

# TEXAS DEPARTMENT OF PUBLIC SAFETY

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# TRAFFIC STOP DATA REPORT

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OCTOBER, 2000



# TEXAS DEPARTMENT OF PUBLIC SAFETY

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## EXECUTIVE SUMMARY

The effectiveness of any law enforcement program is based upon building and sustaining relationships with the citizens of the community. Law enforcement serves the community, and effective law enforcement and prosecution are built upon trust and mutual respect.

This trust and mutual respect breaks down if the community we serve believes that law enforcement is impartially and unfairly targeting people or subjecting certain groups to increased scrutiny. Racial and ethnic profiling, real or imagined, quickly causes this breakdown of public trust.

Based upon a recent study by the U.S. Attorney General, racial profiling is indeed real and minority motorists have been treated differently than non-minority motorists by law enforcement entities in some areas. Law enforcement must, on a continuing basis, objectively evaluate the policies, procedures and practices of the agency to ensure fair and impartial treatment of citizens. This evaluation should include a close scrutiny of management philosophies and attitudes, as well as the individual activities of each officer within the agency.

The Texas Department of Public Safety (DPS) has historically evaluated data related to traffic stops. The management of the department recognizes that racial profiling is illegal, inconsistent with the principles of American policing, and an indefensible public protection strategy. We aggressively deliver this message to all employees of the agency. The department also reinforces measures to monitor traffic stops.

The most recent information, relating to traffic stops by troopers indicates that 68.12% of the total traffic stops are white drivers, 9.66% are black drivers, 19.98% Hispanic drivers and 2.44% are of other ethnicities. These statistics closely relate to the estimated population of Texas which reflects 60.69% of the Texas population is white, 11.66% black, 25.55% Hispanic and 2.10% other ethnicities. Attached to the Executive Summary, you will find a spreadsheet reflecting the current traffic stop related activities of the DPS.

The following report has been prepared to provide a historical background related to racial profiling and examine the activities of the Texas Department of Public Safety in relation to this issue. The goal is for this open method of communication to further provide the commissioned DPS officers with an understanding of this important issue, provide other interested parties with hard data relating to traffic stop statistics, and the documentation of the department's long time commitment to prevent racial profiling.

Based upon available data (March 1, 2000 - July 31, 2000), Troopers with the DPS made traffic stops, issued citations, warnings, and/or conducted searches of vehicles as follows:

<b>TRAFFIC STOPS</b>			
<b>Race</b>	<b># of Traffic Stops</b>	<b>% Race of Traffic Stops</b>	<b>% Race/Ethnicity Population of Texas</b>
<b>White</b>	531,307	68.12	60.69
<b>Black</b>	75,313	9.66	11.66
<b>Hispanic</b>	154,278	19.78	25.55
<b>Other</b>	19,063	2.44	2.10
<b>TOTAL</b>	779,961		

<b>CITATIONS</b>			
<b>Race</b>	<b># of Citations</b>	<b>% Race of Citations</b>	<b>% Race/Ethnicity Population of Texas</b>
<b>White</b>	290,588	68.40	60.69
<b>Black</b>	45,311	10.67	11.66
<b>Hispanic</b>	81,112	19.11	25.55
<b>Other</b>	7,260	1.71	2.10
<b>TOTAL</b>	424,271		

<b>WRITTEN WARNINGS</b>			
<b>Race</b>	<b># of Warnings</b>	<b>% Race of Warnings</b>	<b>% Race/Ethnicity Population of Texas</b>
<b>White</b>	240,719	67.67	60.69
<b>Black</b>	30,002	8.43	11.66
<b>Hispanic</b>	73,166	20.57	25.55
<b>Other</b>	11,803	3.31	2.10
<b>TOTAL</b>	355,690		

<b>VEHICLE SEARCHES</b>			
<b>Race</b>	<b># of Searches</b>	<b>% Race of Searches</b>	<b>% Race/Ethnicity Population of Texas</b>
<b>White</b>	13,866	51.86	60.69
<b>Black</b>	3,832	14.33	11.66
<b>Hispanic</b>	8,617	32.22	25.55
<b>Other</b>	422	1.57	2.10
<b>TOTAL</b>	26,737		

<b>DRUG INTERDICTION</b>			
<b>Race</b>	<b># of Interdictions</b>	<b>% Interdictions by Race</b>	<b>% Race/Ethnicity Population of Texas</b>
<b>White</b>	145	22%	60.69
<b>Black</b>	252	38%	11.66
<b>Hispanic</b>	259	39%	25.55
<b>Other</b>	8	1%	2.10
<b>TOTAL</b>	664		

\*Note: Drug Interdiction data from January 1, 2000 – June 3, 2000.

