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## **AGENDA**

**The Center City Council will meet in Regular Session on Monday, March 11, 2019 at 5:00 p.m. in Council Room at Center City Hall. The following items are on the agenda for appropriate action:**

- I. Welcome Guests and Visitors.**
- II. Approval of Minutes of the Regular Meeting on February 11, 2019.**
- III. Discuss Consider and Action on the Following:**
  - A. Approve Portacool Park Use Permit.**
  - B. Acceptance of Annual Racial Profiling Report.**
- IV. Items of Interest from Council and City Manager and Citizens – No Action Items.**
- V. Executive Session**

Consider entering executive session for legal consultation with the City Attorney and discussion of pending litigation, personnel matters and land acquisition with possible action related thereto upon reconvening in open session in accordance with Government Code Section 551.071, 551.072 and 551.074
- VI. Adjournment.**

MEMORANDUM

TO: Mayor and City Council

FR: Chad D. Nehring, City Manager



Date: March 8, 2019

RE: Agenda Comments for Regular Meeting of March 11, 2019

REGULAR MEETING AGENDA:

III.A. Approve Portacool Park Use Permit

As established by Council, dedicated use of the parks can be requested under certain conditions and that permit must be approved by Council if use is for the entirety of the facility. The permit application and event explanation are included. Staff has reviewed the request and with the exception of obstructing parking stalls, doesn't see any potential problems. The applicant has been advised they are responsible for cleaning. A representative of Pilgrim's is expected to be available for any additional questions or concerns prior to consideration of this application.

III.B. Acceptance of Annual Racial Profiling Report

State law requires the compilation of various law enforcement data on an annual basis. One aspect is the documented submittal to the governing body of the required racial profiling components of this data. This report has already been submitted to the State and is presented to the Council at this time. You are not required to approve the report but to document receipt Council has historically accepted the report.

IV. Items of Interest:

1) SB2/HB2 – Texas Legislature

Included is information on this most recent attempt at legislation guised as a laudable goal that is really purely a political win with no intent of actual tax reduction for property owners. As predicted last month, this legislation is now being expanded to force more elections in cities of all sizes regardless of annual tax revenue. As is the case with Center, it is not unusual that the city tax rate is the lowest of all major taxing entities. The most likely outcome of this type of added regulation will be for a consistent annual demand to increase the tax rate, which is not typical of most city operations. Because of the lack of latitude to respond to dramatic changes in economic conditions or

Council-determined enhancements to services or community assets, this faux tax reduction measure will actually result in stabilized annual increases in local tax rates. With continued mandates from the state and taking from local resources like the local portion of sales taxes, state-mandated court fees and TCEQ annual fees to pay for continuation of state operations.

2) Financial Reports

The sales tax report and monthly financial dashboards are included. Primarily bolstered by retail/commercial sales and number of reporting businesses continuing stronger than budgeted, all reports look good with positive variances from recent annual averages.

3) TCEQ Inspection Report/Resolution

This year, TCEQ enhanced its enforcement on potentially hazardous connections and requirements for certified backflow prevention devices. For the first time, the state now identified a targeted selection of operations requiring individual monitoring and determination of state standards. This resulted in several months of assistance and interaction with these customers to obtain compliance.

4) Transfer Station (Garbage) Permit Application

Included is a permit application for a garbage transfer station near the City. The proposed location is in the current extra-territorial jurisdiction and would be serviced by City utilities but generally conforms to the City's comprehensive land use plan of industrial use of this area along FM 2468 (Portacool Road)

5) Street Project – 2018...2019

Both contractors continue to fight weather in completing these contracts. Major construction is on Watlington, Shillings, Bolton, Creswell, Hicks, King and Pine streets some of which finally have finished coat asphalt installed. The concrete intersection aprons are still being installed at various locations. The weather finally cooperated this last week in what has been a trying and difficult period in which to complete street construction projects.

6) Downtown Plans should be finalized in March. An upcoming meeting will include the presentation and financing plan prior to consideration of bid awards. We will continue scheduling meetings with downtown owners, festival committees, Council and other interested parties to attempt to include as much input and address any needs. Additionally, input on needs to work around certain schedules or locations, like the festivals is being identified so that those items are explicit in bid requirements. Some preliminary material samples should be available at this meeting.

7) AEP-SWEPCO Tree Trimming Program

Activities continuing and making progress without a significant amount of the typical concerns of trees being cut in irregular appearance.



