



MEMORANDUM

Austin Police Department *Office of the Chief*

TO: Mayor and Council Members

FROM: Art Acevedo, Chief of Police

DATE: March 1, 2011

SUBJECT: 2010 Racial Profiling Report

In compliance with State Racial Profiling Reporting requirements, the Austin Police Department provides a racial profiling report to the City Council on March 1st of each year. Beginning in 2010, the law requires that police departments also submit a standardized racial profiling report to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE). In previous years APD included stops of pedestrians in the annual report, but due to the new reporting requirement and change to data analysis, the 2010 Racial Profiling report is limited to motor vehicle stops. Attached for your review is the 2010 Racial Profiling Summary Report and the report that was submitted to TCLEOSE. A supplement to this summary that includes a more detailed traffic stop analysis and pedestrian information will be provided to Council later in the year.

Please contact me or my staff should you have any questions about the 2010 report.

H. A. ACEVEDO
Chief of Police

cc: Marc Ott, City Manager
Michael McDonald, Assistant City Manager

Attachments

City of Austin

Police Department

2010 Annual

Racial Profiling Report

March 2011

AUSTIN POLICE DEPARTMENT

The following information is based on data reported in 2010 by Austin police officers for motor vehicle stops. The Austin Police Department maintains a strong stance against racial profiling. The Department's policy and practice is to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group. The City of Austin also has a citizen complaint process where any allegations of profiling can be brought forward for investigation. The following report examines the total number of motor vehicle stops, the relation of race to the stops, and whether a search was conducted and if contraband was found during the search.

MOTOR VEHICLE STOPS

The number of motor vehicle stops has increased by 2.8% from 2009 to 2010. Austin police officers made 232,848 stops compared to 226,401 in 2009. The primary reason for a motor vehicle stop is a traffic violation such as speeding, an illegal turn, expired registration and other violations of the transportation code. For 2010, there were 1,816 stops where the race/ethnicity of the driver was marked "other" or "unknown." These stops are not included in the 232,848 reported stops as the race is not available for these stops.