## TRAFFIC STOP DATA REPORT

It is illegal to initiate a traffic stop and/or subsequent search of a vehicle based simply upon the vehicle occupant's race, ethnicity, gender, or economic status. The fact that a person is African American, Hispanic, Asian, or of another ethnic group is not a basis for focusing suspicion of wrongdoing on that person. Traffic stops should be based upon actual violations of law, taking into consideration the seriousness of the offenses, the degree of the violations, or the conditions and circumstances surrounding the offense that might aggravate its potential effect (TAC 3.21). It is not illegal to target suspected criminals based on their conduct, and it is not illegal to focus suspicion on a person of a particular race or ethnic background if the law enforcement officer has specific articulable reason to believe that a crime has been committed.

**The fact that a person is African American, Hispanic, Asian, or of another ethnic group is not a basis for focusing suspicion of wrongdoing on that person.**

So far, as practicable under the circumstances, traffic law enforcement officers should stop every violator of the traffic laws observed by them and take appropriate enforcement action. It is not acceptable to stop one violator for a minor traffic violation (for example, driving 71 mph in a 70 mph zone), and allow similar violators to proceed undetained unless the circumstances surrounding the offense aggravate its potential effect. For example, if the flow of traffic in a 70 mph zone was congested and moving at 55 mph, a 71 mph stop may be merited. The practice of selectively stopping violators is illegal if a secondary reason for the stop was based upon the driver's race or ethnic origin.

The term "profiling," as applicable to drug interdiction, originally surfaced as an appropriate method for U.S. law enforcement officers to interdict drug traffickers during the late 1970's. The term was originally considered as an approach to deter the rapidly growing distribution of illegal drugs throughout the United States. These law enforcement efforts began in 1985 in conjunction with a Federal Drug Enforcement Agency initiative, "Operation Pipeline," designed to interdict drug traffickers on major highway corridors. The Federal Drug Enforcement Agency trained police officers across the nation on methods to detect drug traffickers. Peace officers frequently found that these drug traffickers used similar techniques in transporting drugs in motor vehicles. As peace officers began to look for these techniques, or "profile," they became very proficient in interdicting drugs on our various highways.

During 1986, DPS instructors began to train department officers in a drug interdiction program designed specifically for Texas. The training included instruction on profiles. Although it was pointed out that many drug traffickers did in fact fit a particular profile, officers were taught that establishing a "profile" in any form would exclude many violators. The department strategy was that any person at any time driving any vehicle might be involved in drug trafficking.

The Texas training techniques were quite effective, in leading to the discovery of illegal drugs. It was not intended to profile a specific race or ethnicity, but rather utilize the combination of indicators as a tool to predict the probability of a crime.

Law enforcement strategies are guided by the Constitutions of the United States and Texas statutes, court decisions, and community expectations. Laws governing arrest, detention, search, and seizure are modified by the federal and state courts.

Increasing crime rates in the late 1980's and early 1990's were attributed in part to illegal drugs. Many violent crimes occurred as a result of people who were under the influence of drugs. Also, many property crimes were occurring by habitual drug users



**Laws of arrest, detention, and search and seizure, are routinely changing with court decisions.**

to buy drugs. In response, law enforcement agencies across the country established drug interdiction task forces directed at reducing the flow of illegal drugs.

In a few instances, police agencies and/or individual law enforcement officers established over-zealous programs directed at drug trafficking. In some cases, these over-zealous efforts have led to inappropriate racial profiling by some police agencies and/or law enforcement officers. To further complicate this issue, and unrelated to racial profiling, many agencies discontinued the collection of race related data during an arrest because of the sensitivity of identifying the race at roadside. This placed many agencies in a position of not being able to perform data related trend studies to determine if racial profiling was truly happening.

During 1998, a U.S. Attorney General investigation of the New Jersey State Police brought heightened national awareness to the issue of racial profiling. The investigation concluded that minority motorists had been treated differently than non-minority motorists during the course of traffic stops by the New Jersey State Police.

The New Jersey finding caused many police departments across the nation to carefully examine policies, procedures, and data related to traffic stops and/or drug interdiction efforts.

Documented guidelines must be established, in all law enforcement agencies, to outline clear-cut and substantial violation degrees for traffic stops to promote fair and impartial treatment. The Texas Department of Public Safety has appropriate guidelines (Chapter 1, Annex 1, Traffic Law Enforcement Manual) that have been in place for over 30 years and have served as the foundation for fair and impartial treatment of traffic law violators. Based upon these policies and training provided to officers within DPS, a trooper in the Panhandle of Texas should be stopping violators for the same degree of offense as those in the Rio Grand Valley. Accordingly, troopers throughout Texas provide impartial enforcement of traffic laws without regard to a driver's race/ethnicity.

