



# CITY OF FULSHEAR

*“FIND YOUR FUTURE IN FULSHEAR”*

30603 FM 1093 WEST/ PO Box 279 ~ FULSHEAR, TEXAS 77441

PHONE: 281-346-1796 ~ FAX: 281-346-2556

[www.FulshearTexas.gov](http://www.FulshearTexas.gov)

## CITY COUNCIL:

**MAYOR:** Aaron Groff

**MAYOR PRO-TEM:** Kaye Kahlich

**COUNCIL MEMBER:** Kent Pool

**COUNCIL MEMBER:** Kevin White

**COUNCIL MEMBER:** Debra Cates

**COUNCIL MEMBER:** Lisa Martin

**COUNCIL MEMBER:** Joel  
Patterson

**COUNCIL MEMBER:** John Kelly

## STAFF:

**CITY MANAGER:** Jack Harper

**CITY SECRETARY:** Kimberly  
Kopecky

**CITY ATTORNEY:** J. Grady Randle

---

## SPECIAL CITY COUNCIL MEETING

### February 16, 2021

---

NOTICE IS HEREBY GIVEN OF A SPECIAL CITY COUNCIL MEETING OF THE CITY OF FULSHEAR TO BE HELD ON **Tuesday, February 16, 2021 AT 5:30 PM** IN IRENE STERN COMMUNITY CENTER, 6920 KATY FULSHEAR ROAD, FULSHEAR, TEXAS FOR CONSIDERING THE FOLLOWING ITEMS. THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY MATTERS LISTED ON THE AGENDA, AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE, INCLUDING, BUT NOT LIMITED TO, SECTIONS 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATIONS ABOUT REAL PROPERTY), 551.073 (DELIBERATIONS ABOUT GIFTS AND DONATIONS), 551.074 (PERSONNEL MATTERS), 551.076 (DELIBERATIONS ABOUT SECURITY DEVICES), 551.087 (ECONOMIC DEVELOPMENT), 418.175.183 (DELIBERATIONS ABOUT HOMELAND SECURITY ISSUES) AND AS AUTHORIZED BY THE TEXAS TAX CODE, INCLUDING, BUT NOT LIMITED TO, SECTION 321.3022 (SALES TAX INFORMATION).

Incidental Meeting Notice: A quorum of the City of Fulshear City Council, Planning and Zoning Commission, City of Fulshear Development Corporation (Type A), Fulshear Development Corporation (Type B), Parks and Recreation Commission, Historic Preservation and Museum Commission, Zoning Board of Adjustment, or any or all of these, may be in attendance at the meeting specified in the foregoing notice, which attendance may constitute a meeting of such governmental body or bodies as defined by the Texas Open Meetings Act, Chapter 551, Texas Government Code.

Therefore, in addition to the foregoing notice, notice is hereby given of a meeting of each of the above-named governmental bodies, the date, hour, place, and subject of which is the same as specified in the foregoing notice.

Notice Pertaining to Social Distancing Requirements: In accordance with the Texas Open Meetings Act, Chapter 551, Government Code, this meeting shall be open to the public, except as provided by said Act. However, any members of the public who attend the meeting are individually responsible for complying with any applicable proclamation or order issued by the governor or any local official which may be in effect at the time of the meeting, including but not limited to any restrictions which may require such members of the public to implement social distancing, to minimize social gatherings, or to minimize in-person contact with people who are not in the same household.

**I. CALL TO ORDER**

**II. QUORUM AND ROLL CALL**

**III. CITIZEN'S COMMENTS**

*THIS IS AN OPPORTUNITY FOR CITIZENS TO SPEAK TO COUNCIL RELATING TO AGENDA AND NON-AGENDA ITEMS. SPEAKERS ARE ADVISED THAT COMMENTS CANNOT BE RECEIVED ON MATTERS WHICH ARE THE SUBJECT OF A PUBLIC HEARING ONCE THE HEARING HAS BEEN CLOSED. SPEAKERS ARE REQUIRED TO REGISTER IN ADVANCE AND MUST LIMIT THEIR COMMENTS TO THREE (3) MINUTES.*

**IV. BUSINESS**

- A. PRESENTATION REGARDING THE 2020 RACIAL PROFILING REPORT & YEAR END REPORT**
- B. CONSIDERATION AND POSSIBLE ACTION TO APPROVE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FORT BEND COUNTY FOR THE ADMINISTRATION OF THE MAY 1, 2021 GENERAL ELECTION**

**V. EXECUTIVE SESSION**

- A. EXECUTIVE SESSION - PURSUANT TO SECTION 551.071 OF THE TEXAS OPEN MEETINGS ACT (CHAPTER 551, GOVERNMENT CODE), CONSULT WITH THE ATTORNEY TO THE GOVERNING BODY ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNING BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE TEXAS OPEN MEETINGS ACT; PURSUANT TO SECTION 551.072 OF THE TEXAS OPEN MEETINGS ACT, DELIBERATE CONCERNING THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY**
  - LAND ACQUISITIONS**
  - CITY HALL**
  - DEVELOPMENT AGREEMENT**

**VI. ACTION FROM EXECUTIVE SESSION**

- A. CONSIDERATION AND POSSIBLE ACTION TO AUTHORIZE THE CITY MANAGER TO MAKE AN OFFER, NEGOTIATE, AND EXECUTE A PURCHASE AND SALE AGREEMENT FOR THE PURCHASE OF CERTAIN PROPERTIES**

**LAND ACQUISITION**

- B. CONSIDERATION AND POSSIBLE ACTION TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN AND AMONG THE CITY OF FULSHEAR, TEXAS; CCR WEST, INC., A TEXAS CORPORATION; AND FULSHEAR FF TEXAS HOLDINGS, L.P., A DELAWARE LIMITED PARTNERSHIP**

**VII. ADJOURNMENT**

NOTE: IN COMPLIANCE WITH THE AMERICAN WITH DISABILITIES ACT, THIS FACILITY IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICE MUST BE MADE AT LEAST 48 BUSINESS HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT 281-346-1796 FOR FURTHER INFORMATION.

I, KIMBERLY KOPECKY, CITY SECRETARY OF THE CITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING AND AGENDA FOR THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS WAS POSTED ON THURSDAY, FEBRUARY 11, 2021 by 5:00 P.M. IN PLACE CONVENIENT AND READILY ACCESSIBLE AT ALL TIMES TO THE GENERAL PUBLIC, IN COMPLIANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

---

KIMBERLY KOPECKY, CITY SECRETARY

**AGENDA MEMO  
BUSINESS OF THE CITY COUNCIL  
CITY OF FULSHEAR, TEXAS**

**AGENDA OF:** 2/16/2021

**ITEMS:** IV.A.

**DATE  
SUBMITTED:** 1/8/2021

**DEPARTMENT:** Police

**PREPARED BY:** Lynn Raymer

**PRESENTER:** Chief Seymour

**SUBJECT:** PRESENTATION REGARDING THE 2020 RACIAL PROFILING REPORT & YEAR END REPORT

**Expenditure Required:** 0

**Amount Budgeted:** 0

**Funding Account:** 0

**Additional Appropriation Required:** 0

**Funding Account:** 0

**EXECUTIVE SUMMARY**

In accordance with the Texas Code of Criminal Procedure - CRIMP Art 2.134, Fulshear Police Department Chief Kenny Seymour will present to the City Council the 2020 Racial Profiling Report and Year End Report.

**RECOMMENDATION**

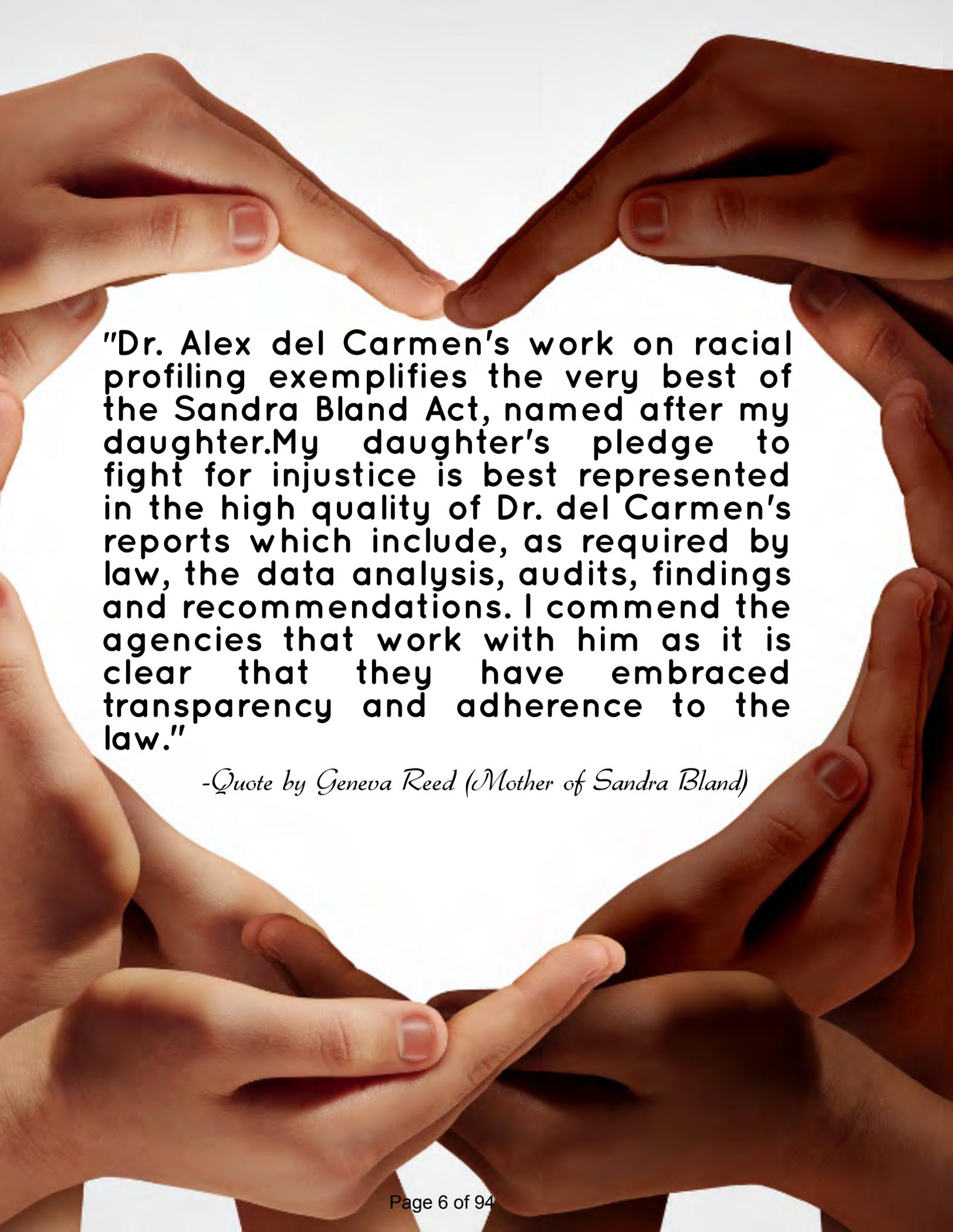
No action is required by Council.