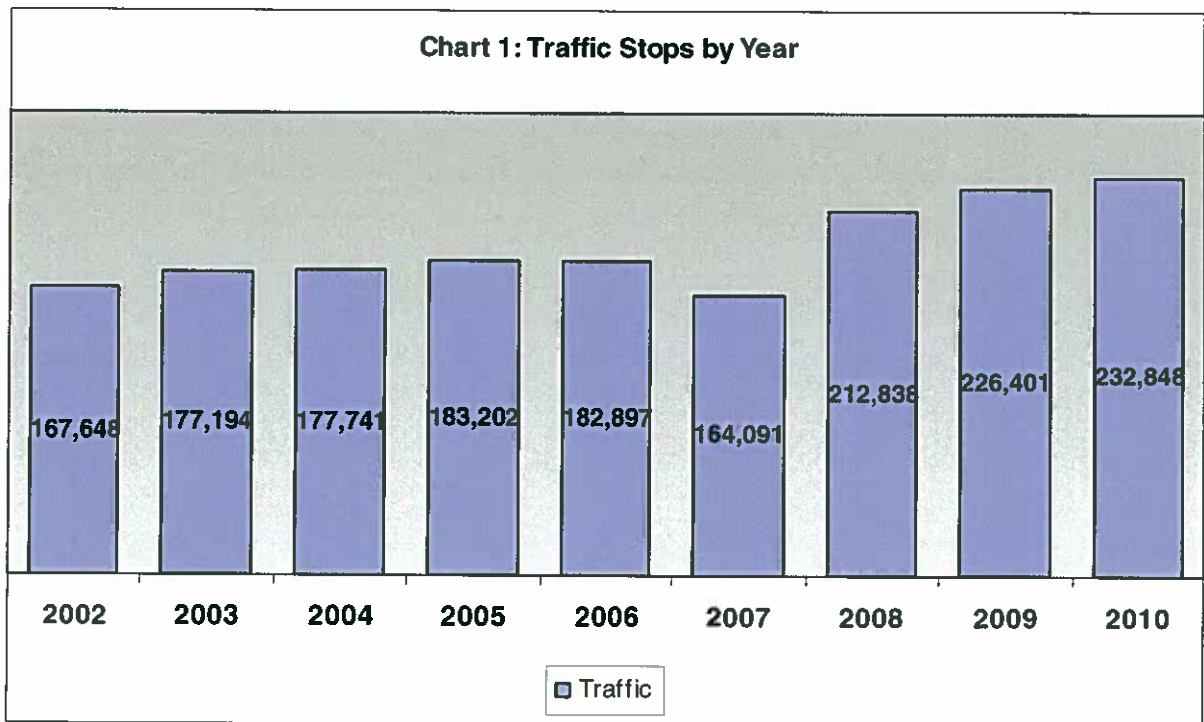


Table 1: Traffic Stops 2010 and 2009 Comparison

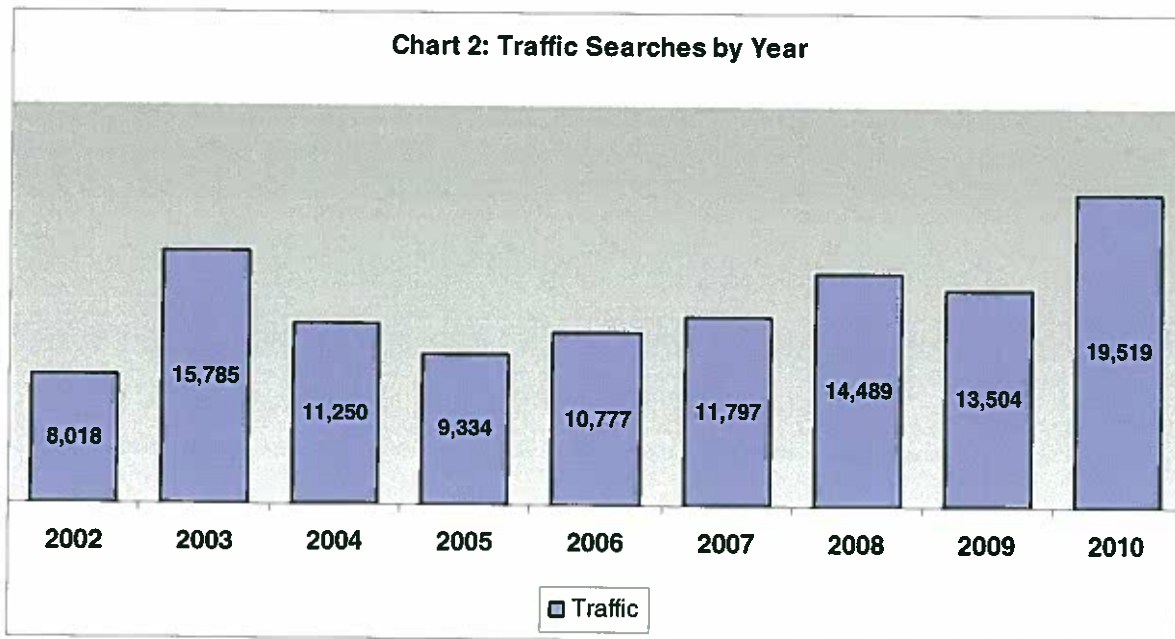
	2010 Traffic Stops		2009 Traffic Stops	
	Count	Percentage	Count	Percentage
White	127,661	54.83%	119,637	52.80%
Hispanic	68,327	29.34%	66,993	29.60%
Black	28,949	12.43%	28,839	12.70%
Asian	6,611	2.84%	5,731	2.50%
American Indian	100	0.04%	41	0.00%
Middle Eastern	1,200	0.52%	*	1.30%
Unknown/Other	**		5,160	1.00%
Total	232,848	100.00%	226,401	100.00%

*Middle Eastern was added as a separate ethnicity for reporting in 2010

** There were 1,816 stops where race or ethnicity was unknown, these are not included

SEARCHES OF MOTORISTS

The total number of searches resulting from a motor vehicle stop increased by 44.5%; from 13,504 in 2009 to 19,519 in 2010. This increase in searches corresponds to an increase in total motor vehicle stops in 2010.