Because of the significant problems associated with illegal drugs, the Texas Department of Public Safety developed an enhanced program in 1987 that was directed at developing a strong drug interdiction effort. Extensive training efforts were developed to provide instruction to our employees on how to recognize potential drug traffickers. These efforts have been an extension of our on-going traffic law enforcement effort. Troopers have been directed to be alert to indicators and/or probable cause of criminal activity, as they stop traffic law violators. The criteria for stopping traffic law violators is well embedded into the agency's policies and training program for troopers. Selective violator stops are not tolerated.

The Department of Public Safety has developed a philosophy of "looking beyond the traffic stop" to interdict and apprehend wanted fugitives, drug traffickers, and other criminal offenders. However, the decision to go beyond the traffic stop must be based on articulable reasonable suspicion or probable cause, that the occupant(s) may be engaged in criminal activity. When a trooper is acting under reasonable suspicion, a search is only conducted with consent of the driver.

All routine patrol black and white Highway Patrol cars are equipped with video/audio recording equipment. By policy, all troopers are required to video/audio record every violator contact.

The Texas Department of Public Safety very aggressively prohibits racial profiling. The agency stands absolutely firm in the opposition of racial profiling and/or racial discrimination of any form. Employees are instructed to approach their assigned duties in a fair and impartial manner, without regard to race, color, creed, or national

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origin. In the department's current drug interdiction training program, troopers are taught that traffic stops based on race, color, sex, religion, national origin, or social economic status, are illegal and such activities will not be tolerated by the department.

Troopers within the department are trained that racial profiling is illegal. This training is also provided to trooper trainees in the department's academy.

The department's trainers have taught drug interdiction techniques across the nation and to officers of foreign countries. The United States Department of Justice Civil Rights attorneys have attended these classes for the purpose of analyzing police training as it relates to eliminating racial profiling. These attorneys provided positive feedback, with specific praise, for the material and videos used to assure that race-based traffic stops and searches are not tolerated and are illegal.



## **AUTOMATED INFORMATION SYSTEM (AIS)**

Each traffic violator stop (including information related to race, sex and age) is entered into a database referred to as the Automated Information System (AIS). The AIS database includes identifying information and the race and sex of the violator. The database contains current and past data relating to violator stops and vehicle searches. The information is generally used as a management decision support tool to determine the type of activities our troopers are conducting, when these activities are occurring, and where the activities occur.

The database also allows management to search and accumulate data associated to any field or combination of fields in the database. The DPS is able to sort race related data by Trooper, Sergeant Area, District, Region, County, and/or highway. Supervisors randomly review this type of data and the data supplies an excellent source of information in follow-ups on citizen complaints or alleged wrongdoing by troopers.

The AIS database is a distributed data entry and decision support system that uses high performance database servers, rapid application development tools, graphical user interfaces, heavily validated entry forms, and easy to use tools for data analysis and ad-hoc querying and reporting.

As related to racial profile evaluation, queries may be made relating to:

- Race/sex of arrests/warning by county.
- Route of arrests/warning by race/sex.
- Race/sex of arrest/warnings by Trooper ID/Sergeant Area/District/Region.
- Race/sex of arrest/warning by type of violation.
- Race/sex of arrest/warnings when the vehicle was searched.
- Race/sex of arrest/warnings by road class.
- Race/sex of persons involved in accidents by County/Route/Mile Post/Road Class/Officer Identification/Sergeant Area/District/Region.
- Race/sex of arrests/warnings/accidents by year/month/week/day of week/quarter day.

The department is currently using a Virtual Report Writer tool at the state headquarters level to query potential racial profiling issues on a quarterly basis. We are, however, in the process of designing a query builder for use by local supervisors for monthly monitoring of potential racial profiling issues.

In addition to these automated systems, all first-line supervisors (Sergeants) review each hard copy of the arrest and warning made by Troopers on a weekly basis. Supervisors have been instructed to remain alert to potential racial profiling issues.

DPS records relating to Hispanic arrests are, however, not documented prior to March 1, 2000. On January 5, 1993, the Hispanic designation on the traffic citation and warning was deleted to coincide with National Crime Information Center (NCIC) and Texas Crime Information Center (TCIC) race code designations. Hispanic violators were generally reported under the white race category.

In an effort to thoroughly document, evaluate, and monitor traffic stop data, the DPS reinstated the Hispanic designation as related to traffic stops on March 1, 2000. In addition, on March 1, 2000, a "yes" or "no" field relating to searches of vehicles was added to the citation and warning, and this field is captured in the AIS database.