**ATTACHMENTS:**

Description	Upload Date	Type
Fulshear Police Department 2020 Racial Profiling Report	1/20/2021	Cover Memo

The background of the page is a composite image. On the left, there is a large white star on a blue field, characteristic of the Texas state flag. To the right, there is a white field with a red horizontal stripe at the bottom. In the foreground, a wooden gavel rests on a wooden block, with several books stacked behind it. The text is overlaid on the bottom portion of this image.

# Fulshear POLICE DEPARTMENT 2020 RACIAL PROFILING REPORT



**"Dr. Alex del Carmen's work on racial profiling exemplifies the very best of the Sandra Bland Act, named after my daughter. My daughter's pledge to fight for injustice is best represented in the high quality of Dr. del Carmen's reports which include, as required by law, the data analysis, audits, findings and recommendations. I commend the agencies that work with him as it is clear that they have embraced transparency and adherence to the law."**

*-Quote by Geneva Reed (Mother of Sandra Bland)*



January 16, 2021  
Fulshear City Council  
P.O. Box 279  
Fulshear, Texas 77441

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001, the Texas Racial Profiling Law. During the past year, the Fulshear Police Department, in accordance with the law, has collected and reported motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Moreover, in 2017, the Sandra Bland Act was passed and signed into law (along with HB 3051 which introduced new racial and ethnic designations). The Sandra Bland Law requires that law enforcement agencies in the state collect additional data and provide a more detailed analysis. All of these requirements have been met by the Fulshear Police Department and are included in this report.



This particular report contains three sections with information on motor vehicle-related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Fulshear Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074); which later became the Texas Racial Profiling Law. Further, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling as well as the Sandra Bland Act. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation which demonstrates compliance by the Fulshear Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report includes statistical data relevant to contacts, made during the course of motor vehicle stops and in accordance with the law, between 1/1/20 and 12/31/20. In addition, this section contains the TCOLE Tier 2 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Fulshear Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.

# Table of Contents

## Introduction

Letter to Council Members	1
Table of Contents	2

## Responding to the Law

Public Education on Filing Compliments and Complaints	4
Racial Profiling Course Number 3256	5
Reports on Compliments and Racial Profiling Complaints	11
Tier 2 Data (Includes tables)	15

## Analysis and Interpretation of Data

Tier 2 Motor Vehicle-Related Contact Analysis	31
Comparative Analysis	31
Summary of Findings	32
Checklist	34

## Legislative and Administrative Addendum

TCOLE Guidelines	37
The Texas Law on Racial Profiling	42
Modifications to the Original Law	49
Racial and Ethnic Designations	57
The Sandra Bland Act	58
Fulshear Police Department Racial Profiling Policy	73



# *Responding to the Law*



# *Public Education on Filing Compliments and Complaints*

## **Informing the Public on the Process of Filing a Compliment or Complaint with the Fulshear Police Department**

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a compliment or racial profiling complaint. In an effort to comply with this particular component, the Fulshear Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a compliment and complaint on a racial profiling violation by a Fulshear Police officer. In addition, each time an officer issues a citation, ticket or warning, information on how to file a compliment or complaint is given to the individual cited. This information is in the form of a web address (including in the document issued to the citizen), which has instructions and details specifics related to the compliment or complaint processes.

It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

All Fulshear Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Fulshear Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Fulshear has been included in this report.

It is important to recognize that the Chief of the Fulshear Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Fulshear Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

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

**Racial Profiling 3256**

**Instructor's Note:**

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

**Abstract**

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

**Target Population:** Licensed law enforcement personnel in Texas

**Prerequisites:** Experience as a law enforcement officer

**Length of Course:** A suggested instructional time of 4 hours

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

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

**Evaluation Process and Procedures**

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

**Reference Materials**

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



# Racial Profiling 3256

## 1.0 RACIAL PROFILING AND THE LAW

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

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

### Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

### A. Written departmental policies

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

### B. Not prima facie evidence

### C. Feasibility of use of video equipment

### D. Data does not identify officer

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

### F. Vehicle stop report

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

### G. Compilation and analysis of data

### H. Exemption from reporting - audio/video equipment

### I. Officer non-liability

### J. Funding

### K. Required training in racial profiling

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



# *Racial Profiling*

## *Course Number 3256*

### *Texas Commission on Law Enforcement*

*September 2001*

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

**A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)**

1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

**B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)**

1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

**C. Other cases**

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



## 2.0 RACIAL PROFILING AND THE COMMUNITY

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

**2.1.1 LEARNING OBJECTIVE:** The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism.

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

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

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

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



# *Racial Profiling*

## *Course Number 3256*

### *Texas Commission on Law Enforcement*

*September 2001*

### **3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION**

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

**3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.**

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

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

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search - if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)



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

A. Drug courier profile (adapted from a profile developed by the DEA)

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

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

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

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

B. Vehicle exterior

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

C. Pre-stop indicators

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

D. Vehicle interior

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

**Resources**

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074: <http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

# *Report on Compliments and Racial Profiling Complaints*



## Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/20 - 12/31/20, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.



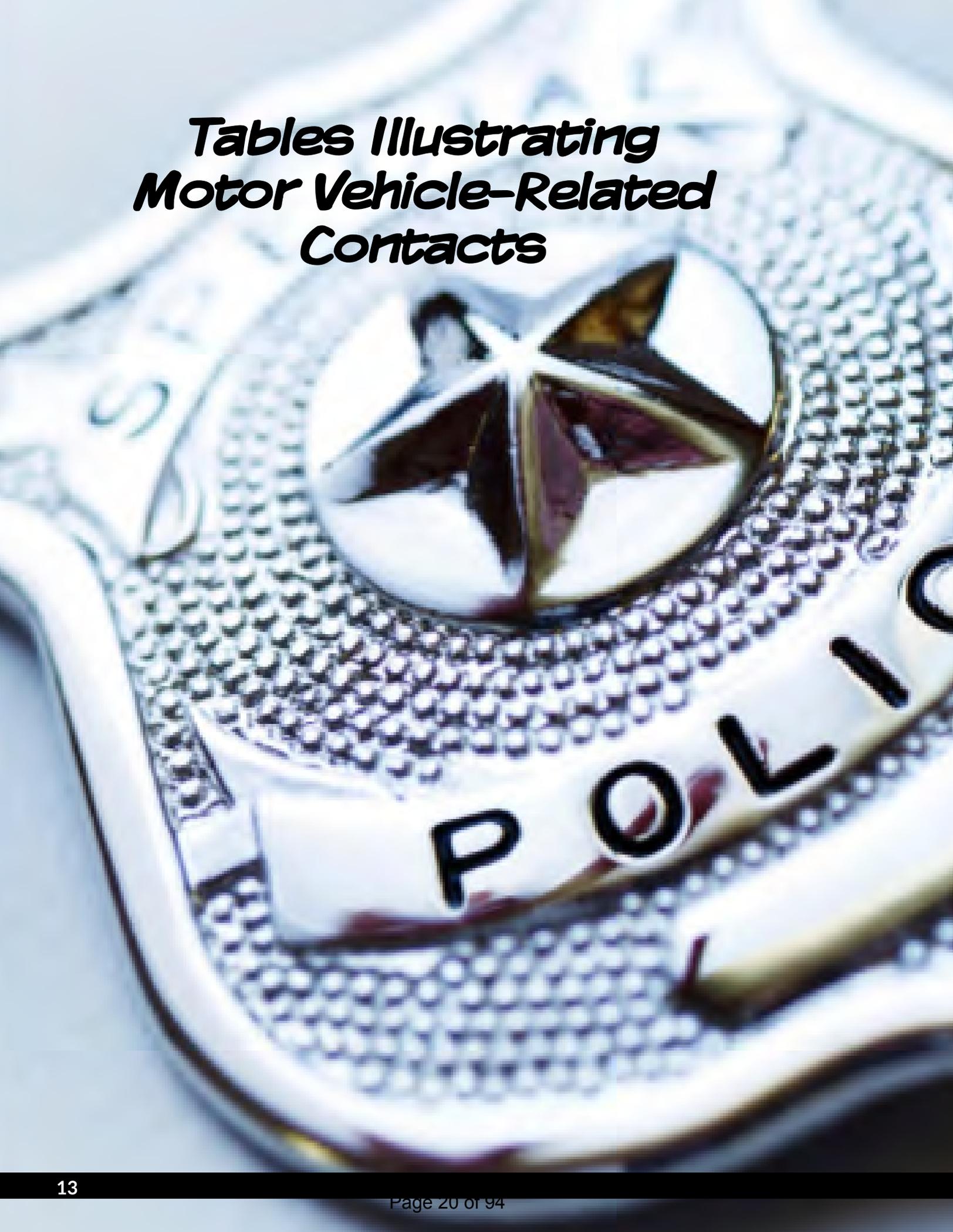
A check above indicates that the Fulshear Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/20 - 12/31/20.

### **Complaints Filed for Possible Violations of The Texas Racial Profiling Law**

<b>Complaint Number</b>	<b>Alleged Violation</b>	<b>Disposition of the Case</b>

<b>Additional Comments:</b>

# ***Tables Illustrating Motor Vehicle-Related Contacts***



# Tier 2 Data



# TIER 2 DATA

## TOTAL STOPS: 7,186

### STREET ADDRESS OR APPROXIMATE LOCATION OF STOP.

City Street	4,435
US Highway	0
County Road	0
State Highway	2,742
Private Property	9

### WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP?

Yes	0
No	7,186

### RACE OR ETHNICITY

Alaska Native/American Indian	96
Asian/Pacific Islander	648
Black	1,064
White	3,589
Hispanic/Latino	1,789

### GENDER

#### Female Total: 2,774

Alaska Native/American Indian	34
Asian/Pacific Islander	236
Black	431
White	1,528
Hispanic/Latino	545

#### Male Total: 4,412

Alaska Native/American Indian	62
Asian/Pacific Islander	412
Black	633
White	2,061
Hispanic/Latino	1,244

### REASON FOR STOP?

#### Violation of Law Total: 284

Alaska Native/American Indian	0
Asian/Pacific Islander	28
Black	64
White	117
Hispanic/Latino	75

#### Pre-existing Knowledge Total: 10

Alaska Native/American Indian	1
Asian/Pacific Islander	0
Black	1
White	5
Hispanic/Latino	3

#### Moving Traffic Violation Total: 6,414

Alaska Native/American Indian	89
Asian/Pacific Islander	581
Black	921
White	3,253
Hispanic/Latino	1,570

# Tables Illustrating Motor Vehicle-Related Contacts

## TIER 2 DATA continued

### Vehicle Traffic Violation Total: 478

Alaska Native/American Indian	6
Asian/Pacific Islander	39
Black	78
White	214
Hispanic/Latino	141

### Contraband (in plain view) Total: 2

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	0
Hispanic/Latino	0

### WAS SEARCH CONDUCTED?

	YES	NO
Alaska Native/American Indian	1	95
Asian/Pacific Islander	5	643
Black	38	1,026
White	33	3,556
Hispanic/Latino	32	1,757
<b>TOTAL</b>	<b>109</b>	<b>7,077</b>

