

BROWNWOOD POLICE DEPARTMENT

2014



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 for traffic violations 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 Brownwood Police Department requested this analysis and review to assist the City Council in reviewing the data.

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

- **A COMPREHENSIVE REVIEW OF THE BROWNWOOD POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE BROWNWOOD 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 BROWNWOOD 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 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 BROWNWOOD POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE BROWNWOOD POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**
- **THE BROWNWOOD 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 Brownwood Police Department's policies, training, and statistical information on racial profiling for the year 2014. 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 Brownwood Police Department in 2014. 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: Brownwood Police Department's policy on racial profiling; Brownwood Police Department's training and education on racial profiling; Brownwood Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; analysis of Brownwood 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).

Brownwood Police Department Policy on Racial Profiling

A review of Brownwood Police Department's General Order 1.00.09.11 "Racial Profiling" revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP (see Appendix B). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are covered in Brownwood Police Department's racial profiling policy. Brownwood Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling will face appropriate corrective actions. The policies 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 C lists the applicable statute and corresponding Brownwood Police Department regulation.

A COMPREHENSIVE REVIEW OF BROWNWOOD POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE BROWNWOOD POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Brownwood 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 Brownwood Police Department reveals that the department has conducted racial profiling training for all officers. Racial profiling training is also covered in Brownwood Police Department's racial profiling policy Section III (D) which mandates Brownwood Police

Department supervisors “will provide leadership and training to their officers on this policy [racial profiling policy] in an ongoing manner to ensure compliance with this order.”

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

Brownwood 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. Brownwood Police Department’s Racial Profiling Policy Section III (E)-(F) covers this requirement.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT 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.

Brownwood 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 collected. Brownwood Police Department submitted statistical information on all citations in 2014 and accompanying information on the race of the person cited. 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.