**The primary DPS source of statistical information related to arrest, warnings, and vehicle searches is the Automated Information System.**

**The department is currently using the Virtual Report Writer tool to query potential racial profiling issues on a quarterly basis.**

The agency also has a database related to drug interdiction activities. On each traffic stop where drugs (above a user amount) and/or cash are seized, the trooper completes a drug interdiction report. This report contains vehicle, driver, and other occupant identification data, including race. The report also identifies the type of search that was conducted, such as consent to search or probable cause, and the amount of drugs, cash, or other property seized. This data is entered into a database referred to as the Drug Interdiction Database.



**RULES, REGULATIONS, POLICIES AND STATUTES RELATING TO ELIMINATING RACIAL PROFILING**

The department has established rules, regulations, and policies that apply to incidents of racial profiling. The Texas Penal Code also provides two (2) specific statutes that are applicable to racial profiling: Abuse of Official Capacity, Section 39.02 and Official Oppression, Section 39.03.

In addition, there are Federal Statutes and provisions within the Texas Constitution and United States Constitution that are applicable to racial profiling.

Within the last two (2) years, the subject of racial profiling has been discussed numerous times during staff and command meetings. The department's leadership has aggressively condemned racial profiling and provided instruction and guidance through the applicable chain of command.

In conjunction with the August, 2000 paycheck, every employee of the agency received an interoffice memorandum from Colonel Thomas Davis, Jr. regarding the seriousness of racial profiling, the department's position, and instruction relating to this issue.

The memorandum, department rules, regulation and policies, and applicable state and federal statutes are attached as Annex #1.

The department has reviewed how other states are approaching the racial profiling issue. In comparison, the department is taking a very aggressive and proactive position on this issue.

Surveys with other state police agencies indicate the following:

**... every employee of the agency received an interoffice memorandum from Colonel Thomas Davis, Jr. regarding the seriousness of racial profiling, the department's position, and instruction relating to this issue.**

**RACIAL PROFILING STATE POLICE SURVEY**

STATE	RESEARCH/STUDIES		DATA/STATISTICS		POLICIES	
	Yes	No	Yes	No	Yes	No
Arizona	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Florida	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Indiana	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kansas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Maine	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
North Carolina	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
New York	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Oklahoma	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Texas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Virginia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**STATISTICS**

**POPULATION BY RACE/ETHNICITY IN TEXAS**

The race/ethnicity population estimates available for Texas include: (1) the 1990 United States Census; and (2) the 2000 Texas State Data Center (Texas A&M University) population estimates.

Although very similar, the Texas population estimates conducted by the Texas State Data Center at Texas A&M University appear to be the most applicable population estimates for comparative purposes. This data is updated annually and based upon the 1990 United States Census.

**PERCENT OF ORIGIN BY RACE/ETHNICITY IN TEXAS  
(1990 CENSUS)**

Origin by Race	Total Persons	Percentage
White	10,320,879	60.75%
Black	1,988,995	11.70%
Hispanic	4,294,120	25.27%
Asian	305,055	1.79%
Other	77,461	.45%
<b>Total</b>	<b>16,986,510</b>	

The Texas population estimates conducted by the Texas State Data Center at Texas A&M University appear to be the most applicable population estimates for comparative racial profiling purposes.

**TEXAS POPULATION ESTIMATE  
TEXAS STATE DATA CENTER  
TEXAS A&M UNIVERSITY  
(JUNE 1, 2000)**

Origin by Race	Total Persons	Percentage
White	10,308,444	60.69%
Black	1,980,693	11.66%
Hispanic	4,339,900	25.55%
Other	357,473	2.10%
<b>TOTAL</b>	<b>16,986,510</b>	

*\*Note: Asian is not reported separately. The Asian race is reported under "Other."*

**DPS VEHICLE STOP STATISTICS**

During traffic stops, troopers may issue multiple citations or warnings. For example, a violator stopped for speeding has an expired registration. He/she would likely receive a citation (recorded on the same citation) for each violation. Vehicle stops, however, are the primary indicator of racial profiling issues.

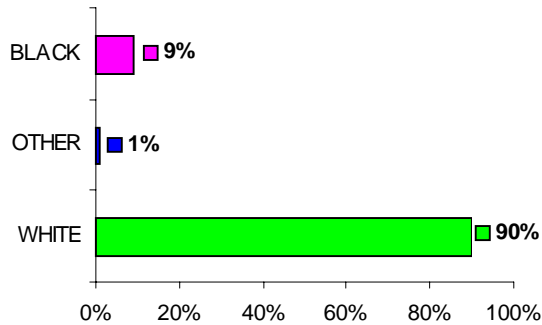
Troopers with the Texas Department of Public Safety record most traffic stops (99%) on a citation or written warning. A very small number of verbal warnings are issued during a traffic stop (less than 1% of the total) when extreme circumstances, such as a medical emergency, merit such action. Verbal warnings are not recorded.