### Probable Cause Total: 69

Alaska Native/American Indian	1
Asian/Pacific Islander	3
Black	28
White	21
Hispanic/Latino	16

### Inventory Total: 7

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	3
Hispanic/Latino	2

### REASON FOR SEARCH?

#### Consent Total: 18

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	4
White	4
Hispanic/Latino	9

### Incident to arrest Total: 13

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	2
White	5
Hispanic/Latino	5

# Tables Illustrating Motor Vehicle-Related Contacts

## TIER 2 DATA continued

### WAS CONTRABAND DISCOVERED?

	YES	NO
Alaska Native/American Indian	1	0
Asian/Pacific Islander	2	3
Black	17	21
White	19	14
Hispanic/Latino	14	18
<b>TOTAL</b>	<b>53</b>	<b>56</b>

### Did the finding result in arrest (total should equal previous column)?

	YES	NO
Alaska Native/American Indian	1	0
Asian/Pacific Islander	0	2
Black	7	10
White	8	11
Hispanic/Latino	2	12
<b>TOTAL</b>	<b>18</b>	<b>35</b>

### DESCRIPTION OF CONTRABAND

#### Drugs Total: 47

Alaska Native/American Indian	1
Asian/Pacific Islander	2
Black	14
White	18
Hispanic/Latino	12

#### Weapons Total: 2

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	0
Hispanic/Latino	1

#### Currency Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

#### Alcohol Total: 3

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	0
Hispanic/Latino	1

# Tables Illustrating Motor Vehicle-Related Contacts

## TIER 2 DATA continued

### Stolen Property Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

### Other Total: 1

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	1
Hispanic/Latino	0

### RESULT OF THE STOP

#### Verbal Warning Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

#### Written Warning Total: 5,790

Alaska Native/American Indian	69
Asian/Pacific Islander	528
Black	850
White	3,080
Hispanic/Latino	1,263

### Citation Total: 1,361

Alaska Native/American Indian	27
Asian/Pacific Islander	118
Black	204
White	498
Hispanic/Latino	514

### Written Warning and Arrest Total: 21

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	6
White	7
Hispanic/Latino	6

### Citation and Arrest Total: 14

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	4
White	4
Hispanic/Latino	6

### Arrest Total: 35

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	10
White	11
Hispanic/Latino	12

# Tables Illustrating Motor Vehicle-Related Contacts

## TIER 2 DATA continued

### ARREST BASED ON

Violation of Penal Code Total: 18

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	4
White	6
Hispanic/Latino	6

Violation of Traffic Law Total: 2

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	2

Violation of City Ordinance Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Outstanding Warrant Total: 15

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	6
White	5
Hispanic/Latino	4

### WAS PHYSICAL FORCE RESULTING IN BODILY INJURY USED DURING STOP?

Yes Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

No Total: 7,186

Alaska Native/American Indian	96
Asian/Pacific Islander	648
Black	1,064
White	3,589
Hispanic/Latino	1,789

### NUMBER OF COMPLAINTS OF RACIAL PROFILING

Total	0
Resulted in disciplinary action	0
Did not result in disciplinary action	0



REGULATIONS

COMPLIANCE

POLICIES

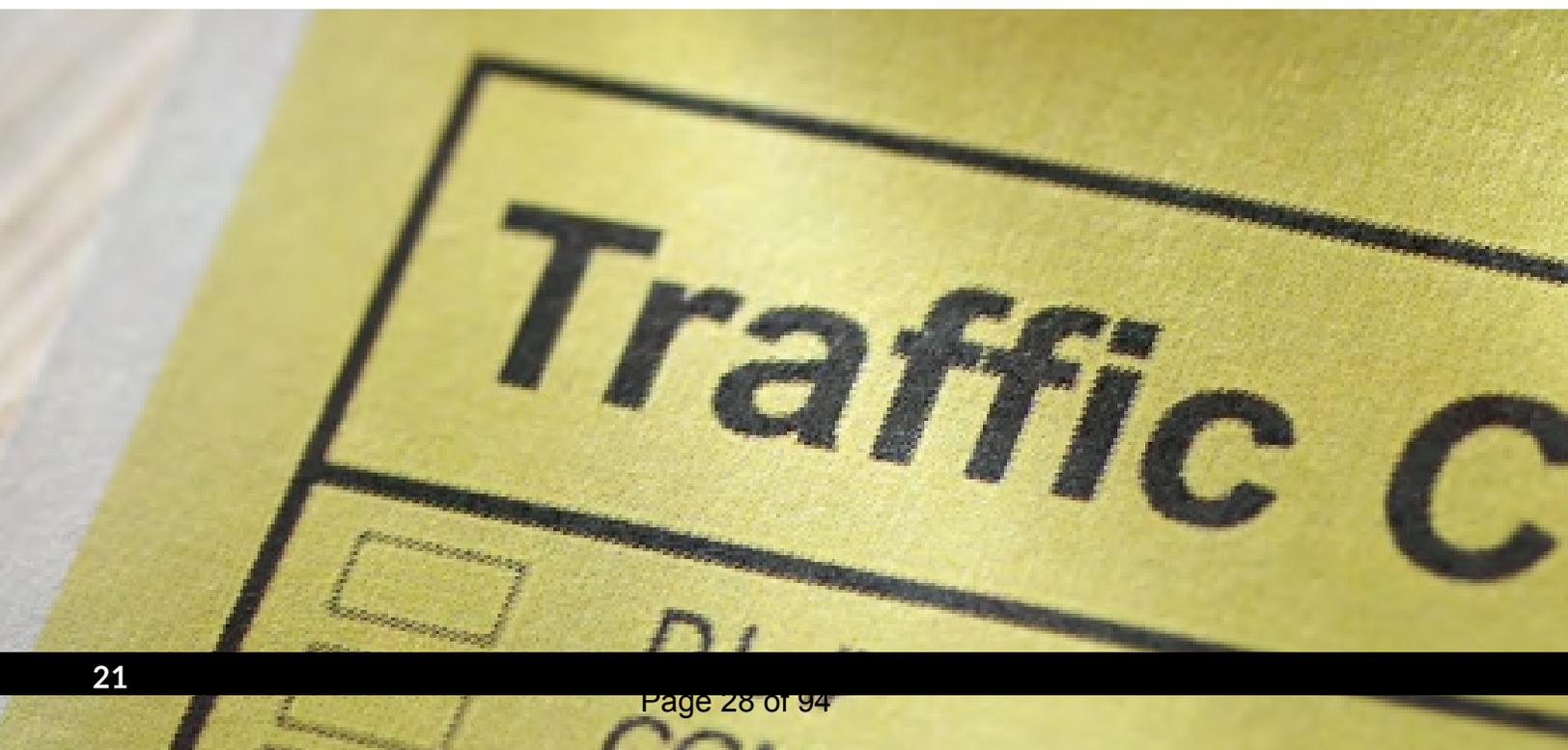
**Table 1. Motor Vehicle Contacts Including Tickets, Citations and Warnings. (1/1/20-12/31/20)**

Race/Ethnicity	All Motor Vehicle Contacts		Tickets or Citations*		Verbal Warnings		Written Warnings	
	N	%	N	%	N	%	N	%
<b>Alaska Native or American Indian</b>	96	1	27	2	0	0	69	1
<b>Asian or Pacific Islander</b>	648	9	118	9	0	0	530	9
<b>Black</b>	1,064	15	208	15	0	0	856	15
<b>White</b>	3,589	50	502	37	0	0	3,087	53
<b>Hispanic or Latino</b>	1,789	25	520	38	0	0	1,269	22
<b>TOTAL</b>	7,186	100	1,375	100	0	0	5,811	100

\*Includes stops for alleged violation of a law or ordinance, tickets/citations, and verbal and written warnings

"N" represents "number" of all motor vehicle-related contacts

\*\* Race/Ethnicity is defined by HB 3051



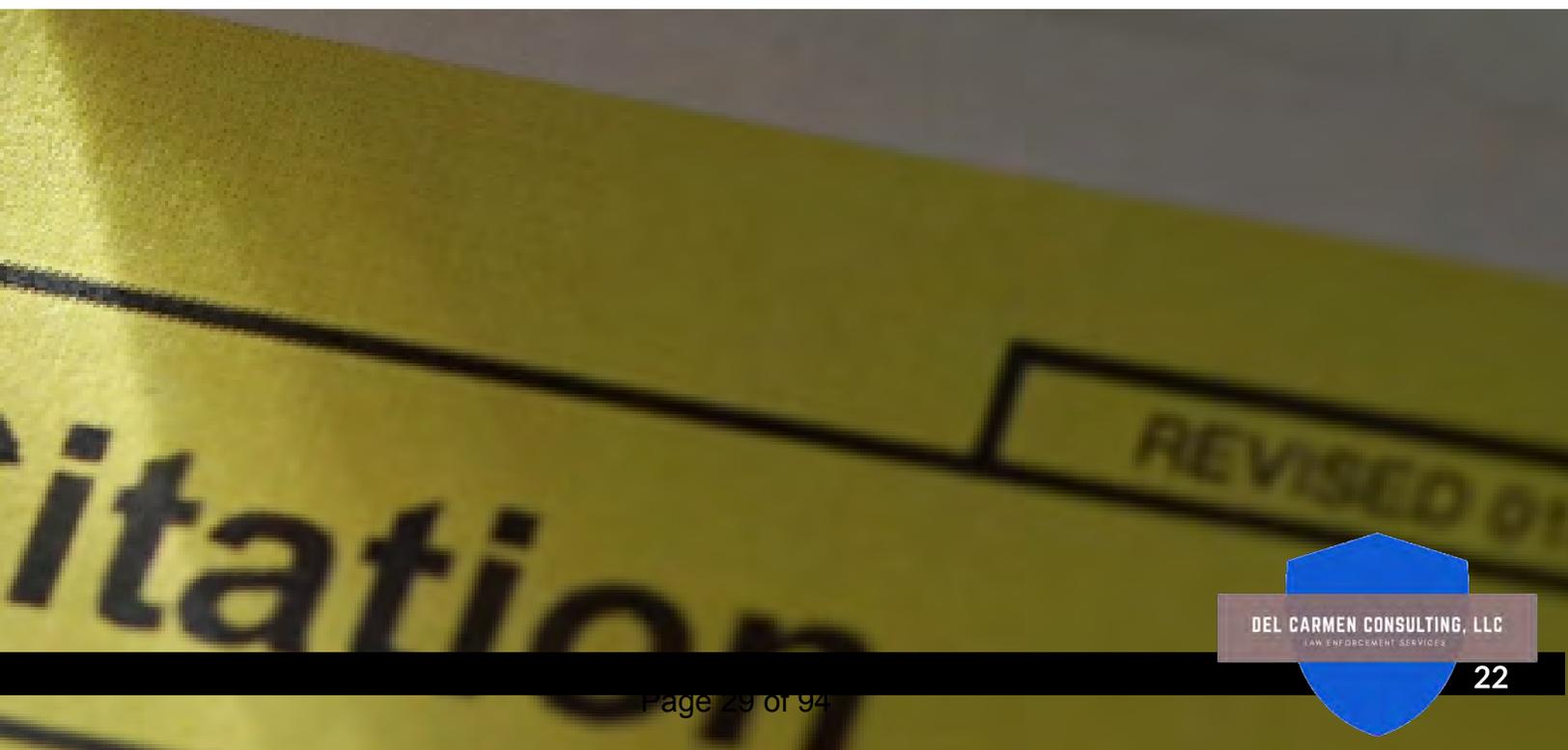
**Table 2. Motor Vehicle Contacts and Fair Roads Standard Comparison**