**MINUTES OF THE CITY OF CENTER  
CITY COUNCIL MEETING  
REGULAR MEETING  
February 11, 2019**

The Center City Council met in a regular session on Monday, February 11, 2019 at 5:00 p.m. in the Council Chambers at Center City Hall. The meeting was open to the public. Notices were properly posted of the date, place and hour and the news media was notified. The following members were present:

David Chadwick	-	Mayor
Leigh Porterfield	-	Mayor Pro Tem
Joyce Johnson	-	Council Member
Howell Howard	-	Council Member
Jerry Lathan	-	Council Member
Terry Scull	-	Council Member
Randy Collard	-	Council Member
Chad Nehring	-	City Manager
Barbara Boyd	-	City Secretary
John Price	-	City Attorney

Guests signed the register.

**Item I. Mayor David Chadwick opened the meeting at 5:00 pm and welcomed the visitors.**

**Item II. Approval of Minutes of the Regular Meeting on January 28, 2019.**  
Council Member Howell Howard made a motion to approve the minutes. Council Member Randy Collard seconded the motion. All voted in favor.

**Item III. Consider Discussion and Possible Action on the following:**

- A. Resolution 2019-03 Authorize Submission of Texas Community Development Block Grant Application. City Manager Chad Nehring this application is similar to 2017 except in the guaranteed size of the tank proposed as discussed at a prior council meeting. Mr. Nehring stated the local match obligation is \$356,000 and is the maximum the City would be obligated to install and contribute in local funds toward the project. Council Member Terry Scull made a motion to approve Resolution 2019-03 Authorizing Submission of Texas Community Development Block Grant Application. Council Member Leigh Porterfield seconded the motion. All voted in favor.
- B. Resolution 2019-04 Authorize Submission of Homeland Security Grant Application. City Manager Chad Nehring stated this action will allow staff to submit a no-match application for upgraded radio equipment for a portion of the Police Department communication needs and these funds are eligible under Homeland Security designated projects of which communications equipment is eligible. Mr. Nehring state the recommendation of the department is to use this opportunity to seek

enhanced radio equipment. Council Member Howell Howard made a motion to Authorize Submission of Homeland Security Grant Application. Council Member Jerry Lathan seconded the motion. All voted in favor.

- C. Resolution 2019-05 Authorize Submission of Body-Armor Grant Application. City Manager, Chad Nehring stated this action will allow staff to submit a no-match application for body armor/vests for a portion of the Police Department employees. Mr. Nehring stated these funds are used for eligible projects specified only to be body armor equipment and the recommendation of the department is to use this opportunity to seek replacement of existing equipment. Council Member Terry Scull made a motion to approve Resolution 2019-05 Authorizing Submission of Body-Armor Grant Application. Council Member Joyce Johnson seconded the motion. All voted in favor.

**Item IV. Items of Interest from Council and City Manager, and Citizens – No Action Items.**

**Item V. Executive Session.**

Council convened in Executive Session at 5:25pm for consultation with the City Attorney and adjourned at 5:30pm. No Action was taken.

Consider entering executive session for legal consultation with the City Attorney and discussion of pending litigation, personnel matters and land acquisition with possible action related thereto upon reconvening in open session in accordance with Local Government Code Section 551.071, 551.072 and 551.074.3.

**Item VII. Adjournment.** Mayor David Chadwick adjourned the meeting at 5:30 pm.

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David Chadwick, Mayor

Attest:

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Barbara Boyd, City Secretary

**PARK PERMIT**  
**TEMPORARY FACILITY USE PERMIT**  
**\$25.00 Permit Fee**

In Lieu of a Facility License Agreement Required by Section 58-4(c), A Facility Use Permit May be Issued Administratively Without the Prior Approval of the City Council Under Section 58-4.

The Following Criteria must be met:

1. Event is generally open to the public without fee or charges:
2. Does NOT authorize items for sale. (Temporary concessions of food sales are allowed however prizes, merchandise, etc. must be provided to attendees at no charge)
3. Does NOT include any commercial or business activities other than (a) temporary signage by sponsor and/or business; (b) distribution of business promotional materials free of charge to any and all park users.
4. Last no more than six (6) hours during a single day including setup/cleaning.