Data is available on citations and warnings for the last six (6) years. On the citation, data related to the Hispanic ethnicity and data related to search of the vehicle was not recorded prior to March, 2000. The warning, data related to race, sex, and search of the vehicle was also not recorded prior to March, 2000. The change in the database to provide this additional data was an effort by the department to enhance past monitoring of racial profiling issues.

During 1999, Troopers made 1,070,557 vehicle stops that resulted in citations. Of those vehicle stops, 90% were white drivers (including Hispanic drivers), 9% black drivers, and 1% were of unknown ethnicity.

**1999 CITATIONS**

<b>RACE</b>	<b>CITATIONS</b>	<b>RACE PERCENTAGE</b>
<b>BLACK</b>	100,846	9%
<b>OTHER</b>	11,421	1%
<b>WHITE</b>	958,290	90%
<b>TOTAL</b>	<b>1,070,557</b>	



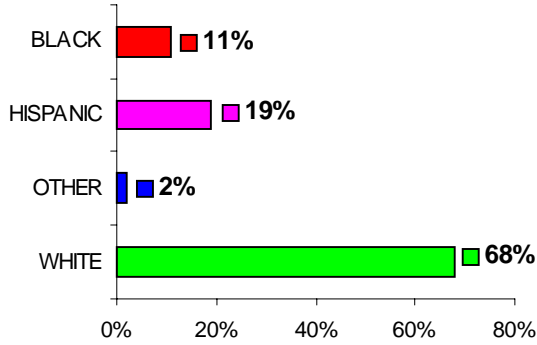
\* Ethnic Breakdown by Percent from Citations  
Data taken from January 1, 1999 - December 31, 1999.

From March 1, 2000, through July 31, 2000 (after database updates), a total of 424,271 vehicles were stopped that resulted in citations. Of those stopped, 290,588 (68%) were white drivers, 81,112 (19%) were Hispanic drivers, and 45,311 (11%) were black drivers.

**2000 CITATIONS**

(March 1, 2000 – July 31, 2000)

RACE	CITATIONS	RACE PERCENTAGE
BLACK	45,311	11%
HISPANIC	81,112	19%
OTHER	7,260	2%
WHITE	290,588	68%
<b>TOTAL</b>	<b>424,271</b>	



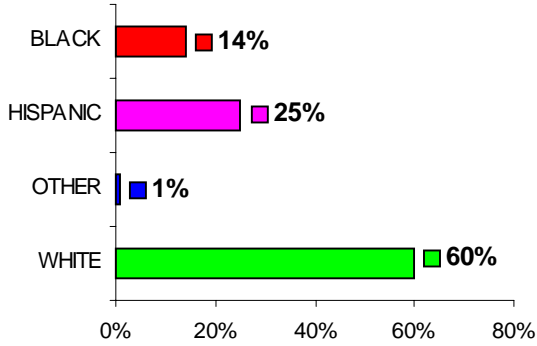
\* Ethnic Breakdown by Percent from Citations  
Data taken from March 1, 2000 - July 31, 2000.

Of the total 424,271 vehicles stopped with a citation issued, 17,462 or 4% of the vehicles were searched. A total of 10,406 (60%) of those searches were white drivers, 4,410 (25%) were Hispanic drivers, and 2,448 (14%) were black drivers.

**2000 CITATION VEHICLE SEARCHES**

(March 1, 2000 – July 31, 2000)

RACE	CITATIONS	RACE PERCENTAGE
BLACK	2,448	14%
HISPANIC	4,410	25%
OTHER	198	1%
WHITE	10,406	60%
<b>TOTAL</b>	<b>17,462</b>	



\* Ethnic Breakdown by Percent from Citations  
Data taken from March 1, 2000 – July 31, 2000

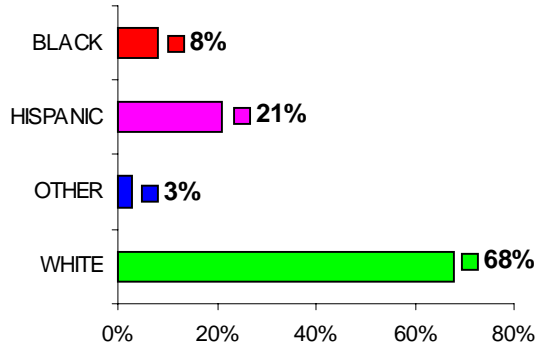
During 1999, 886,387 written warning stops were made. The race and search information related to these stops was not recorded for 1999.

