

BROWNWOOD POLICE DEPARTMENT

2022



RACIAL PROFILING ANALYSIS

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Executive Summary

Article 2.132-2.134 of the Texas Code of Criminal Procedure (CCP) requires the annual reporting to the local governing body of data collected on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to data collection and reporting requirements. Article 2.134 of the CCP directs that “a comparative analysis of the information compiled under 2.133” be conducted, with specific attention to the below areas:

1. 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;
2. examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;
3. 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
4. information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

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

- **A COMPREHENSIVE REVIEW OF THE BROWNWOOD POLICE DEPARTMENT’S RACIAL AND BIAS BASED PROFILING POLICY SHOWS THAT THE BROWNWOOD POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE BROWNWOOD POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE BROWNWOOD POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

- **THE BROWNWOOD POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW REGARDING CCP ARTICLES 2.132-2.134.**

Introduction

This report details an analysis of the Brownwood Police Department's policies, training, and statistical information on racial profiling for the year 2022. This report has been prepared to specifically comply with Article 2.132, 2.133, and 2.134 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of traffic stop data. Specifically, the analysis will address Articles 2.131 – 2.134 of the CCP and make a determination of the level of compliance with those articles by the Brownwood Police Department in 2022. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

This report is divided into six sections: (1) Brownwood Police Department's policy on racial profiling; (2) Brownwood Police Department's training and education on racial profiling; (3) Brownwood Police Department's complaint process and public education on racial profiling; (4) analysis of Brownwood Police Department's traffic stop data; (5) additional traffic stop data to be reported to TCOLE; and (6) Brownwood Police Department's compliance with applicable laws on racial profiling.

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

Brownwood Police Department Policy on Racial Profiling

A review of Brownwood Police Department's Racial and Bias Based Profiling General Order C.8.2, including the Department's supplement on Racial Profiling and how to file a complaint revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP (see Appendix B). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are covered in Brownwood Police Department's racial profiling policy. Brownwood Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling will face appropriate corrective actions. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix C lists the applicable statute and corresponding Brownwood Police Department regulation.

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

Brownwood Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Information provided by Brownwood Police Department reveals that all officers requiring racial profiling training have received this training. Additionally, each year all officers are required to review the Department's Racial and Bias Based Profiling General Order with their first-line supervisor.

Further, supervisors conduct quarterly reviews of 6 random in-car video recordings of motor vehicle stops made by each officer or Corporal under their command to ensure officers are adhering to the standards set out in agency policy. These reviews are then submitted through the chain of command to the Chief of Police.

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

Brownwood Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Brownwood Police Department's Racial and Bias Based Profiling General Order Section J covers this requirement, along with the Department's supplement on racial profiling which provides specific details as to what constitutes racial profiling, including detailed information on how to file a complaint of racial profiling. This supplement is posted in the department's lobby. Brownwood Police Department also has a website where complaints can be made (<https://brownwoodtexas.gov/497/Compliments-Complaints-Questions>).

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

Brownwood Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 and Article 2.133 requires that law enforcement agencies collect statistical information on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to other information noted previously. Brownwood Police Department submitted statistical information on all motor vehicle stops in 2022 and accompanying information on the race/ethnicity of the person stopped. Accompanying this data was the relevant information required to be collected and reported by law.