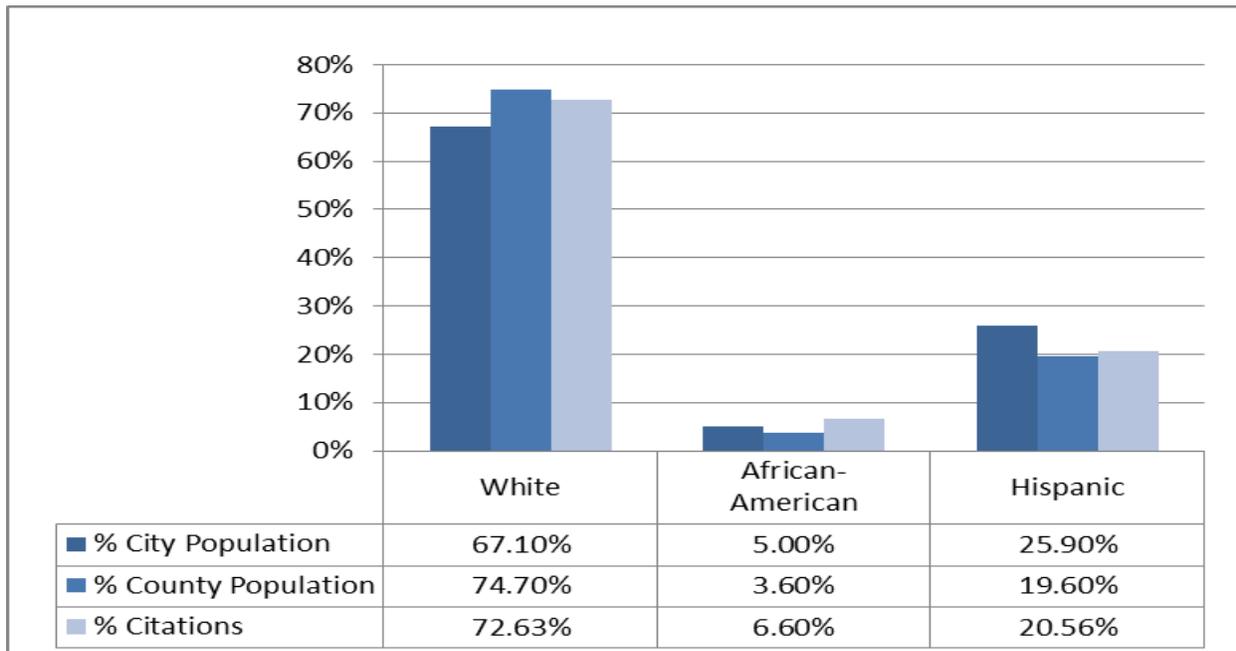
Analysis of the Data

The first chart depicts the percentages of people cited (citation only or arrest only) by race including Whites, African-Americans, and Hispanics among the total 5,510 stops in 2014.¹ White drivers constituted 72.63 percent of all drivers cited, whereas Whites constituted 67.10 percent of the city population and 74.70 percent of the county population.² The chart shows that White drivers were cited at a rate that is slightly higher than the percentage of Whites in the city population but lower than the percentage of Whites in the county population. African-American drivers constituted 6.60 percent of all drivers cited, whereas African-Americans constituted 5.00 percent of the city population and 3.60 percent of the county population. African-American

¹ Other racial/ethnic groups are not charted due to the extremely low number of stops and their proportion of the Brownwood City and County population. The total 5,510 stops include 5,456 citation only and 54 arrest only actions. The figure 5,510 is utilized in all calculations in this report. See the TCOLE forms at the end of this report.

² City and County population figures were derived from the 2010 Census of the U.S. Census Bureau. These figures can be found at the U.S. Census Bureau “quickfacts” at <http://quickfacts.census.gov>.

drivers were cited at a rate that is slightly higher than the percentage of African-Americans found in the city and county populations. Hispanic drivers constituted 20.56 percent of all drivers cited, whereas Hispanics constituted 25.90 percent of the city population and 19.60 percent of the county population. Hispanics were cited at rates lower than the percentage of Hispanics found in the city population and slightly higher than the percentage of Hispanics in the county population.



As the chart shows, easy determinations regarding whether or not Brownwood 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. 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 officer decisions based on the examination of aggregate incident 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.

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 Brownwood. 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.

In addition, the data collected for the current report does not allow for an analysis that separates (or disaggregates) the discretionary decisions of officers to stop a motorist from those that are largely non-discretionary. For example, non-discretionary stops of motorists based on the discovery of outstanding warrants should not be analyzed in terms of whether or not "profiling" has occurred simply because the officer who has stopped a motorist as a result of the discovery of an outstanding warrant does not *independently* make the decision to stop, but rather, is required to stop that individual regardless of any determination of race. An officer cannot be determined to be "racially profiling" when organizational rules and state codes compel them to stop regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of stop rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions. In the future, this validity issue could be lessened by the collection of data indicating the initial reason for the traffic stop, whether it be an observed traffic violation, other criminal activity, the existence of an outstanding warrant, or some other reason.

Finally, there has been considerable debate as to what the most appropriate population "base-rate" is in determining whether or not racial/ethnic disparities exist. As the current analysis shows in regards to the use of city and county population base-rates, the outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. Although the 2010 Census figures provide more up-to-date information since the 2000 Census, these figures will become quickly outdated as well and will not reflect recent changes to the population size and demographic character of the City of Brownwood.