From March 1, 2000, through July 31, 2000, 355,690 vehicles were stopped for warning violations. A total of 240,719 (68%) of those vehicles were driven by white drivers, 30,002 (8%) were driven by black drivers, and 73,166 (21%) were driven by Hispanic drivers.

**2000 WARNING VIOLATIONS**

(March 1, 2000 – July 31, 2000)

RACE	WARNING	RACE PERCENTAGE
BLACK	30,002	8%
HISPANIC	73,166	21%
OTHER	11,803	3%
WHITE	240,719	68%
<b>TOTAL</b>	<b>355,690</b>	



\* Ethnic Breakdown by Percent from Warning Violations  
Data taken from March 1, 2000 – July 31, 2000.

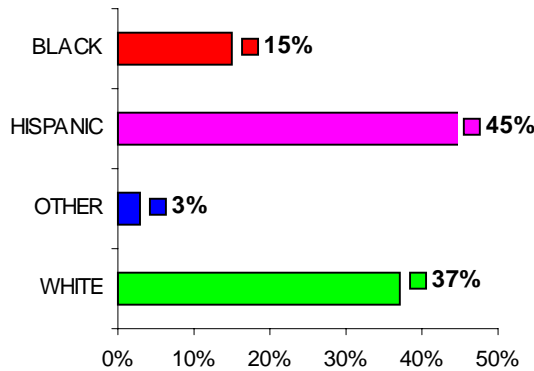
Of the total 355,690 vehicles stopped for warning violations, 9,275 (3%) were searched. A total of 3,460 (37%) of these drivers were white drivers, 4,207 (45%) were Hispanic drivers, and 1,384 (15%) were black drivers.

The high percentage of Hispanic driver warning searches is related to the geographic location of Texas. Texas has the largest continuous border mileage with Mexico of any state in the nation. A large portion of illegal drugs enter the United States from South America, Central America, and Mexico through illegal crossing of the Mexico/Texas border.

**2000 WARNING VEHICLE SEARCHES**

(March 1, 2000 – July 31, 2000)

RACE	WARNINGS	RACE PERCENTAGE
BLACK	1,384	15%
HISPANIC	4,207	45%
OTHER	224	3%
WHITE	3,460	37%
<b>TOTAL</b>	<b>9,275</b>	



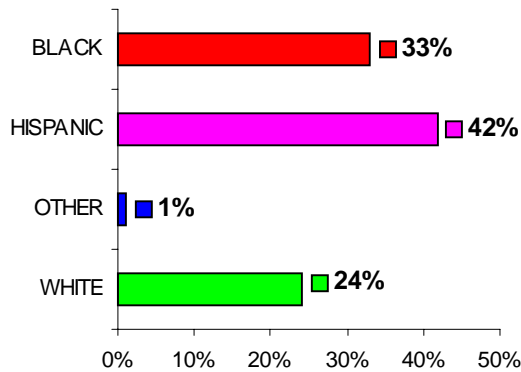
\* Ethnic Breakdown by Percent from Warning Vehicle Searches  
Data taken from March 1, 2000 – July 31, 2000

In 1999, a drug interdiction case was made on 1,592 drug traffickers. These drug traffickers possessed drugs beyond a user quantity, or possessed currency or property that had an affirmative link to drug trafficking. Generally, the drugs that were seized were en route to a point of distribution to be sold in smaller quantities.

Of the 1,592 drug interdiction arrests, 676 (42%) were of Hispanic origin, 526 (33%) were black drivers, and 386 (24%) were white drivers.

**1999 DRUG INTERDICTION**

RACE	INTER-DICTIONS	RACE PERCENTAGE
BLACK	526	33%
HISPANIC	672	42%
OTHER	8	1%
WHITE	386	24%
<b>TOTAL</b>	<b>1,592</b>	



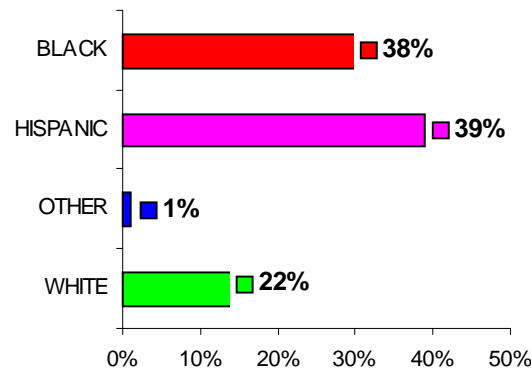
\* Ethnic Breakdown by Percent from Drug Interdiction Data taken from January 1, 1999 – December 31, 1999

From January 1, 2000, through June 30, 2000, Troopers have made 664 drug interdiction cases. Of those 664 cases, 254 (39%) were Hispanic drivers, 252 (38%) were black drivers, and 145 (22%) were white drivers.

