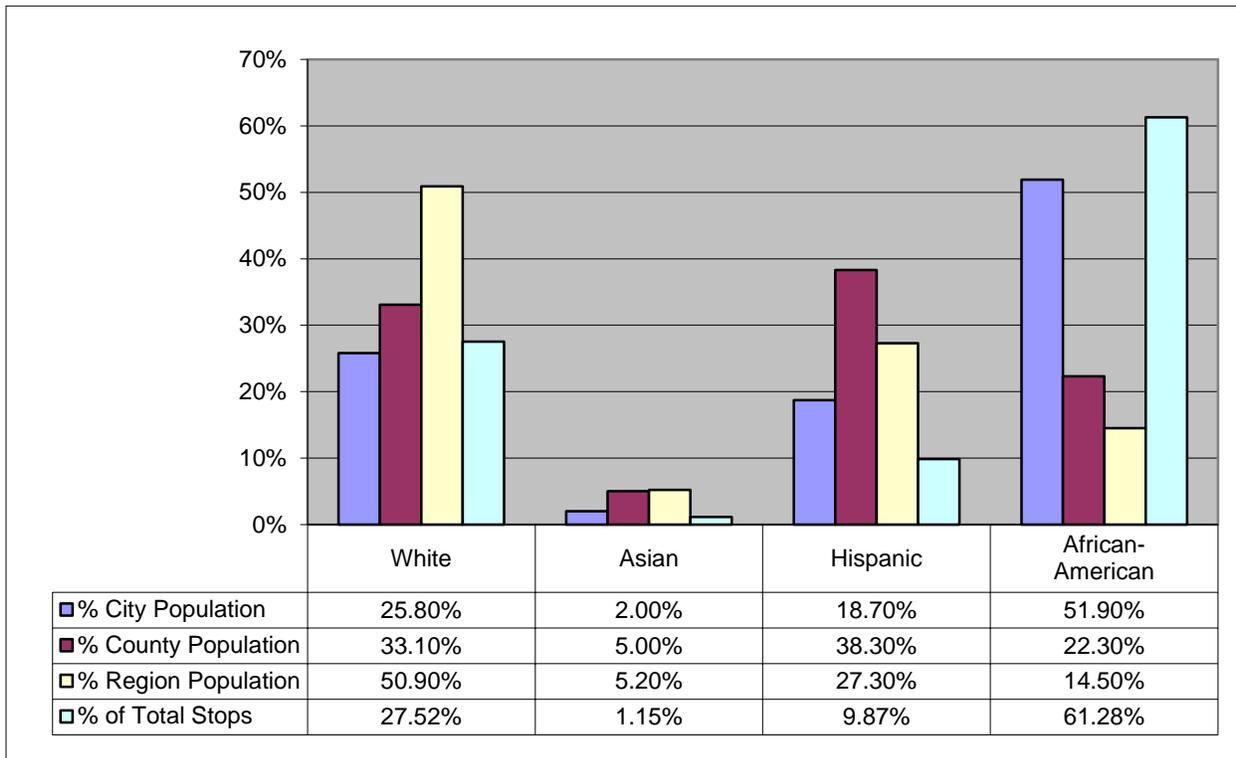
ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

Analysis of the Data

The first chart depicts the percentages of people stopped by race (Native American, Middle Eastern, and “other” categories are not charted due to extremely small number of cases). Overall, there were a total of 9,219 driver stops in 2016. White drivers constituted 27.52 percent of all drivers stopped, whereas Whites constitute 25.80 percent of the city population, 33.10 percent of the county population, and 50.90 percent of the region population.¹ African-American drivers constituted 61.28 percent of all drivers stopped, whereas African-Americans constitute

¹ City and County population figures are derived from the U.S. Census 2010 of the U.S. Census Bureau. Regional population figures are derived from the 2010 Census data compiled and published by the North Central Texas Council of Governments. “Regional” population figures are defined as the 16 county Dallas-Ft. Worth Area including the following counties: Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

51.90 percent of the city population, 22.30 percent of the county population, and 14.50 percent of the region population. Hispanic drivers constituted 9.87 percent of all drivers stopped, whereas Hispanics constituted 18.70 percent of the city population, 38.30 percent of the county population, and 27.30 percent of the regional population. Asian drivers constituted 1.15 percent of all drivers stopped whereas Asians constituted 2.00 percent of the city population, 5.00 percent of the county population, and 5.20 percent of the regional population.