Searches are tracked in several categories. **Consent searches** occur when the officer asks for permission to conduct the search and the citizen consents to be searched. A driver must give permission for a search in writing or on videotape taken by the in-car camera. **Non-consent searches** occur after an arrest or if the officer develops probable cause. Probable cause requires reasonable grounds to suspect a person has committed or is committing a crime. Probable cause gives an officer the legal authority to search without consent. Officers can also conduct a protective frisk which involves patting down the person's clothing to check for any type of weapons. Protective frisks are recorded as non-consent searches.

Relation of Race and Ethnicity to Searches on Traffic Stops (Table 2)

Table 2 shows that 14,885 (76.3%) of the 19,519 searches conducted during traffic stops in 2010 are non-consent searches and 1,118 (5.7%) of the searches are consent searches. In 2009, non consent searches comprise 81.3% of all searches and 473 (3.5%) are consent searches.

Table 2. Traffic Stops: Types of Searches on Traffic Stops, 2010

	Consent Search		Non Consent Search		Consent Status Unknown*		Total Searches	
White	314	4.7%	4,877	72.5%	1,533	22.8%	6,724	100.00%
Hispanic	458	5.6%	6,403	78.7%	1,279	15.7%	8,140	100.00%
Black	336	7.7%	3,436	78.9%	584	13.4%	4,356	100.00%
Asian	9	3.8%	133	56.1%	95	40.1%	237	100.00%
American Indian	1	12.5%	6	75.0%	1	12.5%	8	100.00%
Middle Eastern	0	0.0%	30	55.6%	24	44.4%	54	100.00%
Total	1,118	5.7%	14,885	76.3%	3,516	18.0%	19,519	100.00%

Table 2. Traffic Stops: Types of Searches on Traffic Stops, 2009

	Consent Search		Non-Consent Search		Consent Status Unknown*		Total Searches	
White	137	3.6%	3173	83.3%	501	13.1%	3,811	100.00%
Hispanic	184	3.0%	5005	80.3%	1045	16.8%	6,234	100.00%
Black	148	4.5%	2660	81.4%	459	14.0%	3,267	100.00%
Asian	1	1.2%	63	77.8%	17	21.0%	81	100.00%
American Indian	0	0.0%	2	100.0%	0	0.0%	2	100.00%
Other	2	8.0%	12	48.0%	11	44.0%	25	100.00%
Unknown	1	1.2%	66	78.6%	17	20.2%	84	100.00%
Total	473	3.5%	10,981	81.3%	2050	15.2%	13,504	100.00%

* "Consent Status Unknown" is indicated when the response is unreadable or missing.

RESULTS OF SEARCHES

In 2010, the total number of searches increased as well as the productivity of the searches. **Productive searches or "hits" are determined by whether contraband is found or not.** The

methodology used in 2009 to analyze the results of the searches considered contraband from the person search, and not contraband found in the vehicle. This methodology has been adjusted to consider items found from either the person or the vehicle search. The importance of determining the productivity of searches or the search “hit rate” is based on the premise that hit rates are lower when the search is based on profiling rather than probable cause, a safety frisk or prior to arrest. Search “hit rates” reflect “not only the people within each racial group who are carrying evidence/contraband, they also reflect police choices regarding whom to search.”¹ Hit rates are based on evidence being listed on the incident report following an indication that a search was performed.

Hit rates for all searches were significantly higher in 2010 compared to 2009 and 2008. The hit rates for consent searches are based on much smaller numbers which reduces their reliability but the rates were also higher in 2010 compared to the previous two years.