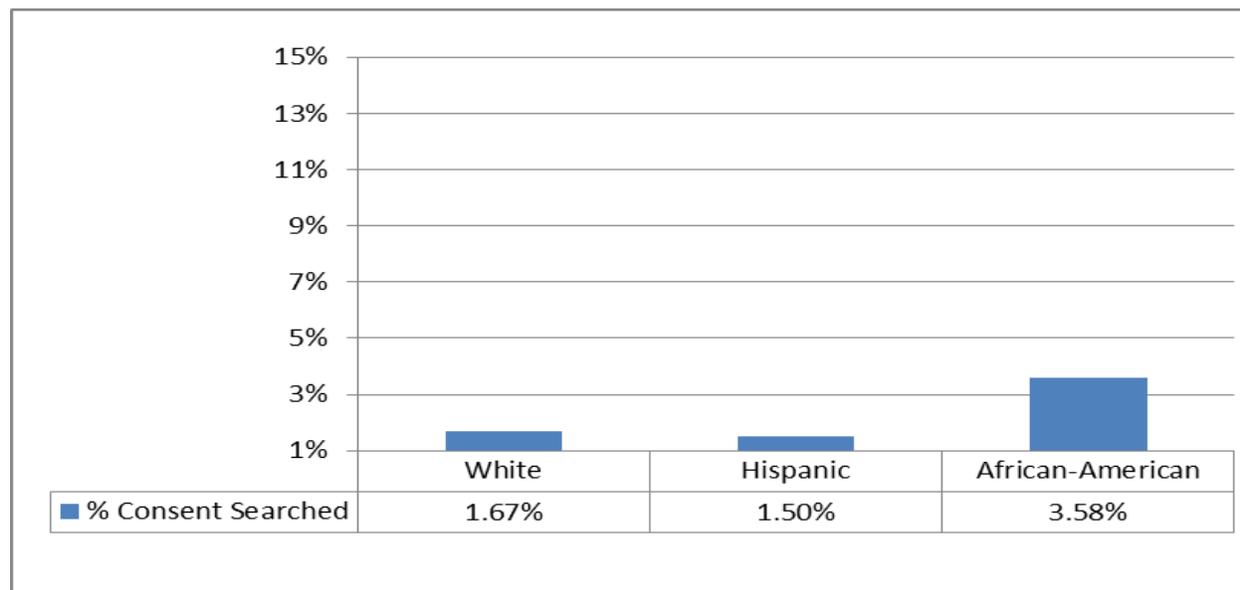
Related to the above, the determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons 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 cited in order to determine whether or not racial profiling exists within a given jurisdiction.

The table below reports the summaries for the total number of persons cited or arrested and searched subsequent to being stopped by the Brownwood Police Department for traffic offenses in 2014 (5,510). In addition, the table shows the number of individuals who granted consent to search and those drivers who were arrested at the conclusion of the stop. The chart shows that roughly 65 percent of all drivers searched were White (101/156 total searches), roughly 10 percent (15/156) were African American, and roughly 26 percent (40/156) were Hispanic. It is clear from the table that the vast majority of the total number of drivers cited (including White, African-American, and Hispanic groups) were not searched, as roughly 97 percent of all drivers who were cited were not searched (156/5,510).

Action	White	African-American	Hispanic	Asian	Other	Total
Vehicle Stops	4,002	363	1,133	6	6	5,510
Search Conducted	101	15	40	0	0	156
Consent Searches	67	13	17	0	0	97
Arrests	41	3	9	0	1	54

The bar chart below presents the percentage of drivers that provided consent to search *within* each racial category. The chart indicates that drivers who were cited were rarely consent searched across the racial categories. For example, only 1.67 percent of all White drivers who were cited were also searched by consent (67 total consent searches), 1.50 percent of all Hispanic drivers who were cited were also searched by consent (17 total consent searches) and 3.58 percent of all African-American drivers who were cited were searched by consent (13 total consent searches).



Analysis of Racial Profiling Compliance by Brownwood Police Department

The foregoing analysis shows that the Brownwood 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, an education and training process, a formalized complaint process, and the collection of data in compliance with the law. Finally, internal

records indicate that the department received no complaints in reference to racial profiling for the year 2014.

In addition to providing summary reports and analysis of the data collected by the Brownwood Police Department in 2014, 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 for the Brownwood Police Department as well as police agencies across Texas. The Brownwood Police Department should continue its educational and training efforts within the department on racial profiling. Finally, the department should conduct periodic evaluations to assess patterns of officer decision-making on traffic stops. The final section of this report includes required TCOLE reporting information by Texas law enforcement organizations.

**Brownwood Police Department TCOLE
Reporting Forms**



Partial Exemption Racial Profiling Reporting
(Tier 1)

Department Name Brownwood Police Department
 Agency Number ARI Tx 0250200
 Chief Administrator Name Mike S. Corley
 Reporting Name James Fuller
 Contact Number 325-646-6769
 E-mail Address jfuller@ci.brownwood.tx.us

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):

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.

These policies are in effect

Mike S. Corley _____
 Chief Administrator 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: Brownwood Police Department
1050 W Commerce
Brownwood, Texas 76801

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

1. 5,456 Citation only
2. 54 Arrest only
3. _____ Both

4. 5,510 (Total of 1-3)

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

5. 363 African
6. 6 Asian
7. 4,002 Caucasian
8. 1,133 Hispanic
9. 0 Middle Eastern
10. 0 Native American
- 6 "Other"

11. 5,510 (Total of 5-10, must be the same as #4)

Race or Ethnicity known prior to stop?