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

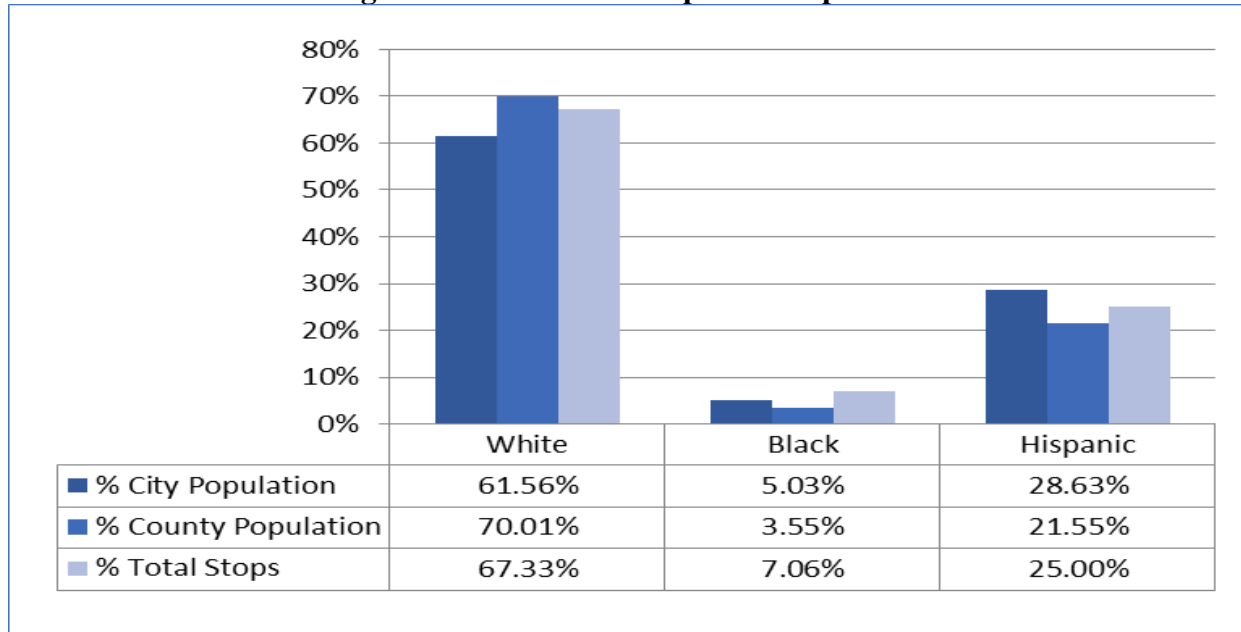
Analysis of the Data

Comparative Analysis #1:

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. Texas Code of Criminal Procedure Article 2.134(c)(1)(A)

The first chart depicts the percentages of people stopped by race/ethnicity among the total 4,564 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2022.¹

Chart 1: Percentage of Motor Vehicle Stops in Comparison to Benchmarks



White drivers constituted 67.33 percent of all drivers stopped, whereas Whites constitute 61.56 percent of the city population and 70.01 percent of the county population.²

Black drivers constituted 7.06 percent of all drivers stopped, whereas Blacks constitute 5.03 percent of the city population and 3.55 percent of the county population.

Hispanic drivers constituted 25.00 percent of all drivers stopped, whereas Hispanics constitute 28.63 percent of the city population and 21.55 percent of the county population.

The chart shows that White drivers are stopped at rates higher than the percentage of Whites in the city population and lower than the percentage of Whites in the county population. Blacks are stopped at rates higher than the percentage of Blacks found in the city and county populations. Hispanics are stopped at rates lower than the percentage of Hispanics in the city population and higher than the percentage of Hispanics in the county population.

¹ There were 20 motor vehicle stops of drivers considered Asian/Pacific Islander and 9 stops of drivers considered Alaska Native/American Indian. These motor vehicle stops were not charted in the first figure of this report due to the small number of cases relative to the population and the total number of motor vehicle stops among all drivers (4,564).

² City and County populations were derived from 2020 Decennial Census Redistricting Data (DEC) of the U.S. Census Bureau. City and County populations by gender noted later in this report are based on 2019 American Community Survey estimates.

Methodological Issues

Upon examination of the data, it is important to note that differences in overall stop rates of a particular racial or ethnic group, compared to that racial or ethnic group's proportion of the population, cannot be used to make determinations that officers have or have not racially profiled any given individual motorist. Claims asserting racial profiling of an individual motorist from the aggregate data utilized in this report are erroneous.

For example, concluding that a particular driver of a specific race/ethnicity was racially profiled simply because members of that particular racial/ethnic group as a whole were stopped at a higher rate than their proportion of the population—are as erroneous as claims that a particular driver of a specific race/ethnicity could NOT have been racially profiled simply because the percentage of stops among members of a particular racial/ethnic group as a whole were stopped at a lower frequency than that group's proportion of the particular population base (e.g., city or county population). In short, aggregate data as required by law and presented in this report cannot be used to prove or disprove that a member of a particular racial/ethnic group was racially profiled. Next, we discuss the reasons why using aggregate data—as currently required by the state racial profiling law—are inappropriate to use in making claims that any individual motorist was racially profiled.

Issue #1: Using Group-Level Data to Explain Individual Officer Decisions

The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling” motorists. This methodological error, commonly referred to as the “ecological fallacy,” defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate stop data. **In short, one cannot prove that an individual officer has racially profiled any individual motorist based on the rate at which a department stops any given group of motorists.** In sum, aggregate level data cannot be used to assess individual officer decisions, but the state racial profiling law requires this assessment.