Table 3. Traffic Stops: Hit Rates for Searches

All Searches	2008			2009			2010		
	Hits	Searches	Hit Rate	Hits	Searches	Hit Rate	Hits	Searches	Hit Rate
White	390	4666	8.40%	500	3811	13.10%	1806	6724	26.86%
Hispanic	342	6762	5.10%	609	6234	9.80%	2259	8140	27.75%
Black	145	3311	4.40%	527	3267	16.10%	1372	4356	31.50%
Other	9	139	6.50%	4	108	3.70%	44	299	14.72%
Unknown	12	126	9.50%	9	84	10.70%	0	*	0.00%
Total	898	15004	6.00%	1649	13504	12.20%	5481	19519	28.08%

*2010 data where race is unknown has been removed from the data set

Consent searches need to be considered separately because of the increased officer discretion involved in asking for permission to search. The similarity in the rates for White, Black and Hispanic drivers in 2010 suggests that profiling is not occurring.

Table 3. Traffic Stops: Hit Rates for Consent Searches

Consent Searches	2008			2009			2010		
	Hits	Searches	Hit Rate	Hits	Searches	Hit Rate	Hits	Searches	Hit Rate
White	4	195	2.10%	15	137	10.90%	104	314	33.12%
Hispanic	2	157	1.30%	14	184	7.60%	151	458	32.97%
Black	4	114	3.50%	16	148	10.80%	112	336	33.33%
Other	0	4	0.00%	0	3	0.00%	1	10	10.00%
Unknown	0	2	0.00%	0	1	0.00%	0	0	0.00%
Total	10	472	2.10%	45	473	9.50%	368	1118	32.92%

¹ Fridell, Lorie. 2004. By the Numbers: A Guide to Analyzing Race Data from Vehicle Stops. Washington, DC: Police Executive Research Forum, page 271.

TIER 2 REPORTING

FULL REPORTING

Check One

- No motor vehicle or audio equipment
- We choose to fully report even though we qualify for the partial exemption



**Racial Profiling Reporting
(Tier 2)**

Department Name	<u>AUSTIN POLICE DEPARTMENT</u>
Agency Number	_____
Chief Administrator Name	<u>Art Acevedo</u>
Reporting Name	<u>Ronnelle Paulsen</u>
Contact Number	<u>512-974-5315</u>
E-mail Address	<u>ronnelle.paulsen@ci.austin.tx.us</u>

Certification to Report 2.132 (Tier 2)

Policy Requirements (2.132(b) CCP):

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

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
- (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
 - (A) the Commission on Law Enforcement Officer Standards and Education; and
 - (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These policies are in effect


 Chief Administrator

02-22-2011
 Date



**Racial Profiling Reporting
(Tier 2)**
(State of Texas Mandatory Form)

Instructions: Please fill out all boxes. If zero use 0.
1. Total on lines 3, 10, 13, 18, 21, 40, and 51 Must be equal
2. Total on lines 27 and 30 Must equal line 19

Gender:

- 1. 82,706 Female
- 2. 150,142 Male

3. 232,848 Total

Race or Ethnicity:

- 4. 28,949 African
- 5. 6,611 Asian
- 6. 127,661 Caucasian
- 7. 68,327 Hispanic
- 8. 1200 Middle Eastern
- 9. 100 Native American

10. 232,848 Total

Race or Ethnicity known prior to stop?

- 11. 16,156 Yes
- 12. 216,692 No

13. 232,848 Total

Reason for stop:

- 14. 12,856 Violation of law other than traffic
- 15. 3,057 Pre-existing knowledge (i.e. warrant)
- 16. 176,927 Moving Traffic Violation
- 17. 40,008 Vehicle Traffic Violation (Equipment, Inspection or Registration)

18. 232,848 Total



**Racial Profiling Reporting
(Tier 2)**

Search conducted?

19. 19,519 Yes
20. 213,329 No

21. 232,848 Total

**Reason for search:
(choose 1 for each search)**

22. 1,118 Consent
23. 254 Contraband/evidence in plain sight
24. 9,421 Probable cause or reasonable suspicion
25. 1,922 Inventory search performed as result of
towing
26. 6,804 Incident to arrest/warrant
27. 19,519 Total Must equal #19

Contraband discovered?

