



KYLE POLICE DEPARTMENT

Memorandum

To: Scott Sellers, City Manager

Cc: James Earp, Assistant City Manager

Jennifer Vetrano, City Secretary

From: Jeff Barnett, Chief of Police

Date: February 13, 2018

Re: 2017 Annual Racial Profiling Report

The Kyle Police Department is submitting the 2017 Racial Profiling Report as required by the Texas Code of Criminal Procedure. This report is required to be submitted to the governing body on or before March 1st of each year. Please find the following documents for your review and presentation to the City Council:

- ☐ Kyle Police Department Racial Profiling Policy Chapter 2.2;
- ☐ Kyle Police Department Annual Report – 2017 Data
- ☐ Memorandum from Captain Hernandez

As you may recall, the State of Texas enacted a law requiring certain actions on behalf of the local agency and the individual law enforcement officers when conducting traffic or pedestrian stops. The Kyle Police Department has a policy that prohibits officers from engaging in racial profiling as defined by state law, and our officers are directed to capture certain types of data pertaining to traffic and pedestrian detentions that result in a citation or arrest. The Kyle Police Department is assigned to the Tier 1 – Partial Exemption reporting category because our police vehicles that routinely engage in traffic and pedestrian stops are outfitted with audio and video equipment. These videos are retained for a period of not less than 90 days, and they are reviewed throughout the year by supervisory staff as required by the statute.

The Kyle Police Department does have a publicly promoted process by which an individual may file a complaint if the individual believes that a Kyle Police Officer has engaged in racial profiling. Furthermore, the Kyle Police Department did not receive any complaints pertaining to racial profiling during this reporting period.

KYLE POLICE DEPARTMENT

Memorandum

In reviewing the data, the Kyle Police Department conducted a total of 3,528 motor vehicle stops. The following table represents the percentage of individuals stopped by race/ethnicity:

Race/Ethnicity	Percent of Total Stops
African	7.88%
Asian	1.00%
Caucasian	56%
Hispanic	34%
Middle Eastern	< 1%
Native American	<1%

Of the 3,528 motor vehicle stops that resulted in an arrest or citation, 531 vehicle searches were conducted. Of those 531 searches, 42 of them were consensual while 489 of them were based upon probable cause or incident to arrest. Of the same 3,528 traffic stops, only in 63 of the instances was the race/ethnicity of the vehicle operator known to the police officer prior to the vehicle stop.

This report has been filed with the Texas Commission on Law Enforcement as required. It is my understanding that this report will be provided to the City Council prior to the March 1st deadline, and I am prepared to make any presentations as directed by you in the future.

Please let me know if you would like any further information concerning this report. Thank you very much.



KYLE POLICE DEPARTMENT

Memorandum

Date: February 12, 2018

To: Dr. Jeff Barnett
Chief of Police


From: Pedro F. Hernandez Jr.
Police Captain

Re: 2017 Racial Profiling Report

I have completed the submission of our agencies numbers for the Racial Profiling Report to the Texas Commission on Law Enforcement (TCOLE). The report is attached to this memo and is available on the TCOLE website.

During 2017, our agency did not receive any racial profiling complaints.

Pedro F. Hernandez Jr.

<p>GENERAL ORDER</p>  <p>Kyle Police Department</p>	Effective: 07-09-15	Chapter 2.2
	Section: Professional Standards and Conduct	Subject: Racial Profiling and Bias Reduction
	Approved: <u>Jeff Barnett</u>	
	Reference TBP: 2.01	

I. POLICY

We are committed to the support of constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, national origin, ethnicity, age, or religion. All people carry biases: in law enforcement, however, the failure to control our biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of our department. Most importantly, actions guided by bias destroy the trust and respect essential for our mission to succeed. We live and work in communities very diverse in population. Respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions, particularly stops of individuals (for traffic and other purposes), investigative detentions, arrests, searches and seizures of persons or property, shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

All departmental orders are informed and guided by this directive. Nothing in this order limits non-enforcement contacts between officers and the public.

II. PURPOSE

The purpose of this order is to provide general guidance on reducing the presence of bias in law enforcement actions, to identify key contexts in which bias may influence these actions, and emphasize the importance of the constitutional guidelines within which we operate.

III. DEFINITIONS

Most of the following terms appear in this order. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

- A. **Bias:** Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.
- B. **Biased policing:** Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- C. **Ethnicity:** A cluster of characteristics which may include race but also cultural characteristics or traits which are shared by a group with a common experience or history.

- D. Gender: The state of being male or female (typically used with reference to social and cultural differences rather than biological ones).
- E. Probable cause: Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense is about to be, has been, or is being committed, and that the suspect has committed it.
- F. Race: A category of people of a particular decent, including Caucasian, African, Hispanic, Middle Eastern, Asian, or Native American descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
- G. Racial profiling: 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.
- H. Reasonable suspicion: Articulate, objective facts which lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."
- I. Sex: A biological classification, male or female, based on physical and genetic characteristics.
- J. Stop: The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is an investigative detention.

IV. PROCEDURES

A. General responsibilities

1. Officers are prohibited from engaging in bias based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, ethnic background, gender, sexual orientation, religion, economic status, age or cultural group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. (TBP: 2.01)
2. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
3. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
 - a. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.
 - b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.

4. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
 - a. Personnel shall facilitate an individual's access to other governmental services whenever possible, and should actively provide referrals to other appropriate agencies.
 - b. Personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by an individual against the department. For additional information about the complaint process reference Chapter 2.4 Internal Investigation Process.
5. When feasible, personnel should offer explanations of the reasons for enforcement actions or other decisions that bear on an individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel may thank him or her for cooperating.
6. When feasible, all personnel shall identify themselves by rank and name. When a person requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.
7. All personnel are accountable for their actions. Personnel shall justify their actions when required.

