



# DUNCANVILLE POLICE DEPARTMENT

2009

## 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 Duncanville Police Department requested this analysis and review to assist the City Council in reviewing the data.

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

- **A COMPREHENSIVE REVIEW OF THE DUNCANVILLE POLICE DEPARTMENT REGULATIONS, SPECIFICALLY SECTION 5.41 OUTLINING THE DEPARTMENT’S POLICY CONCERNING RACIAL PROFILING, SHOWS THAT THE DUNCANVILLE 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 DUNCANVILLE 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 IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE ANALYSIS OF STATISTICAL INFORMATION FROM DUNCANVILLE POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE DUNCANVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**

## **Introduction**

This report details an analysis of the Duncanville Police Department's policies, training, and statistical information on racial profiling for the year 2009. 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 Duncanville Police Department in 2009. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into five analytical sections: Duncanville Police Department's policy on racial profiling; Duncanville Police Department's training and education on racial profiling; Duncanville Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; and an analysis of Duncanville Police Department's compliance with applicable laws on racial profiling.

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).

### **Duncanville Police Department Policy on Racial Profiling**

A review of Duncanville Police Department regulation 5.41 revealed that the department has adopted policies to be 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 clearly covered in regulation 5.41. Duncanville Police Department regulations provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined 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 or ethnicity. Appendix C lists the applicable statute and corresponding Duncanville Police Department regulation.

*A COMPREHENSIVE REVIEW OF DUNCANVILLE POLICE DEPARTMENT REGULATION 5.41 SHOWS THAT THE DUNCANVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.*

### **Duncanville 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 Duncanville 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 DUNCANVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.*

## **Duncanville 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. Duncanville Police Department regulation 5.41 Section IV Parts A-D covers this requirement. Specifically, the department has prepared a tri-fold pamphlet available in the Duncanville Police Department lobby, the counter outside the Duncanville Police Department Internal Affairs office, and the Duncanville Public Library. The brochure is clearly written and provides detailed information on the process and whom to contact to file a complaint.

*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.*

## **Duncanville Police Department Statistical Data on Racial Profiling**

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic stops in which a citation is issued and arrests 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. Duncanville Police Department submitted statistical information on all citations in 2009 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 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 by race among the total 4,601 citations given in 2009.<sup>1</sup> White drivers constituted 18.06 percent of all drivers cited, whereas Whites constitute 56.50 percent of the city population, 44.30 percent of the county population, and 59.30 percent of the region population.<sup>2</sup> However, White drivers were cited at a higher rate than the percentage of Whites within the campus population of ISD students (10.40 percent).<sup>3</sup> African-