Issue #2: Problems Associated with Population Base-Rates

There has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. The base-rate serves as the benchmark for comparison purposes. The outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. While this report utilized the most recent 2020 Census as a population base-rate, this population measure can become quickly outdated, can be inaccurate, and may not keep pace with changes experienced in city and county population measures. Utilizing a different base rate can make differences regarding whether disproportionality exists or not. Even then, as noted above, disproportionality in the rate of stops among different racial/ethnic groups does not automatically equate to a finding of racial profiling.

In addition, the validity of the benchmark base-rate becomes even more problematic if analyses fail to distinguish between residents and non-residents who are stopped. This is because the existence of significant proportions of non-resident stops will lead to invalid conclusions if

racial/ethnic comparisons are made exclusively to resident population figures. **In sum, a valid measure of the driving population does not exist. As a proxy, census data is used which is problematic as an indicator of the driving population.** In addition, stopped motorists who are not residents of the city or county where the motor vehicle stop occurred are not included in the benchmark base-rate.

Issue #3: Officers Do Not Know the Race/Ethnicity of the Motorist Prior to the Stop

As illustrated in Table 3 near the end of this report, of the 4,564 motor vehicle stops in 2022, the officer knew the race/ethnicity of the motorist prior to the stop in 0.20% of the stops (9/4,564). This percentage is consistent with other law enforcement agencies throughout Texas. An analysis of all annual racial profiling reports submitted to the Texas Commission on Law Enforcement, as required by the Texas racial profiling law, found that in 2.9% of the traffic stops in Texas, the officer knew the race/ethnicity of the motorist prior to the stop.³ The analysis included 1,186 Texas law enforcement agencies and more than 3.25 million traffic stops.

As noted, the legal definition of racial profiling in the Texas Code of Criminal Procedure Article 3.05 is “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.”

Almost always, Brownwood PD officers do not know the race/ethnicity of the motorist prior to the stop. This factor further invalidates any conclusions drawn from the stop data presented in Chart 1. If an officer does not know the race/ethnicity of the motorist prior to the stop, then the officer cannot, by legal definition, be racial profiling. Racial profiling is a law-enforcement action based on the race/ethnicity of an individual. If the officer does not know the person's race/ethnicity before the action (in this case, stopping a vehicle), then racial profiling cannot occur.

Based on this factor, post-stop outcomes are more relevant for a racial profiling assessment, as presented later in this report, in comparison to initial motor vehicle stop data disaggregated by race/ethnicity. Once the officer has contacted the motorist after the stop, the officer has identified the person's race/ethnicity and all subsequent actions are more relevant to a racial profiling assessment than the initial stop data.

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

Table 1 reports the summaries for the total number of motor vehicle stops in which a ticket, citation, or warning was issued by the Brownwood Police Department in 2022. Table 1 and associated analyses are utilized to satisfy the comparative analyses as required by Texas law, and in specific, Article 2.134 of the CCP.

³ Winkler, Jordan M. (2016). *Racial Disparity in Traffic Stops: An Analysis of Racial Profiling Data in Texas*. Master's Thesis. University of North Texas.

Comparative Analysis #2:

Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction. Texas Code of Criminal Procedure Article 2.134(c)(1)(B)

As shown in Table 1, there were a total of 4,564 motor vehicle stops in 2022 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 58 percent of stops resulted in a written warning (2,662/4,564) and roughly 39 percent resulted in a citation (1,770/4,564). Together, these actions constituted roughly 97 percent of all result of stop actions and will be discussed in more detail below.

Specific to **written warnings**, White motorists received a written warning in roughly 59 percent of stops of White motorists (1,825/3,073), Black motorists received a written warning in roughly 54 percent of stops of Black motorists, and Hispanic motorists received a written warning in roughly 57 percent of stops of Hispanic motorists.

Specific to **citations**, White motorists received a citation in roughly 37 percent of stops of White motorists (1,150/3,073), Black motorists received a citation in roughly 42 percent of stops of Black motorists, and Hispanic motorists received a citation in roughly 41 percent of stops of Hispanic motorists.

Of the 4,564 total stops in 2022, 47 **arrests** [written warning and arrest (26), citation and arrest (17) and arrest only (4)] were made, and this accounts for 1.0 percent of all stops. White motorists were arrested in 1.0 percent of stops involving White motorists (31/3,073), Black motorists were arrested in 1.9 percent of stops involving Black motorists, and Hispanic motorists were arrested in 0.9 percent of stops involving Hispanic motorists. As illustrated in Table 1, most arrests were based on an **outstanding warrant** (46.8%; 22/47) or a **violation of the penal code** (44.7%; 21/47).