Comparison of motor vehicle-related contacts with households that have vehicle access (in percentages). (1/1/2020 -12/31/20)

<b>Race/Ethnicity*</b>	<b>Contacts (in percentages)</b>	<b>Households With Vehicle Access (in percentages)</b>
<b>Alaska Native or American Indian</b>	1	0
<b>Asian or Pacific Islander</b>	9	6
<b>Black</b>	15	26
<b>White</b>	50	50
<b>Hispanic or Latino</b>	25	17
<b>TOTAL</b>	100	99

"N" represents "number" of all motor vehicle contacts

\*\* Race/Ethnicity is defined by HB 3051



**Table 3. Motor Vehicle Searches and Arrests. (1/1/20-12/31/20)**

Race/Ethnicity	Searches		Consensual Searches		Custody Arrests	
	N	%	N	%	N	%
<b>Alaska Native or American Indian</b>	1	1	0	0	0	0
<b>Asian or Pacific Islander</b>	5	5	1	6	4	6
<b>Black</b>	38	35	4	22	20	29
<b>White</b>	33	30	4	22	22	31
<b>Hispanic or Latino</b>	32	29	9	50	24	34
<b>TOTAL</b>	109	100	18	100	70	100

"N" represents "number" of all motor vehicle contacts

\*\* Race/Ethnicity is defined by HB 3051





**Table 5. Search Data (1/1/20-12/31/20)**

Race/Ethnicity	Searches		Contraband/ Evidence Found		Contraband/ Evidence Not Found		Arrests	
	N	%	N	%	N	%	N	%
<b>Alaska Native or American Indian</b>	1	1	1	2	0	0	0	0
<b>Asian or Pacific Islander</b>	5	5	2	4	3	5	4	6
<b>Black</b>	38	35	17	32	21	38	20	29
<b>White</b>	33	30	19	36	14	25	22	31
<b>Hispanic or Latino</b>	32	29	14	26	18	32	24	34
<b>TOTAL</b>	109	100	53	100	56	100	70	100

"N" represents "number" of all motor vehicle contacts

\*\* Race/Ethnicity is defined by HB 3051



**Table 6. Report on Audits.**

The following table contains data regarding the number and outcome of required data audits during the period of 1/1/20-12/31/20.

**Data Audits on Racial Profiling Data**

<b>Number of Data Audits Completed</b>	<b>Date of Completion</b>	<b>Outcome of Audit</b>
1	20-January	Data reviewed is valid and reliable.
2	20-April	Data reviewed is valid and reliable.
3	20-August	Data reviewed is valid and reliable.
4	20-December	Data reviewed is valid and reliable.

<b>Additional Comments:</b>

**Table 7. Instances Where Use of Force Was Used Which Caused Bodily Injury During a Motor Vehicle Contact. (1/1/20-12/31/20)**

Race/Ethnicity	Use of Force Causing Bodily Injury	
	N	%
Alaska Native or American Indian	0	0
Asian or Pacific Islander	0	0
Black	0	0
White	0	0
Hispanic or Latino	0	0
<b>TOTAL</b>	0	0

"N" represents "number" of all motor vehicle contacts

\*\* Race/Ethnicity is defined by HB 3051

**Table 8. Reason for Arrests Resulting From a Motor Vehicle Contact. (1/1/20-12/31/20)**

Race/Ethnicity	Violation of Penal Code		Traffic Law		City Ordinance		Outstanding Warrant	
	N	%	N	%	N	%	N	%
Alaska Native or American Indian	0	0	0	0	0	0	0	0
Asian or Pacific Islander	2	11	0	0	0	0	0	0
Black	4	22	0	0	0	0	6	40
White	6	33	0	0	0	0	5	33
Hispanic or Latino	6	33	2	100	0	0	4	27
<b>TOTAL</b>	18	100	2	100	0	0	15	100

"N" represents "number" of all motor vehicle contacts

\*\* Race/Ethnicity is defined by HB 3051



# *Analysis and Interpretation of Data*

## *Analysis and Interpretation of Data*

In 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. This particular law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of individuals before detaining them. Further, it was required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and disclosing this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

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

As referenced earlier, in 2009, the Texas Legislature passed House Bill 3389, which modified the Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These changes included, but are were not limited to, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it required police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the 2009 law required adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year.

In 2017, the Texas Legislators passed H.B. 3051 which removed the Middle Eastern data requirement while standardizing the racial and ethnic categories relevant to the individuals that came in contact with the police. In addition, the Sandra Bland Act (S.B. 1849) was passed and became law. Thus, the most significant legislative mandate (Sandra Bland Act) in Texas history regarding data requirements on law enforcement contacts, became law and took effect on

January 1, 2018. The Sandra Bland Act not only currently requires the extensive collection of data relevant to police motor vehicle contacts, but it also mandates for the data to be analyzed while addressing the following:

**1. A comparative analysis of the information compiled (under Article 2.133):**

- a. Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;*
- b. Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;*
- c. Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches.*

**2. Information related to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.**

In an effort to comply with The Texas Racial Profiling/Sandra Bland Law, the Fulshear Police Department commissioned the analysis of its 2020 contact data. Hence, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2020 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Whites, Blacks, Hispanics or Latinos, Asians and Pacific Islanders, Alaska Natives and American Indians (Middle Easterners and individuals belonging to the “other” category, as optional categories), that came in contact with the police in the course of a motor vehicle related contact, and were either issued a ticket, citation, warning were issued or an arrest was made. Also, included in this data were instances where a motor vehicle contact took place for an alleged violation of the law or ordinance. The Tier 2 data analysis included, but was not limited to, information relevant to the number and percentage of contacts by race/ethnicity, gender, reason for the stop, location of stop, searches while indicating the type of search performed, result of stop, basis of an arrest and use of physical force resulting in bodily injury. It is important to recognize that the department opted to report its data in a more detailed manner (new template) which allows for a better and more reliable analysis.

It should be noted that the additional data analysis performed was based on a comparison of the 2020 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, one should consider that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Fulshear Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households. It is anticipated that next year, when the 2020 Census findings are available, this information will be updated, accordingly.

There is no question that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Fulshear Police Department in 2020 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Fulshear Police Department accepted the recommendation to utilize this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Houston-Baytown CSA.

### **Tier 2 (2020) Motor Vehicle-Related Contact Analysis**

When analyzing the enhanced and more detailed Tier 2 data collected in 2020, it was evident that most motor vehicle-related contacts were made with Whites. This was followed by Hispanics and Blacks. Of those that came in contact with the police, most tickets or citations were issued to Hispanics; this was followed by Whites. However, in terms of written warnings, most of these were issued to Whites; followed by Hispanics.

Regarding searches and arrests, the data showed that most searches took place among Blacks. When considering all searches, most were consented by Blacks while most custody arrests were of Hispanics. Overall, most searches did not result in contraband; of these, most searches producing contraband took place among Whites; this was followed by Blacks. Of the searches that did not produce contraband, most were of Blacks. Most arrests were made on Hispanics; this was followed by Whites. Most of the arrests that originated from a violation of the penal code involved Whites and Hispanics. The majority of those arrested for an outstanding warrant were Black. Overall, the police department does not report any instances where force was used that results in bodily injury.

### **Comparative Analysis**

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in the Houston-Baytown CSA who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of Whites and Blacks that came in contact with the police was the same or lower than the percentage of White and Black households in the Houston-Baytown CSA that claimed, in the 2010 census, to have

access to vehicles. The opposite was true of Hispanics, Asians and American Indians. That is, a higher percentage of Hispanics, Asians and American Indians came in contact with the police than the percentage of Hispanic, Asian and American Indian households in the Houston-Baytown that claimed, in the 2010 census, to have access to vehicles. It should be noted that the percentage difference among Asian contacts with households was of less than 3 percent; thus, deemed by some as being statistically insignificant.

The analysis of the searches performed shows that most of the searches did not produce contraband. This is consistent with national law enforcement trends. In addition, of those searches that produced contraband, the majority of them involved White contacts.

### **Summary of Findings**

The most recent Texas Racial Profiling Law requires that police department perform data audits in order to validate the data being reported. Consistent with this requirement, the Fulshear Police Department has engaged del Carmen Consulting, LLC in order to perform these audits in a manner consistent with normative statistical practices. As shown in table 6, the audits performed have shown that the data is valid and reliable. Further, as required by law, this report also includes an analysis on the searches performed. This analysis includes information on whether contraband was found as a result of the search while controlling for race/ethnicity. The search analysis demonstrates that the police department is engaging in search practices consistent with national trends in law enforcement.

While considering the findings made in this analysis, it is recommended that the Fulshear Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals.

As part of this effort, the Fulshear Police Department should continue to:

- 1) Perform an independent analysis on contact and search data in future years.
- 2) Commission data audits in 2021 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The comprehensive analysis of the data included in this report demonstrates that the Fulshear Police Department has complied with the Texas Racial Profiling Law and all of its requirements. Further, the report demonstrates that the police department has incorporated a comprehensive racial profiling policy, currently offers information to the public on how to file a compliment or complaint, commissions quarterly data audits in order to ensure validity and reliability, collects and commissions the analysis of tier 2 data, and ensures that the practice of racial profiling is not tolerated.



# Checklist

The following requirements were met by the Fulshear Police Department in accordance with The Texas Racial Profiling Law:

- ✓ Implement a Racial Profiling Policy citing act or actions that constitute racial profiling.
- ✓ Include in the racial profiling policy, a statement indicating prohibition of any peace officer employed by the Fulshear Police Department from engaging in racial profiling.
- ✓ Implement a process by which an individual may file a complaint regarding racial profiling violations.
- ✓ Provide public education related to the complaint and complaint process.
- ✓ Implement disciplinary guidelines for officers found in violation of the Texas Racial Profiling Law.
- ✓ Collect, report and analyze motor vehicle data (Tier 2).
- ✓ Commission Data Audits and a Search Analysis.
- ✓ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ✓ Produce an annual report on police contacts (Tier 2) and present this to the local governing body and TCOLE by March 1, 2021.
- ✓ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.