**2000 DRUG INTERDICTION**

(January 1, 2000 – June 30, 2000)

RACE	INTER-DICTIONS	RACE PERCENTAGE
BLACK	252	38%
HISPANIC	259	39%
OTHER	8	1%
WHITE	145	22%
<b>TOTAL</b>	<b>664</b>	



\* Ethnic Breakdown by Percent from Drug Interdiction Data taken from January 1, 2000 – June 30, 2000.

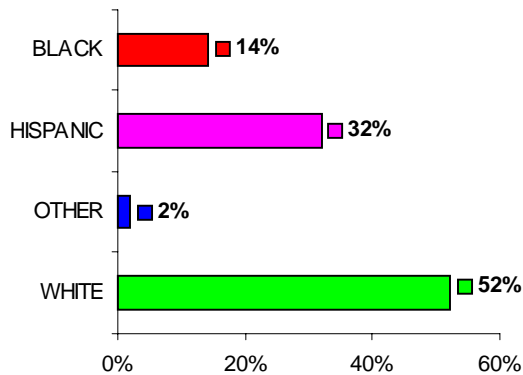
Drug interdiction cases are made from vehicle searches. Statistics reflect that citation and warning searches are made by race and ethnicity at a rate very comparable with the race and ethnicity population of Texas.

During the total searches on vehicles stopped from citations and warnings 52% of the searches were conducted on white drivers 32% were conducted on Hispanic drivers, 14% were conducted on black drivers and 2% were conducted on other drivers.

**2000 VEHICLE SEARCHES  
(CITATIONS & WARNINGS)**

(March 1, 2000 – July 31, 2000)

RACE	CITATIONS & WARNINGS	RACE PERCENTAGE
BLACK	3,832	14%
HISPANIC	8,617	32%
OTHER	422	2%
WHITE	13,866	52%
<b>TOTAL</b>	<b>26,737</b>	



\* Ethnic Breakdown by Percent from Vehicle Searches  
Data taken from March 1, 2000 – July 31, 2000

The Texas Department of Public Safety continues to maintain an outstanding reputation with the citizens of Texas. This reputation was built over many years of serving our communities in a manner that fostered trust and mutual respect. As we carry out our law enforcement duties we will continue to treat citizens in a fair and impartial manner.

**DEPARTMENT OF PUBLIC SAFETY  
INTEROFFICE MEMORANDUM  
TRAFFIC LAW ENFORCEMENT**

To: All Commissioned Employees Date: 7/12/00  
From: Colonel Thomas A. Davis, Jr., Director  
Subject: Profiling in Traffic Stops

The DPS strategy of aggressive traffic enforcement accompanied by a philosophy of "looking beyond the traffic stop" in an effort to interdict and apprehend wanted fugitives, drug traffickers, and other criminal offenders, has been very successful. Our troopers and officers have gained national recognition for their efforts in that regard and I continue to strongly support and encourage their efforts.

Recently, concern has been raised across the nation relating to the concept of "profiling." The act of profiling, simply stated, means that the decision to initiate a traffic stop and/or subsequently conduct a search of a vehicle is based upon the vehicle occupant's race, ethnic origin, gender, or economic status. Although such a practice has never been promoted, encouraged, or permitted by the Department, publicity surrounding it continues to create questions about the integrity of all law enforcement agencies. For that reason, I want to reiterate, in the strongest possible terms, the Department's position on this important issue.

The prevailing opinion among law enforcement professionals, as recently voiced in an International Association of Chief's of Police (IACP) paper on professional traffic stops, is that profiling is illegal, inconsistent with the principles of American policing, and an indefensible public protection strategy.

I unequivocally share that opinion and expect DPS Troopers and Officers to base their decisions to stop a vehicle only upon an observed violation of the law, credible information that the occupant(s) have committed a violation of the law, or for an emergency reason. Likewise, a decision to request consent to search the vehicle shall be based only on articulable reasonable suspicion that the occupant(s) may be engaged in criminal conduct. The occupant's race, ethnic origin, gender, or economic status must have no bearing on either of these decisions.

It is the task of supervision, at every level, to ensure that members are not engaged in profiling and that they clearly understand that profiling will not be tolerated. Reviews of reports with a focus toward identifying profiling patterns, line/administrative inspections, as well as reinforcement through local training are among the methods that should be employed. Individuals found to be engaged in profiling, as well as supervisors found to have condoned, encouraged, or ignored patterns of profiling will be subject to disciplinary actions.