\*\*\*\*\*

Date of Event: 3/23/19

Start Time of Event: 10am End Time of Event: 4pm

Location of Event:

- ☒ Portacool Park Basketball Pavilion and Adjoining Area  
☐ Pavilion at Center Park Adjoining Pond  
☐ Perry Sampson Park  
☐ Center Noon Lion's Club Baseball Complex  
☐ Center Softball Complex

Detailed Explanation of Event:

see attached.

Please check all applicable boxes below:

- ☐ Concession sales or give away during the permit time;  
☒ Use of Sound Amplification Equipment not otherwise in violation of public nuisance laws for sound level, vulgarity and disturbance;  
☒ Business advertising and distribution of promotional materials as a component of an event, but NOT as the sole activity.  
☒ Use of temporary facilities including tables, chairs, displays, inflatables and/or other similar event equipment;  
☐ Operation of field lights, with additional hourly fees

Name of Business/Organization: Pilgrim's

Contact Name: Sara Donaldson Phone Number: 930-371-9881

I agree to the terms of this agreement:

Signature: 

Date: 2/28/19



2/26/2019

Re: Center, TX City Hall

To whom it may concern,

Pilgrim's in Nacogdoches is proposing to use the pavilion and adjoining area at Portacool Park for a free family day event for the Center, TX community. We are proposing that the event will be held on Saturday, March 23<sup>rd</sup> from 10a – 4p. We employ many from the Center area, and are looking to incorporate them and their families in our festivities. At the event, we will be discussing career opportunities to those interested, and will also provide free activities for adults and children. We will need to use the majority of the park; however, park patrons are still welcome to enjoy the park and even join in on our festivities.

We are proposing that the following free activities will be available to the public:

- Bounce houses
  - We are proposing to use the parks electrical outlets if they are available. If none are available, we will provide generators.
- Food
  - Food will be cooked on a grill provided by the company
  - Extra garbage receptacles will be provided by the company
  - The company will provide tables, chairs, and tents for the public
- Face Painting
- Basketball
  - Company will provide basketballs for public to use on park's basketball courts
- Snow cones
  - The company will provide snow cones through a 3<sup>rd</sup> party vendor
  - Vendor will be located in a marked off section of the parking lot close to a curb
- Music/DJ
  - The company will provide music through a 3<sup>rd</sup> party DJ

We are proposing that all guests will use City Park's parking lot and public restrooms. If needed, the company will provide additional portable restroom stalls.

We are proposing to set up from 8a – 10a. The event will close at 4p, and a Pilgrim's cleanup crew will work from 4-5p.

We thank you for considering our proposal. We are open to any questions or suggestions that you may have. We are looking forward to make a positive impact on the Center community.

Thank you,



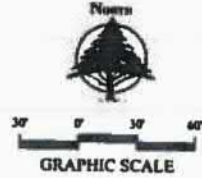
Sara Donaldson  
HR Manager

# PORTACOOOL

DATE: 23 SEPTEMBER 20



ENTRY FEATURE



DT set-up

Bounce Houses

EAST TEXAS NATIVE  
AZALEA GARDEN

2100 LF X 6' WIDE  
WALKING TRAIL

WYATT ROAD

Tables  
& chairs

HORSE SHOES  
& WASHERS

ENTRY FEATURE  
snow cone vendor  
PARKING LOT

Grill

**MHS**  
PLANNING & DESIGN, LLC  
215 WEST NINTH STREET  
TYLER, TEXAS 75701  
PHONE: 936.287.0000  
WWW.MHSPLANNING.COM



**Center Police  
Department  
Racial Profile  
Report**

**01/01/2018 – 12/31/2018**

# **(I) Introduction**



# Opening Statement

Center City Council  
617 Tenaha Street  
Center, Texas 75935

Dear Distinguished Members of the City Council and Manager,

In 2001, the Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. Since 2001, the **Center Police Department**, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 legislative session, the Racial Profiling Law was modified and newer requirements are now in place. These most recent requirements have been incorporated by the **Center Police Department** and are being addressed in this report.

In this particular report, you will find three sections that contain information on traffic and motor vehicle-related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the **Center Police Department** has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB 1074); which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation, which demonstrates compliance by the **Center Police Department** relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between **January 1, 2018 and December 31, 2018**. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1<sup>st</sup> of each year. The data in this report has been standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the **Center Police Department's** commitment to comply with the Texas Racial Profiling Law.