The chart shows that White drivers are stopped at rates higher than the percentage of Whites found in the city population, lower than the percentage of Whites in the county population, and lower than the percentage of Whites in the regional population. African-American drivers were stopped at rates higher than the percentage of African-Americans in the city, county, and region population. Asian and Hispanic drivers were stopped at rates lower than their percentage in the city, county, and region population.

Based on the chart above, easy determinations regarding whether or not Cedar Hill police officers have “racially profiled” a given motorist are impossible given the nature of the data that has been collected and presented for this report. Problems with the State’s racial profiling law as it currently stands make it impossible to discern whether or not profiling has occurred on the basis of comparisons made to population base-rates. The next section will highlight the issues specifically associated with the current racial profiling law in Texas. This section should be viewed as a criticism specific to the existing racial profiling statute rather than the statistics for the Cedar Hill Police Department in particular. Problems related to the law discussed below include: 1) methodological issues associated with using group-level data to explain individual officer decisions, 2) the lack of objective indicators for the race of the driver that is stopped, and 3) problems associated with population base-rates that are commonly used as a “benchmark” of comparison.

The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling” motorists.

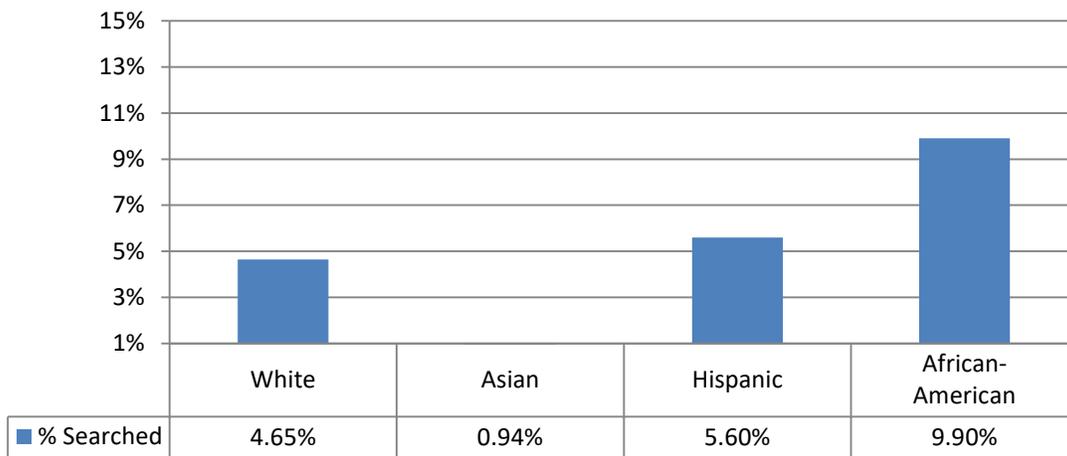
This methodological error, commonly referred to as the “ecological fallacy,” defines the dangers involved in making assertions about individual decisions based on the examination of aggregate level data. In short, one cannot “prove” that an *individual* officer has “racially profiled” any *individual* motorist based on the rate at which a department stops any given *group* of motorists. This kind of determination necessarily requires an examination of data at the individual officer level and a more detailed analysis of individual officer decision-making. Unfortunately, the law does not currently require the collection of this type of data, resulting in a considerable amount of conjecture as to the substantive meaning of aggregate level disparities.