**Again, this is to reiterate the Department's position that traffic stops and/or vehicle searches based upon the occupant's race, ethnic origin, gender, or economic status have no place in this agency.**

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## POLICIES/STATUTES APPLICABLE TO TRAFFIC STOP PROFILING

- **DPS Policies**
- **Texas Statutes**
- **Texas Constitution**
- **United States Constitution**
- **Federal Statutes**

### DPS Policies

#### **01.05.02.04 GENERAL DOCTRINES AND POLICIES (Rule 201.01.02.001)**

It is a solemn obligation of members of the Department of Public Safety to uphold the constitutions of the United States and the State of Texas as well as to enforce the statutory enactments. Constitutional provisions take precedence over statutory enactments. In the enforcement of the provisions of a statute, personnel of the Department of Public Safety will refrain from infringing upon any rights or privileges guaranteed by the constitutions.

#### **01.06.10.02 DPS Ten General Orders**

1. "To advance the objective of the Department in preserving the lives, rights, privileges, and property of the people in the State of Texas to the best of my ability and in an entirely impartial manner."

#### **01.06.15.00 IACP Code and Canons of Ethics**

1. "As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception; the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice."

#### **01.06.15.02 IACP Canons of Police Ethics**

2. **Limitation of Authority.** The first duty of a law enforcement officer, as upholder of the law, is to know its bounds upon him enforcing it. Because he represents the legal will of the community, be it local, state, or federal, he must be aware of the limitations and proscriptions which the people, through law, have placed upon him. He must recognize the genius of the American system of government which gives no man, group of men, or institution, absolute power, and he must insure that he, as a prime defender of that system, does not pervert its character.
8. **Conduct in Arresting and Dealing With Law Violators.** The law enforcement officer shall use his powers of arrest strictly in accordance with the law and with due regard to the rights of the citizen concerned. His office gives him no right to prosecute the violator nor to mete out punishment for the offense. He shall, at all times, have clear appreciation of his responsibilities and limitations regarding detention of the violator; he shall conduct himself in such a manner as will minimize the possibility of having to use force. To this end he shall cultivate a dedication to the service of the people in the equitable upholding of their laws whether in the handling of law violators or in dealing with the law abiding.

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**01.06.30.02 Major Infraction Applicable to any Member**

"Any of the major infractions listed as follows may be deemed sufficient cause for the discharge, suspension, demotion, or removal of any member of the Department of Public Safety:

1. Failure to abide by the Code and Canons of Ethics;
2. Violation of one or more of the Ten General Orders;
3. Violation of any rule, order, requirement, or failure to follow instructions contained in Department manuals; . . . "

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**Texas Statutes**

**§39.02. Abuse of official capacity.**

- (a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:
- (1) violates a law relating to the public servant's office or employment;
  - (2) . . .
- (b) An offense under Subsection (a)(1) is a Class A misdemeanor.

**§39.03. Official oppression.**

- (a) A public servant acting under color of his office or employment commits an offense if he:
- (1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;
  - (2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or
  - (3) intentionally subjects another to sexual harassment.
- (b) . . .
- (c) . . .
- (d) An offense under this section is a Class A misdemeanor.

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**Texas Constitution**

**Section 9. Searches and Seizures**

"The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches. . . "

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**United States Constitution**

**4<sup>th</sup> Amendment**

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . "

**14<sup>th</sup> Amendment**

**Section 1.** "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

**Federal Statutes**

**Title 42 U.S.C. § 1983** provides that "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

**Title 42 U.S.C. § 14141**, provides that "[i]t shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States."

**Title 18 U.S.C. § 242** states "[w]hoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death."

Two additional statutes exist that prohibit discrimination by law enforcement agencies that receive federal financial assistance. Both statutes can be enforced through civil litigation by the Department of Justice, by private lawsuits, and by administrative procedures implemented by the Department of Justice.

**Title 42 U.S.C. § 2000d** provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This statute applies to agencies receiving federal grants, equitable sharing funds, and free or reduced cost federal services such as training.

**Title 42 U.S.C. § 3789d (c)** provides that "[n]o person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this chapter."

This provision of law includes agencies that receive federal funding through grant programs administered by the Bureau of Justice Assistance (which includes Byrne grants) or the Community Oriented Policing Services (COPS) Office.

No law enforcement agency should condone or promote the use of any racial or ethnic profiling system in its enforcement programs. Criminal elements exist in every segment of our society. An officer whose enforcement stops are based on race or ethnicity is engaged in a practice which undermines legitimate law enforcement, and may face claims in federal courts of civil rights violations. Criminality transcends any perceived racial or ethnic parameters. To focus on a single segment of society is to limit the effectiveness of your enforcement efforts.

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