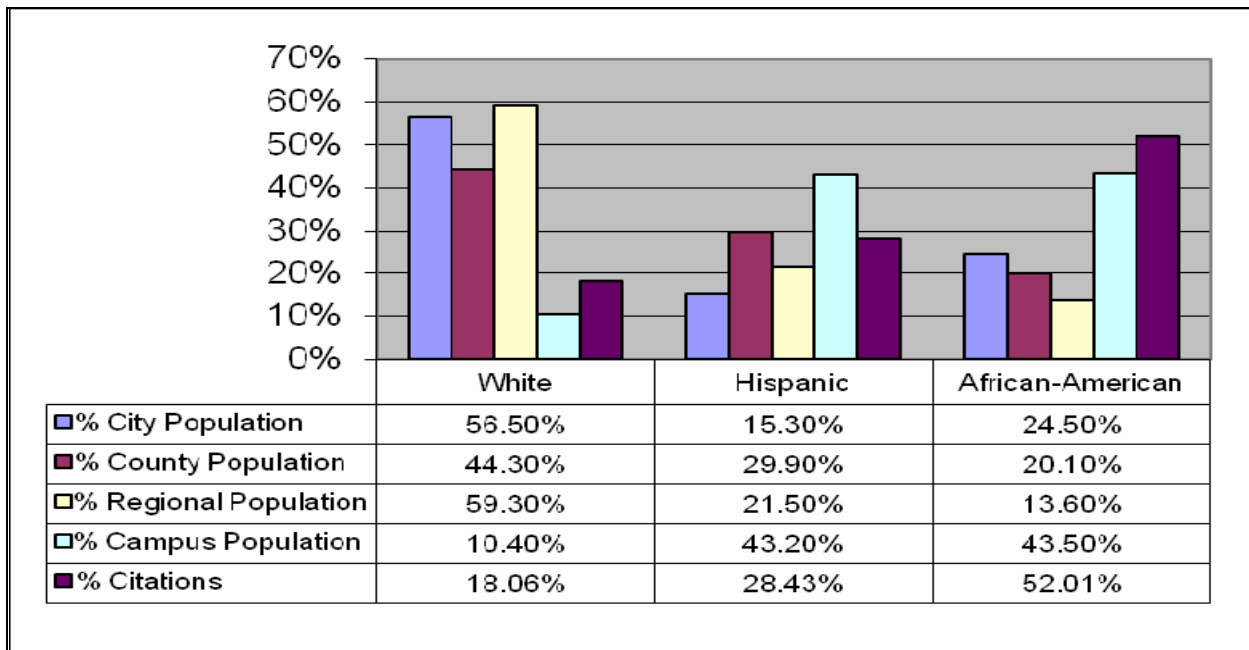
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<sup>1</sup> There were 69 citations given where the race/ethnicity of the citizen was Asian, Native American, or unknown. Due to the extremely small number of cases, these data are not represented in the charts.

<sup>2</sup> City, County, and Regional population figures are derived from 2000 Census data compiled and published by the North Central Texas Council of Governments. "Regional" population figures are defined as the twelve county Dallas-Ft. Worth Consolidated Metropolitan Statistical Area including the following counties: Dallas, Denton, Collin, Hunt, Rockwall, Ellis, Kaufman, Henderson, Tarrant, Parker, Hood and Johnson.

<sup>3</sup> Duncanville ISD enrollment data are used as a proxy measure of population changes that have occurred in Duncanville since the 2000 Census data were collected. Data are based on figures reported by Duncanville ISD for Fall 2008 found at [http://www3.duncanvilleisd.org/files/pdf/fast%20facts%20both%20pages\\_dec08.pdf](http://www3.duncanvilleisd.org/files/pdf/fast%20facts%20both%20pages_dec08.pdf). More recent measures of changes in the racial make-up of the student population can be used to indicate shifts in the racial make-up of the city as a whole since the 2000 Census. For example, the percentage of White students within the ISD population has been declining while the percentage of African-American and Hispanic students has been on the rise in recent years.

American drivers constituted 52.01 percent of all drivers cited, whereas African-Americans constituted 24.50 percent of the city population, 20.10 percent of the county population, and 13.60 percent of the region population. African-American drivers were cited at a rate that is higher than the percentage of African-Americans within the ISD student population (43.50 percent). Hispanic drivers constituted 28.43 percent of all drivers cited, whereas Hispanics constituted 15.30 percent of the city population, 29.90 percent of the county population, and 21.50 percent of the region population. Hispanic drivers were cited at a rate that is much lower than the percentage of Hispanic students within the ISD (43.20 percent).



Easy determinations regarding whether or not Duncanville 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. This kind of determination necessarily requires an examination of data at the individual officer level for 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. That is, who or what is driving the disproportionate rates at which minorities seem to be stopped and searched? We cannot know or even begin to examine this issue with analyses that end with aggregate level comparisons of rates.

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 Duncanville and the North Texas region as a whole, and the large numbers of citizens who are of Hispanic and/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.

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. 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. As the current analysis shows in regards to the use of city, county, regional, and ISD student population base-rates, the outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. In addition, changes in the demographic character of North Texas and particularly within the city of Duncanville have 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. 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.