Additional interpretation problems remain in regards to the specific measurement of “racial profiling” as defined by Texas state code. For example, officers are currently forced to make subjective determinations regarding an individual's race based on his or her personal observations because the Texas Department of Public Safety does not provide an objectively-based determination of an individual's race/ethnicity on the Texas driver's license. The absence of any verifiable race/ethnicity data on the driver's license is especially troubling given the racial diversity within the city of Cedar Hill and the North Texas region as a whole, and the large numbers of citizens who are African-American, Hispanic, or mixed racial descent. The validity of any racial/ethnic disparities discovered in the aggregate level data becomes threatened in direct proportion to the number of subjective “guesses” officers are forced to make when trying to determine an individual's racial/ethnic background.

Moreover, there has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. Questions concerning the most appropriate base-rate are most problematic in the case of traffic stops, because there are problems associated with using any number of different population measures to determine whether or not aggregate level racial disparities exist. The outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. In addition, the explosive rate of growth that has recently occurred across much of North Texas and particularly in the city of Cedar Hill has made the base-rate issue especially problematic because measures derived exclusively from the U.S. Census can become quickly outdated since they are compiled only once per decade. Indeed, the introduction of 2010 Census data in the current report shows the changing demographic character of the city of Cedar Hill since the 2000 Census and demonstrates the importance of the base-rate issue. Related, the determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures.

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

The bar chart below presents summary statistics of drivers (excluding passenger and property searches) who were subject to a search after being stopped within racial categories (this total also includes vehicle searches). The chart shows that the vast majority of stopped drivers were not subject to a search across the racial categories. For example, 4.65 percent of all White drivers who were stopped were subject to a search, 0.94 percent of Asian drivers who were stopped were searched, 5.60 percent of all Hispanic drivers who were stopped were subject to a search, and 9.90 percent of all African-American drivers who were stopped were subject to a search. Overall, less than 8 percent of stopped drivers were subject to a search, for a total of only 730 driver and vehicle searches across 9,219 stops.



It should be noted that aggregate level comparisons regarding the rates at which drivers are searched by police are subject to some of the same methodological issues as those outlined above regarding analyses of aggregate level stop rates. Of particular concern is the fact that Texas’ current racial profiling statute fails to mandate the collection of data that could be used to separate discretionary searches from non-discretionary searches. For example, searches that are conducted incidental to an arrest or as part of a vehicle tow inventory should not be included in analyses designed to examine whether or not racial profiling has occurred because these types of searches are non-discretionary in that the officer is compelled by law or departmental guidelines to conduct the search irrespective of the race of the stopped driver. An officer cannot be determined to be “racially profiling” when organizational rules and state codes compel them to search regardless of an individual’s race/ethnicity. Straightforward aggregate comparisons of search rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions. In this regard, however, the Cedar Hill Police Department exceeds the minimum data collection requirements mandated by the state. The Cedar Hill Police Department currently collects data concerning the authority under which officers search vehicles and/or persons. For example, Cedar Hill data for 2016 show that a large portion of searches were conducted incidental to arrest—situations that compel the officer to search, regardless of race.

The table below presents statistics concerning the total number of drivers who were stopped across the racial categories, as well as the number of drivers that were searched within each

racial category.² The table also presents the number of arrests that occurred, as well as the number of searches that were consensual. Overall, the table shows that searches were rare. Searches occurred in only 7.92 percent of all stops (730/9,219). Consent searches were even more infrequent, occurring in 0.6 percent of all stops (56/9,219). Finally, the table indicates that arrests were rare, occurring in only 4.41 percent of all stops.

Action	White	African-American	Hispanic	Asian	Other	Total
Total Stopped	2,537	5,649	910	106	17	9,219
Searched	118	559	51	1	1	730
Consent	18	36	2	0	0	56
Arrested	55	323	27	1	1	407

*Searched includes driver and vehicle searches

The final tables below provide additional statistics concerning police stops, searches, and arrests across the racial categories, as well as additional situational variables related to the stop.