B. Requirements for Traffic Stops:

1. A peace officer who makes a traffic stop which results in the issuance of a citation or an arrest shall record and report the following information:
 - a. The race or ethnicity of the individual detained; and
 - b. Whether the officer conducted a search as a result of the stop, and if so, whether the authorized person consented to the search.
 - c. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual.
 - d. Any other information as may be required by TCOLE.

C. Exemption of Reporting Requirements when Using Police Video and Audio Equipment:

1. Kyle Police Officers are exempt from the reporting requirements under C.C.P. Article 2.133 and the Department is exempt from the compilation, analysis, and reporting requirements under C.C.P. Article 2.134 if:
 - a. The Kyle Police Department police vehicle regularly used to make traffic and pedestrian stops is equipped with a video camera and the audio recording equipment, and
 - b. Each traffic and pedestrian stop capable of being recorded is recorded; or
 - c. The City Council of the City and the Kyle Police Department certifies to the

Department of Public Safety that the agency needs funds for equipment and the department does not receive sufficient state funds or equipment, as determined by DPS, to accomplish the purposes of this requirement.

- d. The Department shall retain the video and audio equipment documentation of each traffic or pedestrian stop for at least 90 days after the date of the stop.
- e. Any police vehicle as defined in Section VII. A. (1.) (2.) that is found to have inoperable video/audio equipment will not be placed into service for normal patrol duty or used for traffic or pedestrian stops until the equipment is repaired or replaced and fully capable of video/audio recording.
- f. If a complaint is filed with the department alleging that a Kyle Police Officer has engaged in racial profiling with respect to a traffic or pedestrian stop, the department shall retain the video and audio recording of the stop until final disposition of the complaint.

D. Review Process:

1. Sworn supervisors and the Patrol Lieutenant shall periodically review randomly selected sampling of video and audio recordings made recently by all peace officers employed by this department.
2. In addition to reviewing stops and arrests pursuant to the statutory requirements, reviewing supervisors will also assess the individual officer's violator approach, interpersonal skills, officer safety skills, positioning of the patrol vehicle etc. for training purposes, employee coaching or discipline. Any specific incident meriting further consideration for racial profiling review by this process shall be forwarded to the Chief of Police for an Internal Affairs unit review.
3. By March 1 of each year, an annual administrative review of agency practices, collected data, and citizen complaints of racial profiling will be performed by the Chief of Police or his designee.

E. Supervisory responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify, document and correct instances of bias in the work of their subordinates.
2. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
4. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.

5. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.

6. Supervisors shall facilitate the filing of any complaints about law enforcement service.

F. Disciplinary consequences

Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.

G. Training (TBP: 2.01)

1. Officers shall complete all training required by state law regarding bias based profiling.

V. COMPLAINTS

A. The department shall publish "How to Make a Complaint" information and make this available at the police department. The department's complaint process will be posted on the department's website. Whenever possible, the media will be used to inform the public of the department's policy and complaint process.

B. Written and signed complaints alleging incidents of bias based profiling will be fully investigated as described under Policy 2.4.

C. Complainants will be notified of the results of the investigations when such investigation is completed.

VI. RECORD KEEPING

A. The department will maintain all required records on traffic stops where a citation is issued or where an arrest is made subsequent to a traffic stop pursuant to state law.

B. The information collected above will be reported to the city council annually.

C. The information will also be reported to TCOLE in the required format.

Racial Profiling Report | Tier one

Agency Name:	Kyle Police Department
Reporting Date:	02/07/2018
TCOLE Agency Number:	209202
Chief Administrator:	Jeff Barnett
Agency Contact Information:	
Phone:	512-268-0859
Email:	kylepd@cityofkyle.com
Mailing Address:	111 N. Front St. Kyle Texas 78640

This Agency claims partial racial profiling report exemption because:

Our vehicles that conduct motor vehicle stops are equipped with video and audio equipment and we maintain videos for 90 days.

Certification to This Report 2.132 (Tier 1), Partial Exemption

Article 2.132(b) CCP Law Enforcement Policy on Racial Profiling

Kyle Police Department has adopted a detailed written policy on racial profiling. Our policy:

- 1.) clearly defines acts constituting racial profiling;
- 2.) strictly prohibits peace officers employed by the Kyle Police Department from engaging in racial profiling;
- 3.) implements a process by which an individual may file a complaint with the Kyle Police Department if the individual believes that a peace officer employed by the Kyle Police Department has engaged in racial profiling with respect to the individual;
- 4.) provides public education relating to the agency's complaint process;
- 5.) requires appropriate corrective action to be taken against a peace officer employed by the Kyle Police Department who, after an investigation, is shown to have engaged in racial profiling in violation of the Kyle Police Department 's policy adopted under this article;
- 6.) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

b.) whether a search was conducted and, if so, whether the individual detained consented to the search; and

c.) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

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

a.) the Commission on Law Enforcement; 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.

Executed by: Jeff Barnett

Chief Administrator

Kyle Police Department

Date: 02/07/2018

Total stops: 3528

Number of motor vehicle stops

Citation only: 3113

Arrest only: 257

Both: 158

Race or ethnicity

African: 278

Asian: 35

Caucasian: 1968

Hispanic: 1212

Middle eastern: 20

Native american: 15

Was race known ethnicity known prior to stop?

Yes: 63

No: 3465

Was a search conducted

Yes: 531

No: 2997

Was search consented?

Yes: 42

No: 489

Submitted electronically to the



The Texas Commission on Law Enforcement