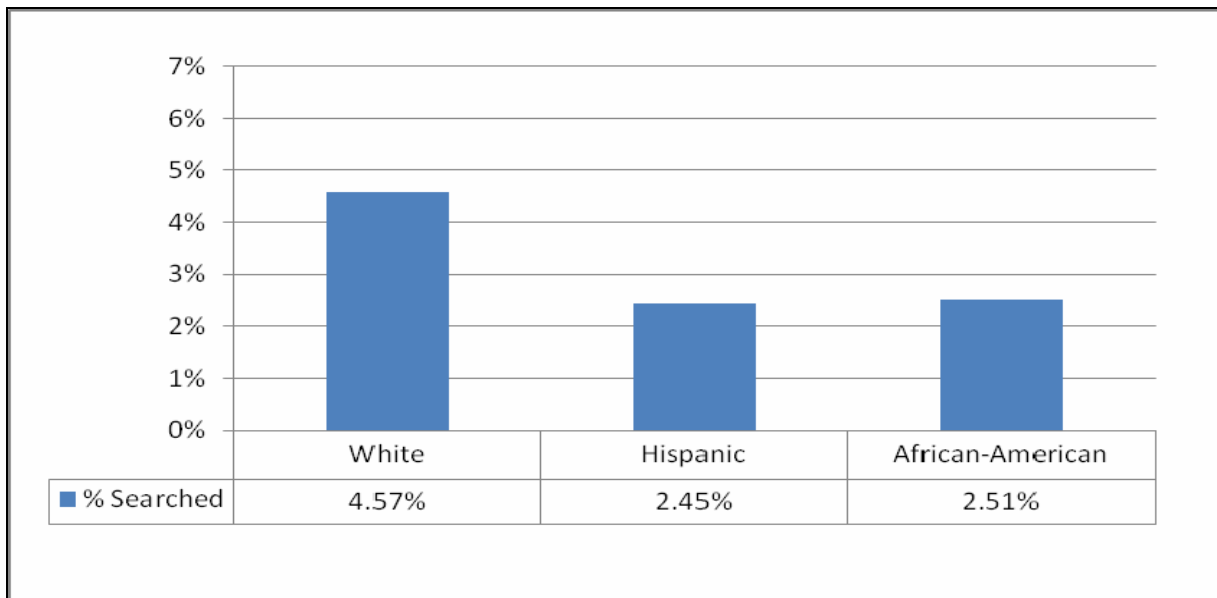
The table below reports the summaries for the total number of persons cited and searched subsequent to being stopped by the Duncanville Police Department for traffic offenses. In addition, the table shows the number of stopped individuals who granted consent to search and

those stopped drivers who were arrested pursuant to the stop. The table shows that roughly 18 percent of all citations were given to White drivers (831/4601 total citations), roughly 52 percent (2,393) of all citations were given to African-American drivers, and roughly 28 percent (1,308) of all citations were given to Hispanic drivers. In addition, roughly 21 percent of all drivers searched were White (105/500 total searches), roughly 27 percent were Hispanic, and 51 percent were African-American. It is clear, however, that the vast majority of the total number of drivers cited (including White, African-American, and Hispanic groups) were *not* searched (89 percent).

<b>Action</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>African-American</b>	<b>Other</b>	<b>Total</b>
Total Citations	831	47	1308	2393	22	4601
Searched	105	2	136	257	0	500
Consent	38	0	32	60	0	130
Arrest	192	3	69	412	1	677

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 absence of any analyses that separates discretionary searches from non-discretionary searches. For example, searches that are conducted incident 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.

The bar chart below presents the percentage of drivers who were searched by consent within each racial category. Overall, only 2.82 percent of all citations resulted in a consent search. Across racial groups, 4.57 percent of all White drivers who were cited were consent searched, 2.45 percent of all Hispanic drivers who were cited were consent searched, and 2.51 percent of all African-American drivers who were cited were searched by consent.