Finally, as presented in Table 1, **physical force resulting in bodily injury** was not used in 2022. Of the 4,564 total stops, no stops involved physical force resulting in bodily injury.

Table 1: Traffic Stops and Outcomes by Race/Ethnicity

Stop Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	3,073	322	1,140	20	9	4,564
Gender						
Female	1,294	105	453	7	3	1,862
Male	1,779	217	687	13	6	2,702
Reason for Stop						
Violation of Law	291	47	133	2	1	474
Preexisting Knowledge	7	0	3	0	0	10
Moving Traffic Violation	1,877	203	698	17	6	2,801
Vehicle Traffic Violation	898	72	306	1	2	1,279
Result of Stop						
Verbal Warning	67	7	11	0	0	85
Written Warning	1,825	174	646	10	7	2,662
Citation	1,150	135	473	10	2	1,770
Written Warning and Arrest	19	2	5	0	0	26
Citation and Arrest	8	4	5	0	0	17
Arrest	4	0	0	0	0	4
Arrest Based On						
Violation of Penal Code	11	2	8	0	0	21
Violation of Traffic Law	4	0	0	0	0	4
Violation of City Ordinance	0	0	0	0	0	0
Outstanding Warrant	16	4	2	0	0	22
Physical Force Resulting in Bodily Injury Used?						
No	3,073	322	1,140	20	9	4,564
Yes	0	0	0	0	0	0

Comparative Analysis #3:

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. Texas Code of Criminal Procedure Article 2.134(c)(1)(C)

As illustrated in Table 2, a total of 112 **searches** of motorists were conducted, or roughly 2 percent of all stops resulted in a search in 2022 (112/4,564). Among searches within each racial/ethnic group, White motorists were searched in roughly 3 percent of all stops of White motorists (81/3,073), Black motorists were searched in roughly 2 percent of all stops of Black motorists, and Hispanic motorists were searched in roughly 2 percent of all stops of Hispanic motorists.

As illustrated in Table 2, the most common reason for a search was consent (54.5%; 61/112). Consent searches are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (4,564), discretionary consent searches occurred in 1.3 percent of stops.

Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in roughly 57 percent of all searches of White motorists (46/81), Black motorists were searched based on consent in roughly 33 percent of all searches of Black motorists (2 consent searches out of 6 total searches of black motorists), and Hispanic motorists were searched based on consent in roughly 54 percent of all searches of Hispanic motorists.

Of the searches that occurred in 2022, and as shown in Table 2, **contraband was discovered** in 22 or roughly 20 percent of all searches (22/112 total searches). Among the searches in which contraband was discovered, roughly 77 percent of the time the contraband discovered was drugs (17/22). Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 41 percent of the time (9/22).

Table 2: Searches and Outcomes by Race/Ethnicity

Search Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Search Conducted						
Yes	81	6	24	1	0	112
No	2,992	316	1,116	19	9	4,452
Reason for Search						
Consent	46	2	13	0	0	61
Contraband in Plain View	0	0	0	0	0	0
Probable Cause	18	3	5	0	0	26
Inventory	6	1	4	1	0	12
Incident to Arrest	11	0	2	0	0	13
Was Contraband Discovered						
Yes	13	2	7	0	0	22
No	68	4	17	1	0	90
Description of Contraband						
Drugs	10	2	5	0	0	17
Weapons	0	0	0	0	0	0
Currency	0	0	0	0	0	0
Alcohol	2	0	2	0	0	4
Stolen Property	0	0	0	0	0	0
Other	1	0	0	0	0	1
Did Discovery of Contraband Result in Arrest?						
Yes	3	2	4	0	0	9
No	10	0	3	0	0	13

Comparative Analysis #4:

Information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. Texas Code of Criminal Procedure Article 2.134(c)(2)

In 2022, internal records indicate that the Brownwood Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling.

Additional Analysis:

Statistical analysis of motor vehicle stops relative to the gender population of the agency's reporting area. This analysis is presented in the report based on a December 2020 email sent from TCOLE to law enforcement executives in Texas.

In 2022, 4,564 motor vehicle stops were made by the Brownwood Police Department. Of these stops, 1,862 or roughly 41 percent were female drivers (1,862/4,564), and roughly 59 percent were male drivers (see Table 1).