*Legislative &  
Administrative  
Addendum*

# TCOLE GUIDELINES

## Guidelines for Compiling and Reporting Data under Senate Bill 1074

### Background

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

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

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

### Standard 1

Each law enforcement agency has a detailed written directive that:

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

### Commentary

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

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

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

## **Standard 2**

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

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

## **Commentary**

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

## **Standard 3**

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

## **Commentary**

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

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

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

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

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

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

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

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops

including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

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

#### **Standard 4**

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

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

#### **Commentary**

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

#### **Standard 5**

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

#### **Commentary**

None

#### **Standard 6**

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

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

#### **Commentary**

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

**Standard 7**

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

**Commentary**

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

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

# The Texas Law on Racial Profiling

S.B. No. 1074 - An Act relating to the prevention of racial profiling by certain peace officers.  
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

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

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

during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

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

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

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and  
(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

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

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

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

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

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

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

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

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

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

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

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

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

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

(2) the registration number of the vehicle involved;

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

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

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

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

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

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

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

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

SECTION 12. This Act takes effect September 1, 2001

---

President of the Senate

Speaker of the House

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

---

Secretary of the Senate

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

---

Chief Clerk of the House

Approved:

---

Date

---

Governor

# Modifications to the Original Law

## (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly: SECTION \_\_\_\_\_. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a),(b), (d), and (e) and adding Subsection (g) to read as follows:

(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~~[traffic]~~ 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, ~~[or]~~ 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 ~~[traffic]~~ stops in which a citation is issued and to arrests made as a result of ~~[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 individual ~~[person]~~ 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 ~~[to the governing body of each county or~~

~~municipality served by the agency]~~ 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.

(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 ~~[traffic]~~ stops and transmitter activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle ~~[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 motor vehicle ~~[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).

(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.

SECTION \_\_\_\_\_. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE ~~[TRAFFIC AND PEDESTRIAN]~~ STOPS. (a) In this article, "race ~~[:~~

~~[(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 any ~~[each]~~ 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 ~~[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 or other evidence was discovered in the course of the search and a description ~~[the type]~~ of the contraband or evidence ~~[discovered];~~

(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 ~~[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 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~~[, including a description of the warning or a statement of the violation charged].~~

SECTION \_\_\_\_\_. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle[, "pedestrian] stop" has the meaning assigned by Article 2.132(a) ~~[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].~~

(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 ~~[local]~~ law enforcement agency shall submit a report containing the incident-based data ~~[information]~~ 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 ~~[in a manner approved 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 ~~[determine the prevalence of racial profiling by peace officers employed by the agency];~~ and

(B) examine the disposition of motor vehicle ~~[traffic and pedestrian]~~ 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 ~~[the]~~ 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 ~~[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, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(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.

SECTION \_\_\_\_\_. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

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 [~~traffic and pedestrian~~] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [~~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 motor vehicle [~~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 motor vehicle [~~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.

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

SECTION \_\_\_\_\_. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

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.

SECTION \_\_\_\_\_. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION \_\_\_\_\_. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION \_\_\_\_\_. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION \_\_\_\_\_. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION \_\_\_\_\_. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION \_\_\_\_\_. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION \_\_\_\_\_. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

- (a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:
  - (1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure;  
or

(3) a commission rule.

SECTION \_\_\_\_\_. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

# Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051 - An Act relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

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

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

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

(A) Alaska native or American Indian;

(B) ~~[of a particular descent, including Caucasian, African, Hispanic,]~~ Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino ~~[, Native American, or Middle Eastern descent]~~.

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) ~~[of a particular descent, including Caucasian, African, Hispanic,]~~ Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino ~~[, or Native American descent]~~.

SECTION 3. This Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_  
Governor

# The Sandra Bland Act

## (S.B. 1849)

S.B. No. 1849

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

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

ARTICLE 1. SHORT TITLE

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

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

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

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision

(2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003,

Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

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

(2) The magistrate is not required to order the collection of information under Subdivision

(1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision

(1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

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

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

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

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

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

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B

or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

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

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article: (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

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

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

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

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

(2) it is reasonable to divert the person;

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

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

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

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

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

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

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

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

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

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

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

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

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

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

otherwise if the:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The commission shall:
- (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
  - (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
  - (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
  - (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
  - (5) revise, amend, or change rules and procedures if necessary;
  - (6) provide to local government officials consultation on and technical assistance for county jails;
  - (7) review and comment on plans for the construction and major modification or renovation of county jails;
  - (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
  - (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
  - (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
  - (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
  - (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;
  - (13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;
  - (14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;
  - (15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;
  - (16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:
    - (A) common issues concerning jail administration;
    - (B) examples of successful strategies for maintaining compliance with state law and the rules,

standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

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

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

(A) determine if a prisoner is pregnant; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

as follows:

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

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

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

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

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

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

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

(1) a suicide;

(2) an attempted suicide;

(3) a death;

(4) a serious bodily injury, as that term is defined by

Section 1.07, Penal Code;

(5) an assault;

(6) an escape;

(7) a sexual assault; and

(8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

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

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

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

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other

than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection

(a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to non-substantive additions to and corrections in enacted codes.

#### ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this

section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows: commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

(1) topics selected by the agency; and

(2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity;

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]

(C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and

(D) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and

(ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read

as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

## ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

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

(1) clearly define acts constituting racial profiling;

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

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

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

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

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

relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; [and]
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
- (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
- (E) the location of the stop; and
- (F) the reason for the stop; and

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

- (A) the Texas Commission on Law Enforcement; and
- (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

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

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

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

(2) the initial reason for the stop;

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

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

and a description of the contraband or evidence;

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

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

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

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

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

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

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b)

to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

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

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

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

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

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

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship,

available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [the] amount not to exceed \$5,000 [of \$1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal

Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and  
(B) a glossary of terms relating to the information to make the information readily understandable to the public. This Act takes effect September 1, 2017.

\_\_\_\_\_  
Senate Speaker of the House

\_\_\_\_\_  
President of the

I hereby certify that S.B. No. 1849 passed the Senate on May 11, 2017, by the following vote:  
Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on May 20, 2017, by the following vote:  
Yeas 137, Nays 0, one present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\_\_\_\_\_  
Chief Clerk of the House

**FULSHEAR POLICE  
DEPARTMENT  
RACIAL PROFILING POLICY**

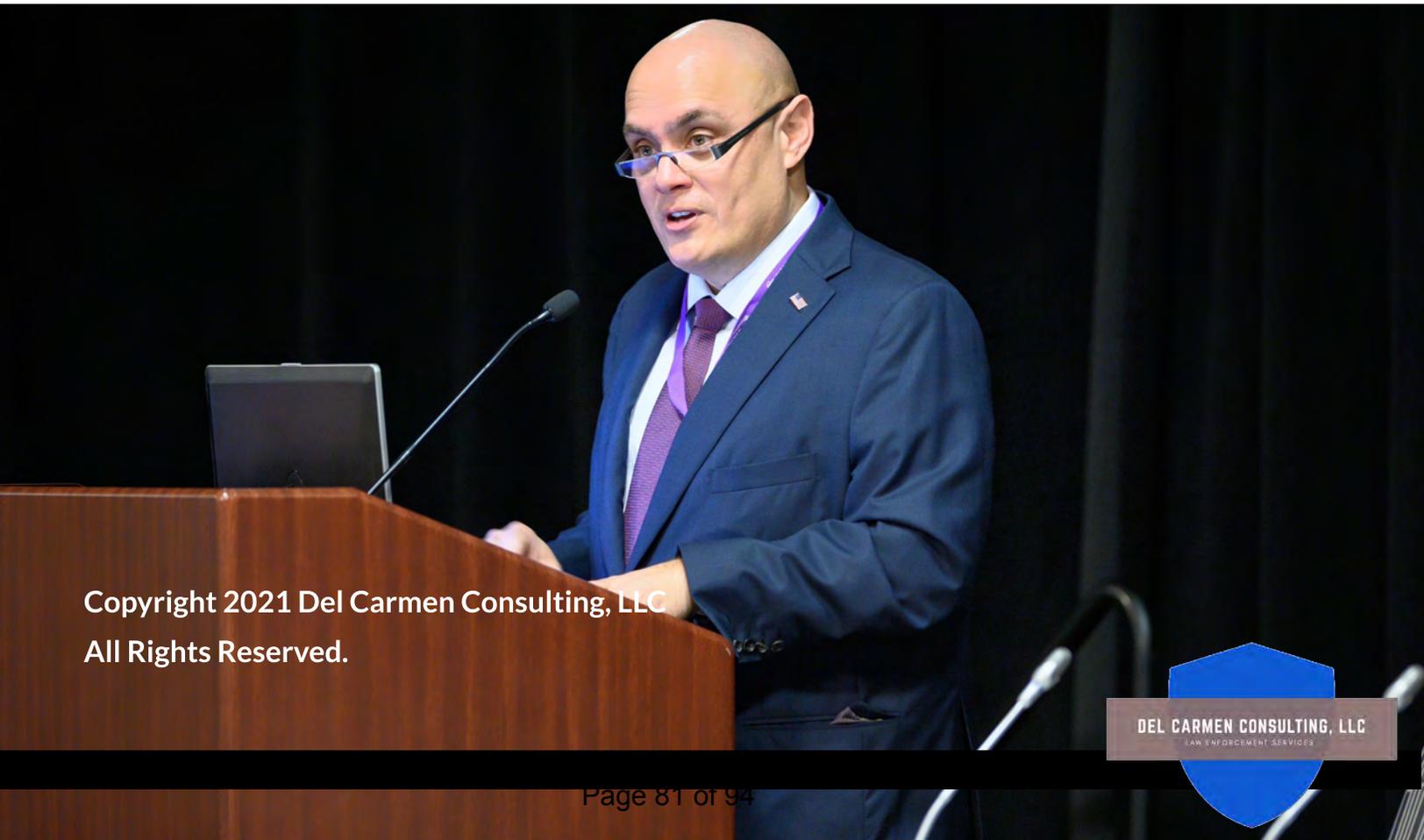
# Contact Information

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

Del Carmen Consulting, LLC  
817.681.7840  
[www.texasracialprofiling.com](http://www.texasracialprofiling.com)  
[www.delcarmenconsulting.com](http://www.delcarmenconsulting.com)

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

Copyright: This report may not be altered or reproduced outside the agreed terms, in any manner whatsoever without the written permission of the author.



Copyright 2021 Del Carmen Consulting, LLC  
All Rights Reserved.



**AGENDA MEMO  
BUSINESS OF THE CITY COUNCIL  
CITY OF FULSHEAR, TEXAS**

**AGENDA OF:** 2/16/2021

**ITEMS:** IV.B.

**DATE  
SUBMITTED:** 2/1/2021

**DEPARTMENT:** Administration

**PREPARED BY:**

**PRESENTER:**

**SUBJECT:** CONSIDERATION AND POSSIBLE ACTION TO APPROVE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FORT BEND COUNTY FOR THE ADMINISTRATION OF THE MAY 1, 2021 GENERAL ELECTION

**Expenditure Required:**

**Amount Budgeted:**

**Funding Account:**

**Additional Appropriation Required:**

**Funding Account:**

**EXECUTIVE SUMMARY**

The City of Fulshear is holding a General Election on May 1, 2021 for the purpose of electing Council members for District 1, 4, 5, and an At-Large position. As such, the City desires to use the County's electronic voting system and to compensate the County for such use and to share in certain other expenses connected with joint elections in accordance with the applicable provisions of Chapters 31 and 271 of the Texas Elections Code, as amended.