28. 5,481 Yes
29. 14,038 No

30. 19,519 Total Must equal #19

**Description of Contraband
(Chose only One)**

31. 1,494 Illegal drugs/drug paraphernalia
32. 351 Currency
33. 333 Weapons
34. 551 Alcohol
35. 0 Stolen property
36. 2,752 Other

37. 5,481 Total Must equal #28

Arrest result of stop or search:

38. 15,341 Yes
39. 217,507 No

40. 232,848 Total



**Racial Profiling Reporting
(Tier 2)**

Arrest based on:

- 41. 8,845 Violation of the Penal Code
- 42. 2,193 Violation of a Traffic Law
- 43. 426 Violation of City Ordinance
- 44. 3,877 Outstanding Warrant

Street address or approximate location of the stop:

- 45. 174,636 City Street
- 46. 34,927 US Highway
- 47. _____ County Road
- 48. 23,285 Private Property or Other

Written warning or a citation as a result of the stop:


- 49. 188,653 Yes
- 50. 44,195 No

51. 232,848 Total

Please submit electronically the analysis in PDF format required by 2.134 CCP(c) which contains:

- (1) a comparative analysis of the information compiled under Article 2.133 to:
 - (A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; and
 - (B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and
- (2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

This analysis meets the above requirements

 02-22-2011
 Chief Administrator Date

All five (5) pages will be entered via a TCLEOSE Web entry form and the analysis is to be uploaded to the website in PDF format

www.tcleose.state.tx.us

Footnotes for Tier 2 Reporting by the Austin Police Department

Line 3: Combining tickets, warnings, street checks and other general offense entries in the records management system initially yielded 234,664 vehicle stops. However, the race/ethnicity of the driver was marked “other” or “unknown” or was left blank in 1,816 of the documented stops. These stops were not included in the online reporting because there is no category for “blank” or “other”.

Lines 11-12: The department was unable to fully implement the changes associated with the new question “Race or ethnicity known prior to stop” on January 1, 2010. Ticket books were changed out and the online templates in the records management were revised at the end of March 2010. This resulted in 70,580 stops in the first three months where a response to the Race Known question was not documented. We assumed the rate of yes, race was known, and no, race was not known, would be the same as it was for April through December. Therefore, 7% (4,941) of the 70,580 stops were recorded as “yes” and 93% (65,639) of the 70,580 were recorded as “no”. This was done to *avoid* reducing the overall number of stops from 232,848 to 162,268.

Lines 14-17: There were 11,969 stops where the Reason for Stop was left blank. The *outcome* of those stops led us to believe they should be assigned to the following categories:

4361 Warning Citations	2181 assigned to Moving Traffic Violations 2180 assigned to Vehicle Traffic Violations
6352 Field Observations (Street Checks)	6352 assigned to Violation of law other than traffic
918 Custody Arrests	918 assigned to Pre-existing knowledge (i.e. warrant)
140 Field Release Arrests	140 assigned to Violation of law other than traffic
198 Tickets	99 assigned to Moving Traffic Violations 99 assigned to Vehicle Traffic Violations

This was done to *avoid* reducing the overall number of stops from 232,848 to 220,879.

Lines 19-20: There were 8,919 stops where the Search Conducted documentation was left blank. Because policy is clear that all searches must be documented and the number of searches documented in 2010 was consistent with 2009, it was assumed that the blanks were stops that did not result in a search. This was done to *avoid* reducing the overall number of stops from 232,848 to 223,929.

Lines 22-27: There were 3,516 stops where the Reason for Search documentation was left blank. To determine the reason for search for these stops, the percentages of total searches for Contraband, Probable Cause and Towing were used to determine the classification of the 3,516 stops. The Incident to Arrest and Consent search categories were not estimated.