12. 12 Yes
13. 5,498 No

14. 5,510 (Total of 12-13, must be the same as #4 and #11)

Search conducted?

15. 156 Yes
16. 5,354 No

17. 5,510 (Total of 15-16, must be the same as #4, #11, and #14 above)

Was search consented?

18. 97 Yes
19. 59 No

20. 156 (Total, must equal #15)

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 2009, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2009.

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 2009, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2009.

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 2009, 81st Leg., R.S., Ch. [1172](#), Sec. 27, eff. September 1, 2009.

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 2009, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2009.

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 2009, 81st Leg., R.S., Ch. 1172, Sec. 29, eff. September 1, 2009.

Appendix B

Brownwood Police Department Racial Profiling Policy

- I. PURPOSE
- II. POLICY
- III. PROCEDURE
- IV. EFFECTIVE DATE

- I. PURPOSE:

The purpose of this Order is to establish policy regarding the profiling of people based solely on the person's race, ethnicity, or national origin.

- II. POLICY:

It is the policy of the Brownwood Police Department that all arrests, investigative stops, traffic stops, searches, and seizures performed by officers of the Department are a result of facts and circumstances which can be articulated to support a reasonable suspicion or probable cause as required by state and federal law. Police Officers are prohibited from stopping, detaining or searching any person or taking enforcement action when the officer's actions are solely motivated by consideration of the person's race, ethnicity, national origin, religion, gender, sexual orientation, economic status, age, cultural group, or any other identifiable group.

- III. PROCEDURE:

- A. Definition of Racial Profiling

- 1. Racial profiling is defined as a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.
- 2. Race or ethnicity is defined as a person of a particular descent such as Caucasian, African, Hispanic, Asian, Native American, Middle Eastern and other descents.

- B. Examples of Racial Profiling (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 that race, ethnicity or national origin is unlikely to possess 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 at a specific place.

C. Officer Responsibility

1. Officers are required to assure all arrests, investigative stops, traffic stops, searches, and seizures will be the result of facts and circumstances which can be articulated and supported by a reasonable suspicion or probable cause as required by law.
2. Prior to release, officers will explain to an individual why they have been stopped or detained and take all reasonable measures to ensure the length of contact or detention is no longer than necessary.
3. If the officer is asked for his/her name and identification number by the individual who has been detained, the officer will provide it in writing or by business card.
4. If, after investigation, an officer determines the reason for a detention or arrest no longer exists, the officer will provide an appropriate explanation of the circumstances to the individual.

D. Supervisory Responsibility

1. Supervisors are responsible for the oversight of all officer activity and are responsible for ensuring that officer activity is in keeping with this policy.
2. Supervisors will provide leadership and training to their officers on this policy in an ongoing manner to ensure compliance with this order.

E. Departmental Responsibilities

1. Command Staff will ensure that educational material be made available to the public on the complaint process.

2. Records Division will coordinate with the Brownwood Municipal Court in ensuring that all racial profiling documentation is compiled and prepared for the annual reporting process.
3. An annual Racial Profiling Report will be submitted to the City Council.
 - a. The report will not contain identifying information about any police officers or the individuals detained.
 - b. The report will include a summary of the public education efforts made during the preceding year.
 - c. The report will be submitted to the City Council by March 1 of the following year.

F. Racial Profiling Complaint Process

1. All complaints, whether verbal or in writing, will be handled and investigated in accordance with Internal Discipline G.O. 1.00.04.11.
2. When an investigation of a racial profiling complaint is sustained, appropriate corrective action will be taken.

IV. EFFECTIVE DATE: _____

Mike S. Corley
Chief of Police
Brownwood Police Department

Appendix C

Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	BROWNWOOD POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	Section III (Procedure); A & B
2.132(b)2	Section II (Policy)
2.132(b)3	Section III (Procedure); F
2.132(b)4	Section III (Procedure); E
2.132(b)5	Section III (Procedure); F
2.132(b)6	Section III (Procedure); E
2.132(b)7	Section III (Procedure); E