It is estimated that the City's obligation under the terms of this agreement shall be \$7,432. The exact amount of the City's obligation under the terms of this agreement shall be calculated after the May 1, 2021 election (or runoff election, if applicable), and if the amount of the City's obligation exceeds the amount deposited, the City shall pay to Fort Bend County the balance due within thirty (30) days after receipt of the final invoice from the Election's Administrator.

**RECOMMENDATION**

Staff recommends that City Council take action to approve the Interlocal Agreement between the City of Fulshear and Fort Bend County for the administration of the May 2021 General Election (and runoff election, if applicable).

**ATTACHMENTS:**

Description	Upload Date	Type
Fulshear Joint Election Agreement	2/8/2021	Backup Material

THE STATE OF TEXAS  
COUNTY OF FORT BEND

JOINT ELECTION AGREEMENT AND CONTRACT FOR ELECTION SERVICES

THIS CONTRACT made by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, , acting herein by and through the Fort Bend County Elections Administrator pursuant to Texas Election Code Section 31.092, hereinafter referred to as the "County", and the City of Fulshear hereinafter referred to as "Political Subdivision," for a joint May 1, 2021 election pursuant to Texas Election Code Section 271.002 .

*RECITAL*

The City of Fulshear is holding a General Election on May 1, 2021 (at the expense of the Political Subdivision) for the purpose of electing members to the City Council.

The County owns the Election Systems & Software EVS 6020 Voting System consisting of the ExpressVote Ballot Marking Device, the ExpressTouch electronic tabulation device, the DS-200 Precinct Tabulator, and the DS-450 Central Scanner and tabulator, which have been duly approved by the Secretary of State pursuant to Texas Election Code Chapter 122 as amended, and is compliant with the accessibility requirements set forth by Texas Election Code Section 61.012. Political Subdivision desires to use the County's electronic voting system and to compensate the County for such use and to share in certain other expenses connected with joint elections in accordance with the applicable provisions of Chapters 31 and 271 of the Texas Election Code, as amended.

NOW THEREFORE, in consideration of the mutual covenants, agreements, and benefits to the parties, IT IS AGREED as follows:

I. ADMINISTRATION

The parties agree to hold a "Joint Election" in accordance with Chapter 271 of the Texas Election Code and this agreement. The Fort Bend County Elections Administrator, hereinafter referred to as "Elections Administrator", shall coordinate, supervise, and handle all aspects of administering the Joint Election as provided in this agreement. Political Subdivision agrees to pay the County for equipment, supplies, services, and administrative costs as provided in this agreement. The Elections Administrator shall serve as the administrator for the Joint Election; however, the Political Subdivision shall remain responsible for the lawful conduct of its election. The Elections Administrator shall provide advisory services in connection with decisions to be made and actions to be taken by the officers of the Political Subdivision.

It is understood that other political subdivisions may wish to participate in the use of the County's electronic voting system and polling places, and it is agreed that the County may enter into other joint election agreements and contracts for election services for those purposes on terms and conditions generally similar to those set forth in this contract. Political Subdivision agrees that the County may enter into joint election agreements with other political subdivisions that may have territory located partially or wholly within the boundaries of Political Subdivision, and in such case all parties sharing common territory shall share a joint ballot on the County's electronic voting system at the applicable polling places. In such cases, costs shall be pro-rated among the participants according to Section X of this contract.

At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap.

## II. LEGAL DOCUMENTS

Political Subdivision shall be responsible for the preparation, adoption, and publication of all required election orders, resolutions, notices, and any other pertinent documents required by the Texas Election Code and/or Political Subdivision's governing body, charter, or ordinances.

**Preparation of the necessary materials for notices and the official ballot shall be the responsibility of Political Subdivision, including translation to languages other than English.** Political Subdivision shall provide a copy of their respective election orders and notices to the Elections Administrator.

## III. VOTING LOCATIONS

The County has adopted a countywide polling place program. Voters who reside in Fort Bend County who wish to participate in this Joint Election may cast a ballot at any polling place open for this election. Voters who do not reside in Fort Bend County but within the boundaries of Political Subdivision and wish to participate in this Joint Election shall be assigned to one Early Voting and one Election Day polling location. The Elections Administrator shall select and arrange for the use of and payment for all Election Day voting locations. The proposed voting locations are listed in Attachment A of this agreement. In the event a voting location is not available, the Elections Administrator will arrange for use of an alternate location with the approval of the Political Subdivision. The Elections Administrator shall notify the Political Subdivision of any changes from the locations listed in Attachment A.

If polling places for the May 1, 2021 joint election are different from the polling place(s) used by Political Subdivision in its most recent election, the County agrees to post a notice no later than May 1, 2021 at the entrance to any previous polling places in the jurisdiction stating that the polling location has changed and stating the polling place names and addresses in effect for the May 1, 2021 election.

## IV. ELECTION JUDGES, CLERKS, AND OTHER ELECTION PERSONNEL

The County shall be responsible for the appointment of the presiding judge and alternate judge for each polling location in accordance with Chapter 32 of the Texas Election Code. The Elections Administrator shall make emergency appointments of election officials if necessary.

Upon request by the Elections Administrator, Political Subdivision agrees to assist in recruiting polling place officials who are bilingual (fluent in both English and Spanish).

The Elections Administrator shall notify all election judges of the eligibility requirements of Subchapter C of Chapter 32 of the Texas Election Code, and will take the necessary steps to ensure that all election judges appointed for the Joint Election are eligible to serve.

The Elections Administrator shall arrange for the training and compensation of all election judges and clerks. The Elections Administrator shall arrange for the date, time, and place for presiding election judges to pick up their election supplies. Each presiding election judge will be sent a letter from the Elections Administrator notifying the person of the appointment, the time and location of training and distribution of election supplies, and the number of election clerks that the presiding judge may appoint.

Each election judge and clerk will receive compensation at an hourly rate established by the County pursuant to Texas Election Code Section 32.091. Judges and Clerks will be compensated for actual time working at a polling place, time spent preparing the polling location prior to Election Day, and time spent attending any training classes required to successfully conduct the election. The election judge will receive an additional sum of \$25.00 for picking up the election supplies prior to Election Day and for returning the supplies and equipment to the central counting station after the polls close.

The Elections Administrator may employ other personnel necessary for the proper administration of the election, including such part-time help as is necessary to prepare for the election, to ensure the timely delivery of supplies during early voting and on Election Day, and for the efficient tabulation of ballots at the central counting station. Part-time personnel working in support of the Early Voting Ballot Board and/or central counting station on election night will be compensated at the rate set by the County.

It is agreed by all parties that at all times and for all purposes hereunder, all election judges, clerks, and all other personnel involved in this election are independent contractors and are not employees or agents of the County. No statement contained in this Agreement shall be construed so as to find any judge, clerk, or any other election personnel an employee or agent of the County, and no election personnel shall be entitled to the rights, privileges, or benefits of County employees except as otherwise stated herein, nor shall any election personnel hold himself out as an employee or agent of the County, unless considered a county employee as determined by the Fort Bend County Human Resources Department. It is further agreed by all parties that at all times and for all purposes hereunder, all election judges, clerks, and all other personnel involved in this election are independent contractors and are not employees or agents of Political Subdivision. No statement contained in this Agreement shall be construed so as to find any judge, clerk, or any other election personnel an employee or agent of Political Subdivision, and no election personnel shall be entitled to the rights, privileges, or benefits of Political Subdivision employees except as otherwise stated herein, nor shall any election personnel hold himself out as an employee or agent of Political Subdivision, unless considered an employee of the City of Fulshear as determined by the Human Resources Department of the City of Fulshear.

#### V. PREPARATION OF SUPPLIES AND VOTING EQUIPMENT

The Elections Administrator shall arrange for all election supplies and voting equipment including, but not limited to official ballots, sample ballots, voter registration lists, and all forms, signs, maps and other materials used by the election judges at the voting locations. At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap. The Elections Administrator shall provide the necessary voter registration information, maps, instructions, and other information needed to enable the election judges in the voting locations that have more than one ballot style to conduct a proper election.

Political Subdivision shall furnish the Elections Administrator a list of candidates and/or propositions showing the order and the exact manner in which the candidate names and/or proposition(s) are to appear on the official ballot (including titles and text in each language in which Political Subdivision's ballot is to be printed). This list shall be delivered to the Elections Administrator prior to the deadlines as described in section XVI. Political Subdivision shall be responsible for proofreading and approving the ballot insofar as it pertains to Political Subdivision's candidates and/or propositions.

If the boundaries of the political subdivision extend into another county, it shall be the responsibility of the political subdivision to request a poll book from the voter registrar of those counties and provide to the Elections Administrator within five calendar days before the start of Early Voting. It shall also be the responsibility of the Political Subdivision to request copies of Ballot by Mail applications from the Early Voting Clerk of those counties. Applications for ballot should be provided the latter of 45 days prior to Election Day, or 5 days after the calling of the election by the governing body of the political subdivision.

#### VI. EARLY VOTING

The participating authorities agree to conduct joint early voting and to appoint the Election Administrator as the Early Voting Clerk in accordance with Sections 31.097 and 271.006 of the Texas Election Code. The participating authorities agree to appoint the Elections Administrator's permanent county employees as deputy early voting clerks. The participating authorities further agree that the Elections Administrator may appoint other deputy early voting clerks to assist in the conduct of early voting as necessary, and that these additional deputy early voting clerks shall be compensated at an hourly rate set by the County pursuant to Section 83.052 of the Texas Election Code.

Early Voting by personal appearance will be held at the locations, dates, and times listed in Attachment “B” of this document. Any qualified voter of the Joint Election may vote early by personal appearance at any one of the joint early voting locations.

As Early Voting Clerk, the Elections Administrator shall receive applications for early voting ballots to be voted by mail in accordance with Chapters 31 and 86 of the Texas Election Code. Any requests for early voting ballots to be voted by mail received by Political Subdivision shall be forwarded immediately by fax or courier to the Elections Administrator for processing. Political Subdivision shall provide to the Elections Administrator copies of all ballot by mail applications submitted by voters who do not reside in Fort Bend County but within the boundaries of Political Subdivision.

Upon request, the Elections Administrator shall provide Political Subdivision a copy of the early voting report on a daily basis and a cumulative final early voting report following the election.

## VII. EARLY VOTING BALLOT BOARD

The County shall appoint an Early Voting Ballot Board (EVBB) to process early voting results from the Joint Election. The Presiding Judge of Central Count, with the assistance of the Elections Administrator, shall appoint two or more additional members to constitute the EVBB. The Elections Administrator shall determine the number of EVBB members required to efficiently process the early voting ballots.

## VIII. CENTRAL COUNTING STATION AND ELECTION RETURNS

The Elections Administrator shall be responsible for establishing and operating the central counting station to receive and tabulate the voted ballots in accordance with the provisions of the Texas Election Code and of this agreement.