According to 2019 American Community Survey (ACS) city and county population estimates of the U.S. Census Bureau, the City of Brownwood was composed of 52.1 percent females and 47.9 percent males. County population 2019 ACS estimates indicate that females accounted for 50.7 percent of the county population and males accounted for 49.3 percent of the county population.

Overall, in 2022, males were stopped at rates higher than their proportion of the city and county populations.

Additional Information Required to be Reported to TCOLE

Table 3 provides additional information relative to motor vehicle stops in 2022 by the Brownwood Police Department. These data are required to be collected by the Brownwood Police Department under the Texas Code of Criminal Procedure Article 2.133.

As previously noted, the Brownwood Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling in 2022. Furthermore, as previously discussed, of the 4,564 motor vehicle stops in 2022, the officer knew the race/ethnicity of the motorist prior to the stop in 0.20% of the stops (9/4,564).

Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	9
No	4,555
Approximate Location of Stop	
City Street	4,152
US Highway	401
County Road	5
State Highway	4
Private Property/Other	2
Number of Complaints of Racial Profiling	0
Resulted in Disciplinary Action	0
Did Not Result in Disciplinary Action	0

Analysis of Racial Profiling Compliance by Brownwood Police Department

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

In addition to providing summary reports and analysis of the data collected by the Brownwood Police Department in 2022, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Brownwood Police Department as well as police agencies across Texas.

Appendix A
Racial Profiling Statutes and Laws

Texas Racial Profiling Statutes

Art. 3.05. RACIAL PROFILING.

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

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

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

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

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

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

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

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

- (A) Alaska native or American Indian;
- (B) Asian or Pacific Islander;
- (C) black;
- (D) white; and
- (E) Hispanic or Latino.

(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;

(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.

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

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. 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.

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

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

(g) On a finding by the Texas Commission on Law Enforcement 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.

(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.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 25, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.05, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 173 (H.B. 3051), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.01, eff. September 1, 2017.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

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

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

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

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

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

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

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

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

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

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

(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.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 26, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.02, eff. September 1, 2017.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

(1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).

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

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the Texas Commission on Law Enforcement and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

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

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

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

(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.

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

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

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

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

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 27, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.06, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.03, eff. September 1, 2017.

Art. 2.136. LIABILITY.

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, 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. 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, 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, 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 video and audio equipment and body worn cameras for those purposes.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.04, eff. September 1, 2017.

Art. 2.138. RULES.

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

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

Art. 2.1385. CIVIL PENALTY.

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

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

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


Added by Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 29, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.05, eff. September 1, 2017.

Appendix B

Brownwood Police Department Racial Profiling Policy

BROWNWOOD POLICE DEPARTMENT GENERAL ORDER			
SUBJECT Racial and Bias Based Profiling			
CHAPTER C	ORDER 8	VERSION 2	
AUTHORIZING SIGNATURE <i>Edward Kading</i>		DATE 10/01/2019	
Edward Kading, Chief of Police			BEST PRACTICE 2.01

- A. It is the policy of the Brownwood Police Department that all arrests, investigative stops, traffic stops, searches, and seizures performed by officers of the Department are a result of facts and circumstances which can be articulated to support a reasonable suspicion or probable cause as required by state and/or federal law. Police Officers are prohibited from stopping, detaining or searching any person or taking enforcement action when the officer's actions are solely motivated by consideration of the person's race, ethnicity, national origin, religion, gender, sexual orientation, economic status, age, cultural group, or any other identifiable group. (BP 2.01)
- B. Race or ethnicity means the following categories (CCP 2.132):
1. Alaska native or American Indian;
 2. Asian or Pacific Islander;
 3. Black;
 4. White; and
 5. Hispanic or Latino.
- C. Officers will explain to an individual why they have been stopped or detained and take reasonable measures to ensure the length of contact is no longer than necessary. The following information is required to be collected by any Officer who makes a motor vehicle stop in which a ticket, citation, or warning is issued and to arrests made as a result of those stops (CCP Art. 2.132):
1. The race or ethnicity of the individual detained;
 2. Whether a search was conducted and, if so, whether the individual detained consented to the search;
 3. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
 4. 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;
 5. The location of the stop, and
 6. The reason for the stop.