# **TCOLE GUIDELINES**



# Texas Racial Profiling Law Requirements

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

### Background

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

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

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

### Standard 1

Each law enforcement agency has a detailed written directive that:

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

### Commentary

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

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

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

## **Standard 2**

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

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

### **Commentary**

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

## **Standard 3**

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

### **Commentary**

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

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

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



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

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

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

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

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

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

#### **Standard 4**

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

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

#### **Commentary**

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

#### **Standard 5**

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

**Commentary**

None

**Standard 6**

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

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

**Commentary**

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

**Standard 7**

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

**Commentary**

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

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



# About Law Enforcement Agency Requirements

Texas Occupations Code 1701.164 specifies that TCOLE collect incident-based data in accordance with the Code of Criminal Procedure Article 2.131 – 2.138 . Chief administrators of law enforcement agencies that meet the criteria must submit racial profiling reports to *their governing body*, as well as TCOLE.

Each agency must file an **annual** online report by selecting and completing the reporting option that applies to their particular situation. Reports are filed online through the TCOLE Department Reporting System (DRS). The reporting period for the **previous** year begins on January 1 of the current year and ends on March 1 of the current year.

The Reporting options are:

1. **Exempt** - Agencies that do not routinely make motor vehicle stops should fill out the 1 page online exempt status form. The exempt status report contains agency general public contact information for questions about its racial profiling filing status. Some agencies are not required to file annual reports.
2. **Full Reporting** - Agencies that routinely perform traffic stops or motor vehicle stops must file by online report. The online report requires the completion of agency general public contact information and requires completion of **both**:
  - a 1 page online form about the numbers of motor vehicles stops made **and**
  - uploading a separate PDF document containing a statistical analysis of its motor vehicle stops compared to the gender and ethnic population of the agency's reporting area. The second document must also contain a statement as to if racial profiling complaints were made against the agency and if so, a listing of all racial profiling complaints and the corresponding resolutions.

# **The Texas Law on Racial Profiling**

## The Texas Law on Racial Profiling

S.B. No. 1074

### AN ACT

Relating to the prevention of racial profiling by certain peace officers

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

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

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

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a)

In this article:

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide



a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN

STOPS. (a) In this article:

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

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

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

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

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

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops;  
and

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

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

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

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

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT.

(a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

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

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

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

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

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days

after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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



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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

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

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

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

Sec. 543.202. FORM OF RECORD.

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

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

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

(2) the registration number of the vehicle involved;

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

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

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

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

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

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

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

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

SECTION 12. This Act takes effect September 1, 2001.

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President of the Senate

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Speaker of the House

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

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Secretary of the Senate

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

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Chief Clerk of the House

Approved:

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Date

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Governor



# **Most Recent Legal Requirements (H.B. 3389)**

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

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

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

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

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

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

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

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

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, ~~[or]~~ Native American, or Middle Eastern descent.

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

(6) require collection of information relating to motor vehicle ~~[traffic]~~ stops in which a citation is issued and to arrests made as a result of ~~[resulting from]~~ those ~~[traffic]~~ stops, including information relating to:

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

(B) whether a search was conducted and, if so,

whether the individual ~~[person]~~ detained consented to the search;  
and

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

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit ~~[to the governing body of each county or municipality served by the agency]~~ an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

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

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

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

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

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

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

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

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

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

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or

ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [~~traffic law or ordinance alleged to have been violated or the suspected offense~~];

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

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

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

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

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

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [~~existed and the facts supporting the existence of that probable cause~~];

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

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

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

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

(a) In this article:

(1) "Motor vehicle[, ~~pedestrian~~] stop" has the meaning assigned by Article 2.132(a) [means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].

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

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

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

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

(A) evaluate and compare the number of motor



vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities ~~[determine the prevalence of racial profiling by peace officers employed by the agency]~~; and

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

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

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

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

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

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

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

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

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

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

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

determined by the department, for the agency to accomplish that purpose.

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

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

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

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

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

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

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

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

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

(1) involves the operation of a motor vehicle; and  
(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

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

(c) In this article, a person is considered convicted if:  
(1) a sentence is imposed on the person;  
(2) the person receives community supervision,  
including deferred adjudication; or  
(3) the court defers final disposition of the person's case.

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

(e) The custodian of a county or municipal treasury shall:  
(1) keep records of the amount of funds on deposit collected under this article; and

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

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

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

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

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

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

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

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

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

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN

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

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

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

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

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a

municipal court shall collect fees and costs on conviction of a defendant as follows:

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

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

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

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

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

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.