Line 35: We do not distinguish between “stolen property” and “other” property so we accounted for all the property contraband in the “other” category.

Lines 41-44: To determine what the Arrest based on should be, we linked the traffic stops in CAD to the “final call type” listed in the offense report. This resulted in a classification for approximately 75% of the 15,341 arrests. The remaining 25% of the arrests (3,835) were distributed in the categories in the same pattern as the majority, similar to the methodology used in Reason for Stop.

Comparative Analysis Required by 2.134 CCP(c)

Section (1)(A): Motor Vehicle Stops by Minority Status

	Number of Stops	Percentage
MINORITY	105,187	45.2%
NOT MINORITY	127,661	54.8%
TOTAL 2010 STOPS	232,848	100.0%

Section (1)(B): Searches Conducted Race and Ethnicity

SEARCHES	Total	% of total
AFRICAN	4,356	22.3%
ASIAN	237	1.2%
CAUCASIAN	6,724	34.4%
HISPANIC	8,140	41.7%
MIDDLE EASTERN	54	0.3%
NATIVE AMERICAN	8	0.0%
TOTAL 2010 SEARCHES	19,519	100.0%

Summary of Complaints Alleging Racial Profiling, 2010

In 2010 there were twenty (20) complaints of racial profiling reported to the Internal Affairs Division. Racial profiling complaints against the department are received in various ways. There were four (4) formal complaints in 2010 which is the same number of formal complaints received in 2009. A Supervisor referral is a type of informal complaint where no formal complaint affidavit has been received by IAD; however the complainant requests that the issue be brought to the attention of a supervisor. This informal complaint will be sent to the appropriate chain of command for its follow-up and response. At the conclusion of the investigation and decision the complainant is notified of the outcome in writing. Both formal and informal complaints are included in this report, and are included if any part of the complaint alleges racial profiling, regardless of the merit of the allegation.

The Office of the Police Monitor is generally the first point of contact for citizen complaints. Complaints are then directed to the Internal Affairs Division. Formal complaints, which are sworn and notarized complaint affidavits, are received from complainants and are investigated by the Internal Affairs or by the subject officer's chain of command. Investigations are concluded with a chain of command decision and the complaint is sustained, unfounded, exonerated, inconclusive or administratively closed. An investigation may be concluded administratively closed when there is no determination of officer misconduct.

A finding which is sustained indicates the complaint/allegation was supported by sufficient evidence and/or additional acts of misconduct were discovered during the investigation. An unfounded finding may indicate the complaint/allegation was not factual and/or the incident alleged did not occur. A finding of exonerated indicates the incident described in the complaint occurred but did not violate department policy. A finding of inconclusive may result when investigations does not result in the discovery of sufficient evidence to either prove or disprove the complaint/allegation. Any finding other than "sustained" is considered "not sustained".

Complaints may be received from within the department. Depending on the seriousness of the alleged complaint, the complaint may be investigated by the Internal Affairs Division or investigated by the subject officer's chain of command.

Formal Complaints Reported to the Internal Affairs Division

1. Complaint Reported: The complainant was stopped for crossing midblock. A supervisor investigated the complaint and no apparent policy violation was found. The complainant admitted to crossing mid-block and the video shows no plausible reason to suspect profiling.

Outcome: Administratively closed

Reason for the Stop: Viewed offense

2. Complaint Reported: The complainant was stopped for crossing over the white line at a stop sign. Complainant stated that officer accused him of looking suspicious. Complainant claims the officers searched him and his vehicle without his consent.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

3. Complaint Reported: The complainant believes he was illegally detained and that the officer called to the scene was asking questions to provoke him. The complainant feels that he was racially profiled and the officer was looking for a reason to find him a threat and have the complainant arrested.

Outcome: Administratively closed

Reason for the Stop: Call for service

4. Complaint Reported: The complainant alleges that an officer gave him a ticket for parking his vehicle incorrectly. The complainant reports that immediately after he was given a ticket, he observed the officer stop a Caucasian woman for an expired sticker, and stated loudly that he was giving her a warning. The complainant feels he was not treated fairly.