² The table indicates a total of 9,219 citizens stopped (motor vehicle stops only). Not all stopped citizens received citations or were arrested. The total number of citations among the 9,219 stops equaled 3,979, the total number of arrests equaled 341, and the total number of arrests and citations equaled 66, for a combined total of 4,386 actions as reported on the TCOLE forms at the end of this report. Additionally, the number of persons searched was 730 in this report with a total of 56 consent searches (The 730 includes driver and vehicle searches). See the TCOLE reporting forms later in this report.

Stop Information (2016)						
		African-American	White	Hispanic	Asian	Other
Total Stopped		5,649	2,537	910	106	17
Type of stop	Motor vehicle	5,649	2,537	910	106	17
	Motorist assistance	10	11	1	0	0
	Field contact	2	2	2	1	0
	Passenger	2	0	0	0	0
	Bicyclist	1	0	1	0	0
Reason for stop	Traffic violation	1,190	546	204	25	6
	Unsafe lane change	33	24	5	0	0
	Penal code violation	32	5	7	0	0
	Call for service	6	5	1	3	0
	Traffic/Equipment	1,421	536	149	19	1
	Ran red light	42	21	6	0	0
	Speeding	1,622	906	381	46	6
	MVI	1,105	443	150	13	4
	N/A	1	5	0	0	0
Other	248	75	17	1	0	
Result of stop	Advice/Warning	2,908	1,491	380	68	7
	Field contact	2	4	0	1	0
	Citation	2,482	1,009	508	37	9
	Arrest	323	55	27	1	1
	Unfounded	15	6	4	0	0

Search Information (2016)						
		African-American	White	Hispanic	Asian	Other
Search Conducted	Driver searched	316	60	27	0	0
	Passenger searched	45	3	4	0	0
	Vehicle searched	243	58	24	1	1
	Property searched	5	3	0	0	0
	No search	5,199	2,459	870	106	16
	N/A	19	6	5	0	0
Search Authority	Probable cause	117	21	16	1	1
	Odor	77	12	5	0	0
	Dog alert	0	0	0	0	0
	Incident to arrest	210	32	14	0	0
	Plain view	23	5	5	0	0
	Tow/Inventory	25	5	5	0	0
	Consent	36	18	2	0	0
	Reasonable suspicion	9	0	3	0	0
Contraband Found	None	617	257	70	8	1
	Narcotics	1	1	1	0	0
	Weapons	5	2	1	1	1
	Other	23	2	2	0	0
	Alcohol	0	0	0	0	0

Analysis of Racial Profiling Compliance by the Cedar Hill Police Department

The foregoing analysis shows that the Cedar Hill Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection of data in compliance with the law.

Finally, internal records indicate that the department did not have or investigate any racial profiling complaints in 2016.

In addition to providing summary reports and analysis of the data collected by the Cedar Hill Police Department in 2016, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data.

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

Cedar Hill Police Department TCOLE Reporting Forms



**Partial Exemption Racial Profiling Reporting
(Tier 1)**

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):



all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR



In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption


Chief Administrator

01/19/2017
Date

PARTIAL EXEMPTION RACIAL PROFILING REPORTING (TIER 1)

INSTRUCTIONS: Please fill out all boxes. If zero, use 0.

1. Total on lines 4, 11, 14, and 17 must be equal
2. Total on line 20 must equal line 15

AGENCY NAME: CEDAR HILL POLICE DEPARTMENT

Number of motor vehicle stops (mark only 1 category per vehicle stop):

1. 3979 Citation only
2. 341 Arrest only
3. 66 Both

4. 4386 (Total of 1-3)

Race or Ethnicity (mark only 1 category per vehicle stop):

5. 2749 African
6. 38 Asian
7. 1058 Caucasian
8. 531 Hispanic
9. 8 Middle Eastern
10. 2 Native American

11. 4386 (Total of 5-10, must be the same as #4)

Race or Ethnicity known prior to stop?