### **Analysis of Racial Profiling Compliance by Duncanville Police Department**

The foregoing analysis shows that the Duncanville 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 during 2009 the department received two complaints involving racial profiling. After further investigation, both complaints were unfounded.

In addition to providing summary reports and analysis of the data collected by the Duncanville Police Department in 2009, 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 Duncanville Police Department as well as police agencies across Texas. The Duncanville Police Department should continue its educational and training efforts within the department on racial profiling. Finally, the department should conduct periodic evaluations of individual officers to assess whether or not an officer is engaging in racial profiling.

# 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, § 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, § 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 traffic stops in the routine performance of the officers' official duties.

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

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

(1) clearly define acts constituting **racial profiling**;

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Art. 2.133. Reports Required for Traffic and Pedestrian Stops**

(a) In this article:

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

#### **Art. 2.134. Compilation and Analysis of Information Collected**

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

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

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

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

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

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

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

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

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

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

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

### **Art. 2.135. Exemption for Agencies Using Video and Audio Equipment**

(a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

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

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

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

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as

described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

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

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

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

### **§ 1701.253. School Curriculum**

(a) The commission shall establish minimum curriculum requirements for preparatory and advanced courses and programs for schools subject to approval under Section 1701.251(c)(1).

(b) In establishing requirements under this section, the commission shall require courses and programs to provide training in:

(1) the investigation and documentation of cases that involve:

(A) child abuse or neglect;

(B) family violence; and

(C) sexual assault;

(2) issues concerning sex offender characteristics; and

(3) crime victims' rights under Chapter 56, Code of Criminal Procedure, and Chapter 57, Family Code, and the duty of law enforcement agencies to ensure that a victim is afforded those rights.

(c) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on civil rights, **racial** sensitivity, and cultural diversity for persons licensed under this chapter.

(d) Training in documentation of cases required by Subsection (b) shall include instruction in:

(1) making a written account of the extent of injuries sustained by the victim of an alleged offense;

(2) recording by photograph or videotape the area in which an alleged offense occurred and the victim's injuries; and

(3) recognizing and recording a victim's statement that may be admissible as evidence in a proceeding concerning the matter about which the statement was made.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 657, § 4

(e) As part of the minimum curriculum requirements relating to the vehicle and traffic laws of this state, the commission shall require an education and training program on laws relating to the operation of motorcycles and to the wearing of protective headgear by motorcycle operators and passengers. In addition, the commission shall require education and training on motorcycle operator profiling awareness and sensitivity training.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 897, § 1

(e) Training officers and recruits in investigation of cases required by Subsection (b)(1)(B) shall include instruction in preventing dual arrest whenever possible and conducting a thorough investigation to determine which person is the predominant aggressor when allegations of family violence from two or more opposing persons are received arising from the same incident.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 929, § 5

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on asset forfeiture under Chapter 59, Code of Criminal Procedure, for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 947, § 4

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

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 657, § 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 897, § 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 929, § 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 947, § 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1034, § 14, eff. Sept. 1, 2001.

## **§ 1701.402. Proficiency Certificates**

(a) The commission shall issue certificates that recognize proficiency based on law enforcement training, education, and experience. For this purpose the commission shall use the employment records of the employing agency.

(b) As a requirement for a basic proficiency certificate, the commission shall require completion of local courses or programs of instruction on federal and state statutes that relate to employment issues affecting peace officers and county jailers, including:

- (1) civil service;
- (2) compensation, including overtime compensation, and vacation time;
- (3) personnel files and other employee records;
- (4) management-employee relations in law enforcement organizations;
- (5) work-related injuries;
- (6) complaints and investigations of employee misconduct; and
- (7) disciplinary actions and the appeal of disciplinary actions.

(c) An employing agency is responsible for providing the training required by this section.

Text of subsec. (d) as added by Acts 2001, 77th Leg., ch. 929, § 6

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

Text of subsec. (d) as added by Acts 2001, 77th Leg., ch. 947, § 5

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

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 929, § 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 947, § 5, eff. Sept. 1, 2001.