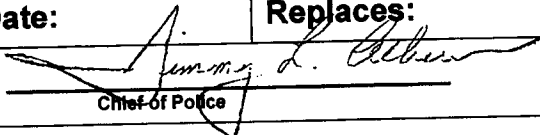
SECTION \_\_\_\_\_. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

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



## **(II) Responding to the Law**

# **Institutional Policy on Racial Profiling**

	<b>CENTER POLICE DEPARTMENT</b>	
	<b>Policy 2.2 Racial/Bias Based Policing</b>	
	<b>Effective Date:</b>	<b>Replaces:</b>
	<b>Approved:</b>  <div style="text-align: center; margin-left: 100px;">Chief of Police</div>	
	<b>Reference: TBP 2.01.1</b>	

**NOTE:** This General Order is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this General Order, if proven, can only form the basis of a complaint by this Department and only in a non-judicial, administrative setting.

**INDEX WORDS:**

Audio and Video Recording Racial Profiling  
Collection of Information Reporting  
Complaint Review  
Ethnicity Training  
Race

**I. PURPOSE**

A. The purpose of this order is to reaffirm the City of Center Police Department's commitment to unbiased policing in all its encounters with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

**II. POLICY**

A. It is the policy of this department to police in a **proactive** manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. Racial profiling is an unacceptable police tactic and will not be condoned.

B. This Policy is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

### III. DEFINITIONS

- A. 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. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.
- B. Race or Ethnicity - persons of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.
- C. Acts Constituting Racial Profiling - acts initiating law enforcement action, such as a traffic 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, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.
- D. Contact – means an occasion in which a peace officer stops a motor vehicle or pedestrian for an alleged suspicion, or violation of law or ordinance.

### IV. PROHIBITION

- A. Officers of the Center Police Department are strictly prohibited from engaging in racial profiling. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description of a suspect or witness for whom an officer is searching.

### V. COMPLAINT PROCESS

- A. No person shall be discouraged, intimidated or coerced from filing a complaint, or be discriminated against because they have filed a complaint.
- B. Any person who believes that a peace officer employed by the Center Police Department has engaged in racial profiling with respect to that person, may file a complaint in accordance with the provisions of Center Police Department Policy section 2.4 **Internal Investigation Process**.
  - 1. An employee who is contacted regarding a complaint against an officer shall follow the procedures set forth in Center Police Department Policy section 2.4 **Internal Investigation Process**.
  - 2. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, "How to File a Complaint." Brochures are maintained in the Center Police Department lobby, and at Center City Hall.
- C. Any supervisor who becomes aware of an alleged or suspected violation of this Policy shall report the alleged violation in accordance with CPD Policy 2.5 **Employee Discipline**, Section 2.4 **Internal Investigation Process**
- D. Complaints of racial profiling shall be classified as a Level I complaint, and shall be investigated by the Internal Affairs Division, unless otherwise directed by the Chief of Police. A log of all Racial Profiling Complaints will be maintained by the Internal Affairs Division.

## **VI. DISCIPLINARY AND CORRECTIVE ACTIONS**

- A. Any officer of this Department who is found, after investigation, to have engaged in racial profiling in violation of this Policy may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

## **VII. PUBLIC EDUCATION**

- A. This Department shall provide education to the public concerning the racial profiling complaint process. The primary method of public education shall be through a brochure, "How to File a Complaint" which are maintained in the lobby of the Center Police Department, and at the Center City Hall. These brochures are available in both English and Spanish versions. Other education methods may be utilized to inform the public, including news media, civic presentations, Center City Television, the Internet, and/or public meetings.

## **VIII. COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED OR ARREST MADE**

- A. For each motor vehicle contact in which a citation is issued and for each arrest resulting from a motor vehicle contact, an officer involved in the stop shall collect the following information:

1. Information identifying the race or ethnicity of the person detained. The following codes will be used to identify the individual's race:

B = Black

A = Asian

I = Native American / American Indian

H = Hispanic

W = White

M = Middle Eastern

O = Other

Note: Officers may not ask the individual to identify their race. If the officer is unable to determine the race or ethnicity of the person contacted, then the race shall be entered as "Other" on the citation(s) issued.

2. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual;
3. Whether a search was conducted
4. Whether a search was conducted and if so, whether the individual detained consented to the search
5. Whether a search was conducted because probable cause existed;
6. Whether contraband was found;
7. If the person contacted is a resident of the City of Center. This shall be reflected on each citation issued by marking the appropriate area(s) on the citation.