Outcome: Sustained policy violation

Reason for the Stop: Traffic violation

Informal Complaints

1. Complaint Reported: The complainant stated he believed he was racially profiled because of the car that he drives and due to his tinted windows.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

2. Complaint Reported: The complainant is upset that he was not shown the radar printout that showed he was going over the speed limit. The complainant feels he was profiled because of the type of car he was driving.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

3. Complaint Reported: The complainant is concerned about the way officers handled a call to her home. The complainant called the police after her son and her son's friend were nearly run over by a young female. The complainant stated that the officers made her and the young men seem insignificant and as if they were the criminals. She felt they were biased against them because her son is Black.

Outcome: Administratively closed

Reason for the Stop: Call for service

4. Complaint Reported: The complainant states that he was told by the officer that he made an illegal right-hand turn; however, the complainant questioned why he was not stopped closer to where he made the illegal turn. The complainant was subsequently arrested for having outstanding warrants. The complainant advises that he was racially profiled because he was leaving a predominantly Black neighborhood.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

5. Complaint Reported: The complainant is upset because he was issued a ticket for having an expired registration. The complainant acknowledges that the registration on his windshield is expired. He feels he was profiled because the motorcycle unit was coming in the opposite direction and could not have seen that his registration was expired.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

6. Complaint Reported: The complainant was driving through Austin and was stopped for changing lanes without using a turn signal. The complainant believes he was stopped as a result of racial profiling.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

7. Complaint Reported: The complainant's daughter was involved in a motor vehicle accident. The complainant responded to the scene before the officer arrived. The complainant feels that the officer treated her daughter, who is Black, differently from the subjects in the other car, who were White.

Outcome: Administratively closed

Reason for the Stop: Call for service

8. Complaint Reported: The complainant was playing softball and drinking beer in the park. He claims other people were drinking and the officer only took action him and his family because they are Hispanic.

Outcome: Administratively closed

Reason for the Stop: Information is not noted, but likely viewed offense.

9. Complaint Reported: The complainant was stopped based on having an expired registration sticker. The complainant believes there was no violation and that the stop was made based on his race.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

10. Complaint Reported: The complainant was stopped by APD because he fit the description of a bicycle thief. The complainant is upset that APD asked about his immigration status, and they did not apologize to him after they determined he was not the bicycle thief.

Outcome: Administratively closed

Reason for the Stop: Suspicious person

11. Complaint Reported: The complainant feels he was profiled by APD when an officer issued him a ticket for crossing into the bike line, which he claims he did not do. He feels he was profiled because of the car he drives.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

12. Complaint Reported: The complainant was pulled over for driving 40 mph in a 30 mph zone. The complainant says the two cars driving nearby were driving the same speed. He concluded that he was pulled over due to his skin color.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

13. Complaint Reported: The complainant claims he was pulled over for running a stop sign, and that the stop he was racially profiled.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

14. Complaint Reported: The complainant had an incident at a bank and the bank called APD. The complainant believes that the officers were biased against her simply because she is a Hispanic female. She was unable to tell the Office of the Police Monitor what the officer did or how he spoke to her that made her come to this conclusion.

Outcome: Administratively closed

Reason for the Stop: Call for service

15. Complaint Reported: The complainant feels that the officer who stopped him for running a red light was confrontational and threatened to arrest the complainant because he did not like the complainant's signature. The complainant insists that the light is a flashing light at night, and therefore he did not run the light. The complainant stated during his initial call to the Office of the Police Monitor that he believed he was "possibly" racially profiled.

Outcome: Administratively closed

Reason for the Stop: Traffic violation

16. Complaint Reported: The complainant stated that she feels that the officer who was called to her home discriminated against her because she is Hispanic. The complainant feels that the officer treated her poorly and was racist towards her because he may have thought that she is in the country illegally.

Outcome: Administratively closed

Reason for the Stop: Call for service