12. 187 Yes
13. 4199 No

14. 4386 (Total of 12-13, must be the same as #4 and #11)

Search conducted?

15. 730 Yes
16. 3656 No

17. 4386 (Total of 15-16, must be the same as #4, #11, and #14 above)

Was search consented?

18. 56 Yes
19. 674 No

20. 730 (Total, must equal #15)



**Partial Exemption Racial Profiling Reporting
(Tier 1)**

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

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

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above requirements

 01/19/2017
Chief Administrator Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

Appendix A

Racial Profiling Statutes and Laws

Art. 3.05. RACIAL PROFILING.

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

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

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

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

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2011.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

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

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

- (3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
- (4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
- (5) the reason for the search, including whether:
 - (A) any contraband or other evidence was in plain view;
 - (B) any probable cause or reasonable suspicion existed to perform the search; or
 - (C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
- (6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
- (7) the street address or approximate location of the stop; and
- (8) whether the officer issued a written warning or a citation as a result of the stop.

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

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2011.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

- (1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).
- (2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education

and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

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

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

- (A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; and
- (B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

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

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

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

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

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

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

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

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT.

(a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

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

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

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

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

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

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

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

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

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2011.

Art. 2.136. LIABILITY.

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

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

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

Art. 2.138. RULES.

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

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

Art. 2.1385. CIVIL PENALTY.

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

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

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

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

Appendix B

Racial Profiling Laws and Corresponding Regulations and Procedures

Texas CCP Article	CEDAR HILL POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	G.O. 203.03 and 203.04
2.132(b)2	G.O. 203.02 B
2.132(b)3	G.O. 203.06
2.132(b)4	G.O. 203.06 & Complaint Brochure
2.132(b)5	G.O. 203.06
2.132(b)6	G.O. 203.07
2.132(b)7	G.O. 203.11

Appendix C

**Cedar Hill Police Department
General Order 203.00**



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GO 203.00 RACIAL PROFILING (BIAS-BASED POLICING)

TBP: 2.01	CJIS:
Effective Date: 7-12-09	Review Date: 10-30-13
Revised Date:	
Comment(s):	
Related Directive(s):	
Related Form(s):	
Issued by: S. L. Rhodes, Police Chief	

GO 203.01 PURPOSE

- A. This directive:
1. provides guidance to officers in the area of traffic stops, detentions, and enforcement of laws;
 2. helps ensure that traffic enforcement is carried out in a proactive manner within the constraints of the United States and Texas constitutions and laws so that all citizens are treated fairly;
 3. offers protection to officers from unwarranted accusations of misconduct when they act within the law and department policies.
- B. The changes in this directive reflect the legislative amendments made by HB 3389 (81st Regular Session, effective September 1, 2009) and are effective accordingly. (Added 10-1-09)

GO 203.02 POLICY

- A. It is the policy of the Cedar Hill Police Department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce motor vehicle laws.
- B. Racial profiling is not an acceptable tactic and will not be condoned. The department will utilize various management tools to ensure that racial profiling is not practiced.
- C. This policy shall not preclude an officer from stopping a person to offer assistance. In fact, to promote quality customer service, officers are

encouraged to offer assistance as it is needed – without the fear of reprisal.

- D. This directive relates to bias-based and racial profiling issues and is intended to bring the department into compliance with legislative mandates related to racial profiling. Other procedures related to conduct during citizen contacts, taking enforcement action, searches and seizures of persons and property, methods for conducting vehicle and pedestrian stops, are governed by other written directives, and shall be consistent with this directive. Any conflicts or inconsistencies between this directive and any other directive relating to officer conduct, the stricter standard shall prevail.
- E. Nothing in this directive shall preclude the practice of criminal profiling, which relies on the analysis of multiple factors collectively to predict or to identify criminal activity.