- B. The information collected shall be entered in to the Records Management System by completing the Racial Profiling data utilizing the computers available in the Department. All contacts requiring Racial Profiling data collection must be entered.

1. In the event the data is unable to be collected electronically, a citation shall be completed and forwarded to the Records Division to be entered into the records management computer system when possible.
- C. The Police Department Secretary shall ensure all Racial Profiling Data is collected and reported to the Chief of Police. The data collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to the governing body of the City of Center no later than March 1 of the following year. The report will include:
  1. A breakdown of citations by race or ethnicity;
  2. Number of citations that resulted in a search;
  3. Number of searches that were consensual;
  4. Number of citations that resulted in custodial arrest; and
  5. Public education efforts concerning the racial profiling complaint process.
- D. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.
- E. Racial Profiling Data will also be reported to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) by March 1 of each year, following the Commission's prescribed format.

#### **IX. AUDIO AND VIDEO EQUIPMENT**

- A. Each motor vehicle regularly used by this department to make motor vehicle contacts shall be equipped with a mobile video camera system capable of recording video and audio.
- B. Each contact made by an officer from this department capable of being recorded by video and audio **shall** be recorded.
- C. Supervisors and Officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty.
- D. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile video equipment when situations dictate. Officers assigned to such units **shall** utilize the "Scorpion" pocket cameras upon **every** contact. There **must** be documentation of all traffic/pedestrian stops resulting in a search and shall include but is not limited to Traffic Citations and Warning Tickets. **All** contacts must be on video when possible.

#### **XI. REVIEW OF VIDEO AND AUDIO DOCUMENTATION**

- A. Each audio and video recording shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a motor vehicle contact. The Patrol Sergeants shall ensure that all audio and recordings are properly stored and retained in accordance with applicable laws and this Policy.
- B. If a complaint is received alleging that an officer has engaged in racial profiling, the audio / video recording shall be forwarded to the Internal Affairs Division. The Internal Affairs Division shall retain the video until final disposition of the complaint has been made.
- C. The Patrol Sergeants or their designee shall review a randomly selected sampling of video and audio recordings, made recently by officers

employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted weekly and documented

1. Written documentation shall include:
    - a. the names of the officers whose contacts were reviewed;
    - b. the date(s) of the videos reviewed;
    - c. the date the actual review was conducted; and
    - d. the name of the person conducting the review.
  2. The Patrol Sergeant shall forward the required documentation to the Lieutenant.
  3. The Lieutenant shall maintain a file of all video review documentation performed, in compliance with this Policy.
- D. In reviewing audio and video recordings, the Patrol Sergeant, shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.

## **XII. TRAINING**

- A. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) not later than the second anniversary of the date the officer was licensed, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.
- B. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT), not later than September 1, 2003.

## **XIII. EFFECTIVE DATE**

- A. Any previous directive, rule, order or regulation that pertains to this subject matter and its amendments shall remain in full force and effect for any violation(s) which occur prior to the effective date of this Policy.
- B. If any section, sentence, clause or phrase of this Policy is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Policy.



**Complaint Process:  
Informing the Public  
and Addressing  
Allegations of Racial  
Profiling Practices**

## **Informing the Public on the Process of Filing a Racial Profiling Complaint with the Center Police Department**

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

**The police department made available, in the lobby area and on its web site, information relevant to filing a complaint on a racial profiling violation by a Center Police Officer. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.**

# **Racial Profiling Training**

## **Racial Profiling Training**

**Since 2002, all Center Police Officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Center Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Center Police Department has been included in this report.**

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

# **Racial Profiling 3256**

## **1.0 RACIAL PROFILING AND THE LAW**

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

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

### **Racial Profiling Requirements:**

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

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

#### **A. Written departmental policies**

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

#### **B. Not prima facie evidence**

#### **C. Feasibility of use of video equipment**

#### **D. Data does not identify officer**

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

#### **F. Vehicle stop report**

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

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

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

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

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

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

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

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

C. Other cases

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

## **2.0 RACIAL PROFILING AND THE COMMUNITY**

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

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

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

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

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

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

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

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

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

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

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

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

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle



5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

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

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

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

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

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

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

**B. Vehicle exterior**

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

**C. Pre-stop indicators**

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

**D. Vehicle interior**

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

**Resources**

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

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

# **Report on Complaints**

**Report on Complaints**

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/18---12/31/18, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

[K] A check above indicates that the Center Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/18 ---- 12/31/18.