- D. In addition to C above, any Officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the Department information related to the stop including (CCP Art. 2.133):
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;
 - c. The initial reason for the stop;
 - d. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
 - e. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
 - f. The reason for the search, including whether:
 - (1) Any contraband or other evidence was in plain view;
 - (2) Any probable cause or reasonable suspicion existed to perform the search; or
 - (3) The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
 - g. 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;
 - h. The street address or approximate location of the stop;
 - i. Whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and
 - j. 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.
- E. Information required and collected in sections C and D above will be documented on the Department issued citations or by means as directed by the Chief of Police.
- F. Supervisors are responsible for the oversight of all officer activity and are responsible for ensuring that officers, regardless of assignment, comply with this policy. Each quarter all Patrol Sergeants will review at least six (6) random in-car video recordings of motor vehicle stops made by each officer and Corporal under their command. The Patrol Lieutenant will conduct the same review of each Patrol Sergeant. These reviews will be to ensure that the officer(s) being reviewed are adhering to the standards set out in this policy. Supervisors will complete the quarterly racial profiling review form and submit through the chain of command to the Chief of Police. (BP 2.01)
- G. The Assistant Chief of Police will coordinate with the Records Division and the Brownwood Municipal Court in ensuring that all racial profiling documentation is compiled and prepared for the annual reporting process.
- H. An annual Racial Profiling Report containing an analysis of information collected will be submitted to the City Council by March 1 of the following year, and the report will not

contain identifying information about any police officers or the individuals detained. The Department will also abide by all laws and regulations set forth by the Texas Code of Criminal Procedure (Art. 2.134) and Texas Commission on Law Enforcement (TCOLE) related to racial profile reporting. (BP 2.01)

- I. Each year officers will review this General Order with their first-line supervisor and that review will be documented.
- J. All complaints of racial or bias-based profiling activities by members of the Department, whether verbal or in writing, will be handled and investigated in accordance with Internal Discipline General Order C.5.2. If a complaint of racial or biased-based profiling is sustained, appropriate corrective action will be taken.
- K. This General Order replaces General Order 1.00.09.11

Attachments:

Racial Profiling Quarterly Video Review Form



Brownwood Police Department's Racial Profiling Policy

It is the policy of the Brownwood Police Department that all arrests, investigative stops, traffic stops, searches, and seizures performed by officers of the Department are a result of facts and circumstances which can be articulated to support a reasonable suspicion or probable cause as required by state and/or federal law. Police Officers are prohibited from stopping, detaining or searching any person or taking enforcement action when the officer's actions are solely motivated by consideration of the person's race, ethnicity, national origin, religion, gender, sexual orientation, economic status, age, cultural group, or any other identifiable group. (BP 2.01)

Definition of Racial Profiling

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.

Definition of Biased-based Profiling

The selection of an individual(s) based solely on a trait common to a group for enforcement action. This includes but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.

Acts Constituting Racial Profiling

Acts that constitute racial profiling are those that initiate enforcement action, such as a motor vehicle stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin, or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior.

Filing a Compliment or Complaint

Racial profiling and biased-based policing by officers is strictly prohibited by the Brownwood Police Department. Any person who believes that a Police Officer employed by the Department has engaged in racial profiling or biased-based policing may file a complaint.



Citizens wishing to file a **COMPLAINT** against an employee/officer of the Police Department for racial profiling or biased-based policing may do so in several different ways:

1. Complete the Compliment/Complaint Form obtained from the Records Division.
2. In person at the Brown County Law Enforcement Center located at 1050 W. Commerce Street, Brownwood, Texas 78666.
3. Mail a written and signed complaint to the address above to the Support Services Lieutenant.
4. Complete the online Complaint Document form at:
<http://www.brownwoodtexas.gov/FormCenter/Police-Department-7/Contact-Us-60> to start the complaint process.
5. Contact any supervisor 24 hours a day, 7 days a week either by phone at 325-646-2525 or in person at the Brown County Law Enforcement Center at the address above.
6. Email PDInfo@brownwoodtexas.gov to begin the process.

Please note that Texas State Law requires that all complaints against police officers must be in writing and signed by the person making the complaint.

For further information, visit the [Texas Code of Criminal Procedures Art. 2.132](#).

Appendix C

Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	BROWNWOOD POLICE DEPARTMENT Racial Profiling Policy C.8.2
2.132(b)1	Section A and Complaint Process Supplement
2.132(b)2	Section A
2.132(b)3	Section J and Complaint Process Supplement
2.132(b)4	Complaint Process Supplement
2.132(b)5	Section J
2.132(b)6	Section C and D1
2.132(b)7	Section H