GO 203.03 DEFINITIONS

- A. **Mobile recording device** - means a transmitter-activated device that records video and/or audio onto a medium that is capable of storing and replaying the recording. (Added 7-22-09)
- B. **Motor vehicle stop** - means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance. (Added 10-1-09)
- C. **Race or ethnicity** - is a particular descent of a person, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent. (10-1-09)



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- D. **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.
- E. **Reasonable suspicion** - also known as articulable suspicion - is a belief by a reasonable and prudent person, based on articulable facts and circumstances, that some type of criminal activity is afoot; or, a belief by a reasonable and prudent peace officer, based on articulable facts and circumstances and the inferences that can be made from those facts and circumstances because of the officer's experience and knowledge, that some type of criminal activity is afoot, and the detainee is somehow involved.

GO 203.04 BIAS-BASED CONDUCT PROHIBITED

(7-22-09) (TBP 2.01)

- A. Bias-based or racial profiling occurs when the officer initiates a law enforcement action that is based solely on an individual's race, ethnicity, or national origin, sexual orientation, religion, economic status, age, cultural group, or belonging to any other identifiable group, rather than on reasonable suspicion that the person has committed, is committing, or is about to commit some violation of the law. (7-22-09)
- B. In the absence of credible information that includes a physical description, a person's gender, race, ethnicity, national origin, sexual orientation, religion, economic status, age, cultural group, or belonging to any other identifiable group, shall not by itself be a factor in determining probable cause for an arrest or reasonable suspicion for a stop. (7-22-09)
- C. Bias-based and racial profiling are unacceptable investigative tactics and are strictly prohibited. Persons engaging in bias-based or racial profiling are subject to the consequences enumerated in directive AO 433.00 DISCIPLINE.
- D. Nothing in this directive shall preclude the practice of criminal profiling, which relies on the analysis of multiple factors collectively to predict or to identify criminal activity.

GO 203.05 TRAINING
(TBP 2.01)

- A. Officers will receive education and training on racial profiling that is consistent with Sections 1701.253 and 1701.402, Texas Occupations Code, and with Section 96.641, Texas Education Code.
- B. The department will review on a continual basis the need for further training relating to racial profiling issues.
- C. The Training Unit shall ensure that all training mandated by statute and by this directive have been completed.

GO 203.06 COMPLAINT PROCESS

- A. Information is available to the public, in accordance with directive AO 205.00 ADMINISTRATIVE INVESTIGATIONS, about how a person may file a complaint against a Police Department member for alleged misconduct and for filing a complaint about a department practice or procedure. No person will be discouraged or intimidated from filing a complaint for conduct that is prohibited by this directive.
- B. Complaints of racial profiling will be received and investigated in the manner specified in directive AO 205.00 ADMINISTRATIVE INVESTIGATIONS, with the following exceptions:
1. Complaints will be accepted for alleged racial profiling that occurred up to 90 days prior to the date of the complaint;
 2. All complaints of racial profiling will be forwarded directly to the Chief of Police.
- C. An allegation of racial profiling is a serious charge, which could have a devastating impact on the accused officer, regardless of the merits of the allegation. Therefore, complaints of racial profiling will be investigated thoroughly and expeditiously.
- D. On the commencement of an investigation by the department of a complaint alleging racial profiling, the department must furnish the accused officer a copy of any existing videotape or other recording of the related stop, upon written request by the officer. (Art. 2.132(f), Texas Code of Criminal Procedure.)

GO 203.07 INCIDENT-BASED DATA COLLECTION

(TBP 2.01)

- A. **Definition.** For the purposes of this section, "data" includes written, video, or audio recordings of a motor vehicle stop. (10-1-09)
- B. **Certain Data Required.** Articles 2.131 through 2.136, Texas Code of Criminal Procedure,



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establish certain data collection and reporting requirements relating to motor vehicle stops. However, the officer and the department are exempt from some of the data collection and reporting requirements if requirements in Art. 2.135, Texas Code of Criminal Procedure, are met. Regardless of the exemptions, the officer will collect certain incident-based data, minimally including: (10-1-09)