The participating authorities hereby, in accordance with Section 127.002, 127.003, and 127.005 of the Texas Election Code, appoint the following central counting station officials:

Counting Station Manager:	John Oldham, Elections Administrator
Tabulation Supervisor:	Chase Wilson, Equipment Technician
Presiding Judge:	Robin Heiman, Assistant Elections Administrator

The counting station manager or his representative shall deliver timely cumulative reports of the election results as precincts report to the central counting station and are tabulated. The manager shall be responsible for releasing cumulative totals and precinct returns from the election to the joint participants, candidates, press, and general public by distribution of hard copies or electronic transmittals by facsimile (when so requested) and by posting to the Elections Administrator’s web page located at “[www.fortbendvotes.org](http://www.fortbendvotes.org)”.

The Elections Administrator will prepare the unofficial canvass reports after all precincts have been counted, and will deliver a copy of the unofficial canvass to the Political Subdivision as soon as possible after all returns have been tabulated. All participating authorities shall be responsible for the official canvass of their respective elections.

The Elections Administrator shall be responsible for conducting the post-election manual recount required by Section 127.201 of the Texas Election Code unless a waiver is granted by the Secretary of State. Notification and copies of the recount, if waiver is denied, will be provided to each participating authority and the Secretary of State’s Office.

## IX. RUNOFF ELECTION

Political Subdivision shall have the option of extending the terms of this agreement through its runoff election, if applicable. In the event of such runoff election, the terms of this agreement shall automatically extend unless the Political Subdivision notifies the Elections Administrator in writing within 10 days of the original election.

Political Subdivision and the elections Administrator shall reserve the right to reduce the number of early voting locations and/or Election Day voting locations in any runoff election.

#### X. ELECTION EXPENSES AND ALLOCATION OF COSTS

Political Subdivision agrees to share the costs of administering the Joint Election. Allocation of costs, unless specifically stated otherwise, is mutually agreed to be shared among the total number of political subdivisions. Costs for polling places shared by the County, Political Subdivision, and other political subdivisions shall be pro-rated among the participants to this agreement.

Any expenses incurred in the rental of polling place facilities shall be pro-rated among the participants to this agreement.

It is agreed that the normal rental rate charged for the County's voting equipment used on Election Day shall be pro-rated among the participants to this agreement.

Costs for Early Voting by Personal Appearance shall be allocated as shown in Attachment C of this document.

Political Subdivision agrees to pay the County an administrative fee equal to ten percent (10%) of its total billable costs in accordance with Section 31.100(d) of the Texas Election Code.

#### XII. WITHDRAWAL FROM CONTRACT DUE TO CANCELLATION OF ELECTION

Political Subdivision may withdraw from this agreement and the Joint Election should it cancel its election in accordance with Sections 2.051 - 2.053 of the Texas Election Code. Political Subdivision is fully liable for any expenses incurred by the County on behalf of Political Subdivision plus an administrative fee of ten percent (10%) of such expenses. Any monies deposited with the county by Political Subdivision shall be refunded, minus the aforementioned expenses and administrative fee if applicable.

#### XII. RECORDS OF THE ELECTION

The Elections Administrator is hereby appointed general custodian of the voted ballots and all records of the Joint Election as authorized by Section 271.010 of the Texas Election Code.

Access to the election records shall be available to each participating authority as well as to the public in accordance with applicable provisions of the Texas Election Code and the Texas Public Information Act. The election records shall be stored at the offices of the Elections Administrator or at an alternate facility used for storage of county records. The Elections Administrator shall ensure that the records are maintained in an orderly manner so that the records are clearly identifiable and retrievable.

Records of the election shall be retained and disposed of in accordance with the provisions of Section 66.058 of the Texas Election Code. If records of the election are involved in any pending election contest, investigation, litigation, or open records request, the Elections Administrator shall maintain the records until final resolution or until final judgment, whichever is applicable. It is the responsibility of Political Subdivision to bring to the attention of the Elections Administrator any notice of pending election contest, investigation, litigation or open records request which may be filed with Political Subdivision.

#### XIII. RECOUNTS

A recount may be obtained as provided by Title 13 of the Texas Election Code. Political Subdivision agrees that any recount shall take place at the offices of the Elections Administrator, and that the Elections Administrator shall serve as Recount Supervisor and Political Subdivision's official or employee who performs the duties of a secretary under the Texas Election Code shall serve as Recount Coordinator.

#### XIV. MISCELLANEOUS PROVISIONS

1. It is understood that to the extent space is available, that other districts and political subdivisions may wish to participate in the use of the County's election equipment and voting places, and it is agreed that the Elections Administrator may contract with such other districts or political subdivisions for such purposes and that in such event there may be an adjustment of the pro-rata share to be paid to the County by the participating authorities.
2. The Elections Administrator shall file copies of this document with the Fort Bend County Treasurer and the Fort Bend County Auditor in accordance with Section 31.099 of the Texas Election Code.
3. In the event that legal action is filed contesting Political Subdivision's election under Title 14 of the Texas Election Code, Political Subdivision shall choose and provide, at its own expense, legal counsel for the County, the Elections Administrator, and additional election personnel as necessary.
4. Nothing in this contract prevents any party from taking appropriate legal action against any other party and/or other election personnel for a breach of this contract or a violation of the Texas Election Code.
5. The parties agree that under the Constitution and laws of the State of Texas, neither the County nor Political Subdivision can enter into an agreement whereby either party agrees to indemnify or hold harmless another party; therefore, all references of any kind, if any, to indemnifying or holding or saving harmless for any reason are hereby deleted.
6. This agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend or Harris Counties, Texas.
7. In the event of one of more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
8. All parties shall comply with all applicable laws, ordinances, and codes of the State of Texas, all local governments, and any other entities with local jurisdiction.
9. The waiver by any party of a breach of any provision of this agreement shall not operate as or be construed as a waiver of any subsequent breach.

Any amendments of this agreement shall be of no effect unless in writing and signed by all parties hereto.

#### XV. COST ESTIMATES AND DEPOSIT OF FUNDS

It is estimated that Political Subdivision's obligation under the terms of this agreement shall be \$7,432. The Political Subdivision agrees to pay to the County a deposit of \$4,460 which is approximately sixty (60) percent of the total estimated obligation of Political Subdivision to the County under this agreement. This deposit shall be paid to the County within ten (10) days of the City's receipt of this agreement, authorized by the governing bodies of both parties and fully executed by both parties. The exact amount of the Political Subdivision's obligation under the terms of this agreement shall be calculated

after the May 1, 2021 election (or runoff election, if applicable), and if the amount of the Political Subdivision's obligation exceeds the amount deposited, the Political Subdivision shall pay to the County the balance due within thirty (30) days after receipt of the final invoice from the Elections Administrator. However, if the amount of the Political Subdivision's obligation is less than the amount deposited, the County shall refund to the Political Subdivision the excess amount paid within thirty (30) days after final costs are calculated.

XVI. RESULT OF NON-COMPLIANCE OF DEADLINES

The Political Subdivision agrees that it shall provide ballot details to the Elections Office not later than the 67th day (February 23, 2021) before the election. It is understood that if the ballot details are not provided to the Elections Office by the 64th day before the election (February 26, 2021) that the Elections Office may impose a penalty fee of \$1000.00 assessed to the total cost. It is also understood that if the ballot details are not provided to the Elections Office by the 60th day before Election Day (March 2, 2021), this contract will be declared null and void and it will be the responsibility of the political entity to conduct a separate election.

IN TESTIMONY HEREOF, this agreement, its multiple originals all of equal force, has been executed on behalf of the parties hereto as follows, to-wit:

- (1) It has on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 been executed on behalf of Fort Bend County by the Elections Administrator pursuant to the Texas Election Code Section 31.092 so authorizing;
- (2) It has on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 been executed on behalf of the City of Fulshear by its Presiding Officer or authorized representative, pursuant to an action by the Governing Body of the City of Fulshear.

FORT BEND COUNTY

By \_\_\_\_\_  
John Oldham  
Elections Administrator

CITY OF FULSHEAR:

By \_\_\_\_\_

COUNTYWIDE POLLING PLACE	Voting Location	ADDRESS	CITY	ZIP
Al Rabba World Food	Community Room	5800 New Territory Dr	Sugar Land	77479
Beasley City Hall	Meeting Room at rear of building	319 S. 3rd St	BEASLEY	77417
Beck Jr. High School	Cafeteria Hallway	5200 S Fry Rd	KATY	77450
Bowie Middle School (West Entrance)	Main hallway by Gym	700 Plantation Dr	RICHMOND	77406
Briarchase Missionary Bapt Church	Fellowship Hall	16000 Blue Ridge Rd	MISSOURI CITY	77489
Briscoe Junior High School	Library	4300 FM 723	RICHMOND	77406
Calvary Baptist Church	Fellowship Hall	4111 Airport Ave	ROSENBERG	77471
Chasewood Clubhouse	Level 1 (Clubhouse Facility)	7622 Chasewood Dr	MISSOURI CITY	77489
Clements High School	Auditorium Lobby	4200 Elkins Dr	SUGAR LAND	77479
Commonwealth Clubhouse	main room	4330 Knightsbridge Blvd	SUGAR LAND	77479
Eagle Heights Church	Clubhouse	16718 W. Bellfort Blvd	RICHMOND	77407
Fairgrounds Building "D"	main room	4310 Highway 36 S	ROSENBERG	77471
Fort Bend ISD Admin Building		16431 Lexington lvd	SUGAR LAND	77494
Four Corners Community Center	"Sprint Room"	15700 Old Richmond Rd	SUGAR LAND	77478
Fulshear High School	PAC Lobby	7227 W. Grand Pkwy S	RICHMOND	77407
Garcia Middle School	Gym area	18550 Old Richmond Rd	SUGAR LAND	77478
George Bush High School	Gym foyer	6707 FM 1464	RICHMOND	77407
George Memorial Library	Large Meeting room, 1st floor	1001 Golfview Dr	RICHMOND	77469
Greatwood Community/Rec Center	Main Room	7225 Greatwood Pkwy	SUGAR LAND	77479
Hightower High School	Front Lobby	3333 Hurricane Lane	MISSOURI CITY	77459
Hunters Glen Elementary School	Gym	695 Independence Blvd	MISSOURI CITY	77489
Imperial Park Recreation Center	Meeting Room	234 Matlage Way	SUGAR LAND	77478
Jacks (First Colony) Conference Center	Main Room	3232 Austin Parkway	SUGAR LAND	77479
James Reese Career & Technical Center	Classroom	12300 University Blvd	SUGAR LAND	77479
Joy Lutheran Church	Parish Hall	717 FM 359	RICHMOND	77406
Kempner High School	Side hallway thru student parking lot	14777 Voss Rd	SUGAR LAND	77498
Kroger's Riverstone (Community Room)	Community Room	18861 University Blvd	SUGAR LAND	77479
Lake Olympia Marina Clubhouse	Ballroom	180 Island Blvd	MISSOURI CITY	77459
Lantern Lane Elementary School	cafeteria	3323 Mission Valley Dr	MISSOURI CITY	77459
Lexington Creek Elementary School	Gymnasium	2335 Dulles Ave	MISSOURI CITY	77459
Lost Creek Conference Center	Main Room	3703 Lost Creek Blvd	SUGAR LAND	77478
Meadows Place City Hall	Council Chambers	One Troyan Dr	MEADOWS PLACE	77477
Mission Bend Branch Library	Meeting Room	8421 Addicks Clodine Rd	HOUSTON	77083
Missouri City Baptist Church	Multipurpose Building	16816 Quail Park Dr	MISSOURI CITY	77489
Missouri City Community Center	Main Room	1522 Texas Parkway	MISSOURI CITY	77489
Missouri City Parks & Recreation	Main Room	2701 Cypress Point Dr	MISSOURI CITY	77459
M.R. Massey Admin. Building	Event Space	1570 Rabb Road	FRESNO	77545
Museum of Natural Science	Snack Bar	13016 University Blvd	SUGAR LAND	77479
Mustang Community Center	Classroom	4521 FM 521	FRESNO	77545
Pinnacle Senior Center	Multi-purpose Room	5525#C Hobby Road	HOUSTON	77053