# Appendix B

## Duncanville Police Department Regulations Section 5.41

DUNCANVILLE POLICE DEPARTMENT REGULATIONS	
SUBJECT: RACIAL PROFILING	SECTION: 5.41
EFFECTIVE DATE: December 4, 2001	APPROVED:
AMENDS/SUPERSEDES: ISSUED:	Jack Long Chief of Police

### I. POLICY AND PURPOSE

This Racial Profiling Policy is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

### II. DEFINITIONS

- A. Racial Profiling: means a law enforcement-initiated action based on an individual's race or ethnicity rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.
- B. Race or Ethnicity: means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.
- C. Acts Constituting Racial Profiling: are acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race or ethnicity or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.

### III. PROHIBITION

Peace officers of the City of Duncanville are strictly prohibited from engaging in race profiling. The prohibition against racial profiling does not preclude the use of race or

ethnicity as factors in a detention decision by a peace officer. Race or ethnicity may be legitimate factors in such a decision when used as part of a description of a suspect or witness for whom a peace officer is searching.

IV. COMPLAINT PROCESS AND PUBLIC EDUCATION

- A. Complaints will be taken from citizens who feel that their contact with the Police was a result of a bias towards their race or ethnicity and that action taken against them was the result of them being singled out due to their race or ethnicity.
- B. Public education on racial profiling complaints will be accomplished by the distribution of tri-fold pamphlets available in the lobby of the Duncanville Police Station, the counter outside of the Duncanville Police Internal Affairs Office located in the West Wing of Duncanville City Hall, and in the Duncanville Public Library.
- C. Complaints alleging racial profiling will be handled in accordance with Duncanville Police Department Regulation # 4.01.
- D. If the Department opens an investigation based upon a complaint alleging racial profiling, and if a recording of the occurrence exists, the Department shall promptly provide a copy of the recording to the officer who is the subject of the complaint, upon written request by the officer.

V. CORRECTIVE ACTION

Any peace officer who is found, after investigation, to have engaged in racial profiling in violation of this policy shall be subject to corrective action, which may include reprimand; diversity, sensitivity or other appropriate training or counseling; suspension; termination of employment, or other appropriate action as determined by the Chief of Police.

VI. DATA COLLECTION AND REPORTING

- A. For each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, a peace officer involved in the stop shall collect information identifying the race or ethnicity of the person detained, stating whether a search was conducted (to include a search of a person, place, or vehicle), and if a search was conducted, whether the person detained consented to the search.
- B. The Municipal Court Administrator shall utilize the court's software to compile the data collected on each traffic citation. The Police Records Coordinator shall utilize the RMS system to compile the data collected on each arrest. The Court Administrator and the Records Coordinator shall convey to the Assistant Chief of Police the data collected during the previous calendar year not later than January 30 of each subsequent year. The Assistant Chief of Police shall cause to be prepared an annual report covering the period January 1 through December 31 of each year, and shall submit the report to the governing body of the City of Duncanville no later than March 1 of the following year. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

VII. REVIEW OF VIDEO AND AUDIO DOCUMENTATION-STANDARDS

- A. As of the effective date of this regulation, every vehicle regularly used by the Duncanville Police Department to make traffic stops has been equipped with audio or audio/video recording equipment as required by CCP Art. 2.135.
- B. Review of audio or audio/video tapes will be in compliance with Duncanville Police Department Regulation 5.29 (Use of the Mobile Video System).

# Appendix C

## Racial Profiling Laws and Corresponding General Orders and Standard Operating Procedures

<b>Texas CCP Article</b>	<b>DUNCANVILLE POLICE DEPARTMENT Regulations Section 5.41</b>
2.132(b)1	Section II Part A
2.132(b)2	Section III
2.132(b)3	Section IV
2.132(b)4	Section IV Part B
2.132(b)5	Section V
2.132(b)6	Section VI
2.132(b)7	Section VI Part B