1. the race or ethnicity and gender of the individual detained; (Art. 2.133)(10-1-09)
2. whether a search was conducted and, if so, whether the individual detained consented to the search; (Art. 2.132 and Art. 2.133) and (10-1-09)
3. whether the officer knew the race or ethnicity of the individual detained before detaining that individual; (Art. 2.132) (10-1-09)
4. the initial reason for the stop; (Art. 2.133) (10-1-09)
5. whether contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence; (Art. 2.133) (10-1-09)
6. the reason for the search, including whether: (Art. 2.133) (10-1-09)
 - 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.
7. 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. (Art. 2.133) (10-1-09)
8. the street address or approximate location of the stop; (Art. 2.133)
9. whether the officer issued a written warning or a citation as a result of the stop; (Art. 2.133) (10-1-09)

GO 203.08 VIDEO/AUDIO RECORDING EQUIPMENT

A. Required Use

1. For the purposes of this section, a "mobile recording device" shall have the meaning assigned in section GO 203.01.

2. An officer operating a police vehicle that is equipped with a mobile recording device will ensure that the entire motor vehicle stop is recorded. (10-1-09)
3. The mobile recording device will be operated in accordance with established procedures. (10-1-09)

B. Retention

1. All mobile recordings will be maintained for at least 90 days. (10-1-09)
2. If a complaint is filed with the department alleging that a Cedar Hill officer has engaged in racial profiling, any mobile recording of the related motor vehicle stop will be retained until the final disposition of the complaint. (10-1-09)

GO 203.09 MOTOR VEHICLE STOP DATA SHEET (INCIDENT-BASED DATA SHEET)

(10-1-09)

A. Required Use

1. An officer will complete an incident-based data sheet or electronic form on the MCT for each motor vehicle stop the officer conducts, regardless of whether the stop is video or audio recorded. (10-1-09)
2. The incident-based data required to be collected by the department shall minimally include the information required to be collected under Art. 2.321, Texas Code of Criminal Procedure. (10-1-09)

B. Retention

1. The data sheets shall be retained for at least 90 days after the contact for which the record was made.
2. If a complaint is filed with the department alleging that a Cedar Hill officer has engaged in racial profiling, any incident-based data sheet completed related to the motor vehicle stop will be retained until the final disposition of the complaint. (10-1-09)

GO 203.10 REVIEWING OR OVERSIGHT OF INCIDENT-BASED DATA COLLECTION

(10-1-09)

- A. For the purposes of this section, "data" has the meaning assigned under section GO 203.07.
- B. First-line supervisors will randomly review mobile video and audio recordings of each subordinate and will determine whether the subordinate is complying with the provisions of this and other applicable directives.



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- C. On a quarterly basis the supervisor will submit to the supervisor's division commander a completed "Racial Profiling Assessment Form." Along with the form, the supervisor will submit recommendations for training, policy revisions, and modifying procedures, as needed. (10-1-09)
- D. The division commander will review the form and recommendations submitted by the supervisor and will forward them to the Office of the Chief of Police.
- E. Both the supervisor and the division commander will identify any need for training, for revising policy, and for modifying procedure.

GO 203.11 REPORTS REQUIRED

(TBP 2.01)

- A. The department will submit to the governing body and to TCOLE not later than March 1 of each year an annual report of the incident-based data collected under section GO 203.07, in accordance with Art. 2.134, Texas Code of Criminal Procedure. (10-1-09)
- B. The purpose and content of the report shall be in accordance with Art. 2.134, Texas Code of Criminal Procedure. The report will minimally:
 - 1. evaluate and compare the number of motor vehicle stops, within the city's jurisdiction, of persons who are recognized as racial or ethnic minorities; and (added 10-1-09)
 - 2. examine the disposition of motor vehicle stops made by officers employed by the department, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the City's jurisdiction; (10-1-09)
 - 3. include information relating to each complaint filed with the department alleging racial profiling.

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