<b>COUNTYWIDE POLLING PLACE</b>	<b>Voting Location</b>	<b>ADDRESS</b>	<b>CITY</b>	<b>ZIP</b>
Quail Valley Elementary School	main room	3500 Quail Village Dr	MISSOURI CITY	77459
QV Fund Office	Board Room	3603 Glenn Lakes	MISSOURI CITY	77459
Richmond Water Maintenance Facility	1st room to right	110 N. 8th St	RICHMOND	77469
Ridge Point High School	main room	500 Waters Lake Blvd	MISSOURI CITY	77459
Ridgegate Community Association	Main Room	5855 W. Ridgecreek Dr	HOUSTON	77053
Ridgemont Early Childhood Ctr	Extended Day Room	5353 Ridge Creek Circle	HOUSTON	77053
River Park Recreation Ctr.	Rec Center	5875 Summit Creek Drive	SUGAR LAND	77479
Rosenberg Annex Building	Meeting Room A	4520 Reading Rd	ROSENBERG	77471
Sienna Annex	Community Room	5855 Sienna Springs Way	MISSOURI CITY	77459
Simonton City Hall	Meeting Room	35011 FM 1093	SIMONTON	77476
Stafford City Hall	Large Conference Room	2610 South Main	STAFFORD	77477
Sugar Lakes Clubhouse	Clubhouse	930 Sugar Lakes Dr	SUGAR LAND	77478
Sugar Land Branch Library	Meeting Room	5500 Eldridge	SUGAR LAND	77478
Sugar Land Church of God	Fellowship Hall	1715 Eldridge Rd	SUGAR LAND	77478
Sugar Land City Hall	Brazos Room 154 & 155	2700 Town Center Blvd North	SUGAR LAND	77479
Thompsons City Hall	Community Room	520 Thompson Oil Field Rd	THOMPSONS	77481
Townwest Towne Hall	Main Room	10322 Old Towne Ln	SUGAR LAND	77498
University Branch Library	Meeting Room 2	14010 University Blvd	SUGAR LAND	77479

**Fort Bend County Early Voting Schedule**  
**May 1, 2021 Joint Election**  
*Programa de votación anticipada del condado de Fort Bend*  
*1 de mayo del 2021 Elección Conjunta*

<b>Early Voting Location</b>	<b>Hours(Horas)</b>			
	Monday-Friday April 19-23, 2021 (lunes-viernes) (abril 19-23, 2021)	Saturday April 24, 2021 (sábado) (abril 24, 2021)	Sunday April 25, 2021 (domingo) (abril 25, 2021)	Monday-Tuesday April 26-27, 2021 (lunes- martes) (abril 26 -27, 2021)
<b>Al Rabba World Food</b> 5800 New Territory Blvd, Sugar Land <b>Beasley City Hall</b> 319 S. 3 <sup>rd</sup> Street, Beasley <b>Chasewood Clubhouse</b> 7622 Chasewood Drive, Missouri City <b>Cinco Ranch Library</b> 2620 Commercial Center Drive, Katy <b>Fort Bend County Road &amp; Bridge</b> 3743 School Street, Needville <b>Fort Bend County Rosenberg Annex</b> 4520 Reading Road, Rosenberg <b>Fort Bend ISD Admin Building</b> 16431 Lexington, Sugar Land <b>Jacks Conference Center</b> 3232 Austin Parkway, Sugar Land <b>Four Corners Community Center</b> 15700 Old Richmond Rd, Sugar Land <b>Fulshear High School</b> 9302 Charger Way, Fulshear <b>Greatwood Community &amp; Rec Center</b> 7225 Greatwood Pkwy, Sugar Land <b>Hightower High School</b> 3333 Hurricane Lane, Missouri City <b>James Bowie Middle School</b> 700 Plantation Dr, Richmond <b>James Reese Career &amp; Technical Center</b> 12300 University Blvd, Sugar Land <b>Kroger's Riverstone (Community Room)</b> 18861 University Blvd, Sugar Land <b>Lost Creek Park Conference Center</b> 3703 Lost Creek Blvd, Sugar Land <b>Meadows Place City Hall</b> One Troyan Dr, Meadows Place <b>Missouri City Community Center</b> 1522 Texas Pkwy, Missouri City <b>Quail Valley Fund Office</b> 3603 Glenn Lakes, Missouri City <b>Richmond Water Maintenance Facility</b> 110 N. 8 <sup>th</sup> St, Richmond <b>Rosenberg City Hall</b> 2110 4 <sup>th</sup> St., Rosenberg <b>Sienna Annex Community Room</b> 5855 Sienna Springs Way, Missouri City <b>Stafford City Hall</b> 2610 Main Street, Stafford <b>Sugar Land Branch Library</b> 550 Eldridge, Sugar Land <b>Sugar Land City Hall</b> 2700 Town Center Blvd, Sugar Land	<b>8:00 a.m.</b> To <b>5:00 p.m</b>	<b>8:00 a.m.</b> To <b>5:00 p.m</b>	<b>CLOSED</b> (Cerrado)	<b>7:00 a.m.</b> To <b>7:00 p.m</b>

DRAFT

**City of Fulshear proposed Election Services Contract  
Estimate for the conduct of the May 1, 2021 General and Special Election**

**A. Statistical Information**

1. Number of Registered Voters	<u>9,386</u>
2. Number of Precincts	<u>4</u>
3. Number of election day polling places (excluding early voting)	<u>60</u>
4. Number of polling places shared with another entity	<u>60</u>
5. Number of public buildings used as polling places	<u>42</u>
6. Number of early voting stations	<u>25</u>
7. Voting system:	<u>Hybrid</u>

**B. Cost of Election**

						Estimate	Actual
1. Early Voting and Election Day personnel <i>(TEC § 32.091, 32.092, 32.114, 83.052, 271.013)</i>							
	Clerks	x	Rate	x	Hours / Entities		
a. Early voting clerks	<u>1</u>	x	<u>\$13</u>	x	<u>80 / 2</u>	<u>\$520</u>	<u>          </u>
Early voting clerks	<u>3</u>	x	<u>\$12</u>	x	<u>80 / 2</u>	<u>\$1,440</u>	<u>          </u>
	<u>1</u> Location(s)	x					
b. Election day judges / clerks	<u>2</u>	x	<u>\$13</u>	x	<u>14 / 1</u>	<u>\$364</u>	<u>          </u>
Election day judges / clerks	<u>6</u>	x	<u>\$12</u>	x	<u>14 / 2</u>	<u>\$504</u>	<u>          </u>
2. Early Voting Ballot Board & central counting station personnel <i>(TEC § 87.005, 127.006)</i>							
a. Clerks and Judges						<u>\$75</u>	<u>          </u>
3. Election Day Field Techs and Other Temp workers						<u>\$100</u>	<u>          </u>
4. Elections Administration Dept. Staff overtime <i>(TEC § 31.100(e))</i>						<u>\$350</u>	<u>          </u>
					Subtotal of Labor Cost	<u>\$3,353</u>	
5. FICA & Workers Comp				11.45% x	\$3,353 =	<u>\$384</u>	<u>          </u>
6. Election supplies & equipment							
<b>Early Voting</b>	<b>Quant</b>	<b>x</b>	<b>Cost</b>	<b>/</b>	<b>Entities</b>		
a. Early Voting supply kits	<u>1</u>	x	<u>\$35</u>	/	<u>2</u>	<u>\$18</u>	<u>          </u>
b. Early Voting ExpressVotes	<u>4</u>	x	<u>\$175</u>	/	<u>2</u>	<u>\$350</u>	<u>          </u>
c. Early Voting ExpressTouch	<u>1</u>	x	<u>\$150</u>	/	<u>2</u>	<u>\$75</u>	<u>          </u>
d. Early Voting DS-200	<u>1</u>		<u>\$250</u>		<u>2</u>	<u>\$125</u>	<u>          </u>
e. Wireless Communication (phone & hot	<u>1</u>	x	<u>\$75</u>	/	<u>2</u>	<u>\$38</u>	<u>          </u>
f. Ballot Stock	<u>1500</u>		<u>\$0</u>		<u>2</u>	<u>\$83</u>	<u>          </u>
7. <b>Election Day</b>							

g. Election Day supply kits	<u>2</u>	x	<u>\$35</u>	/	<u>1</u>		<u>\$70</u>	
h. Election Day ExpressVotes	<u>0</u>	x	<u>\$175</u>	/	<u>1</u>		<u>\$0</u>	
i. Election Day ExpressTouch	<u>2</u>	x	<u>\$150</u>	/	<u>1</u>		<u>\$300</u>	
j. Election Day DS-200	<u>1</u>		<u>\$250</u>		<u>1</u>		<u>\$250</u>	
k. Wireless Communication (phones & hot)	<u>2</u>	x	<u>\$75</u>	/	<u>1</u>		<u>\$375</u>	
l. Ballot Stock	<u>1000</u>	x	<u>\$0</u>	/	<u>1</u>		<u>\$110</u>	
8. Delivery of Voting Equipment & Supplies								
a. Early Voting & Election Day							<u>\$600</u>	
9. Polling Place Rental								
(TEC § 43.031, 43.033)								
a. Election (number of polling places rented)							<u>\$0</u>	
10. Publication of electronic voting system notices )								
(TEC § 127.096(a))								
a. Election							<u>\$25</u>	
11. Miscellaneous election expenses (itemize)								
a. Ger								
Ballot Layout & Coding							<u>\$300</u>	
Absentee Ballots -Printed & Mailed								
	<u>100</u>	Ballots	x	<u>\$2</u>			<u>\$200</u>	
Mileage reimbursements							<u>\$100</u>	
Posting of Bond								
	<u>0</u>	Locations	x	<u>\$3</u>			<u>\$0</u>	
Printing of Notices								
	<u>0</u>	Pages	x	<u>0</u>	Locations	x	<u>\$0.03</u>	
							<u>\$0</u>	
							<u>\$6,756</u>	
12. Election Services Contract Administrative Fee						<u>10%</u>		
(TEC § 31.100(d))								
a. Election							<u>\$676</u>	
13. <b>Cost of Joint election</b>							<b>\$7,432</b>	