Complaints Filed for Possible Violations of TheTexas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case

**Additional Comments:**

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

# **CENTER POLICE DEPARTMENT**

**JIM ALBERS**

**Chief of Police**

PO Box 1900      Center, Texas 75935  
Phone # 936-598-2788      Fax # 936-598-7629

*February 26, 2019*

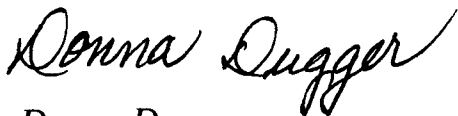
*REF: Racial Profiling Report*

*TCOLE:*

*On January 1, 2018 the Center Police Department started using a new software, EFORCE. In June 2018 it was noticed that Eforce was not gathering all the racial profiling information. Eforce did an update to their software in June to gather the racial profiling information. They thought they made the correction to correct the information that was done in January – June. After checking the numbers to do our Racial Profiling reports we noticed that it did not correct the months prior to June. There is no way to retrieve the information, it is not there.*

*The Center Police Department did make 2,569 Traffic stops for the year 2018. There were 2,200 citations, this includes written citations and warnings.*

*Sincerely,*



*Donna Dugger*

# Racial Profiling Report | Full report

<b>Agency Name:</b>	Center Police Department
<b>Reporting Date:</b>	02/26/2019
<b>TCOLE Agency Number:</b>	419201
<b>Chief Administrator:</b>	Center Police Department
<b>Agency Contact Information:</b>	
<b>Phone:</b>	9365982788
<b>Email:</b>	ddugger@centertexas.org
<b>Mailing Address:</b>	PO Box 1900

This Agency filed a full report

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

- 1.) clearly defines acts constituting racial profiling;
- 2.) strictly prohibit peace officers employed by the Center Police Department from engaging in racial profiling;
- 3.) implements a process by which an individual may file a complaint with the Center Police Department if the individual believes that a peace officer employed by the Center 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 Center Police Department who, after an investigation, is shown to have engaged in racial profiling in violation of the Center 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:
  - a.) the race or ethnicity of the individual detained;
  - b.) whether a search was conducted and, if so, whether the individual detained consented to the search; and



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:** Center Police Department

Chief Administrator

**Center Police Department**

**Date:** 02/26/2019

## Center Police Department Motor Vehicle Racial Profiling Information

Total stops: 936

Gender

**Female:** 310

**Male:** 626

Race or ethnicity

**Black:** 324

**Asian/Pacific Islander:** 15

**White:** 440

**Hispanic/Latino:** 157

**Alaska Native/American Indian:** 0

Was race or ethnicity known prior to stop?

**Yes:** 59

**No:** 877

Reason for stop?

**Violation of law:** 72

**Pre existing knowledge:** 12

**Moving traffic violation:** 422

**Vehicle traffic violation:** 430

Street address or approximate location of the stop

**City street:** 649

**US highway:** 135

**State highway:** 139

**County road:** 5

**Private property or other:** 8

Was a search conducted?

**Yes:** 89

**No:** 847

Reason for Search?

**Consent:** 33

**Inventory:** 17  
**Incident to arrest:** 2

Was Contraband discovered?

**Yes:** 47  
**No:** 889

Description of contraband

**Drugs:** 26  
**Currency:** 0  
**Weapons:** 2  
**Alcohol:** 16  
**Stolen property:** 1  
**Other:** 2

Result of the stop

**Verbal warning:** 304  
**Written warning:** 228  
**Citation:** 353  
**Written warning and arrest:** 5  
**Citation and arrest:** 7  
**Arrest:** 39

Arrest based on

**Violation of Penal Code:** 23  
**Violation of Traffic Law:** 5  
**Violation of City Ordinance:** 0  
**Outstanding Warrant** 11

Was physical force resulting in bodily injury used during stop

**Yes:** 2  
**No:** 934

Submitted electronically to the



## **Partial Exemption Racial Profiling Reporting (Tier 1)**

<b>Department Name:</b>	<b>Center Police Department</b>
<b>Agency Number:</b>	<b>419201</b>
<b>Chief Administrator Name:</b>	<b>Jim Albers</b>
<b>Reporting Name:</b>	<b>Donna Dugger</b>
<b>Contact Number:</b>	<b>936-598-2788</b>
<b>E-Mail Address</b>	<b><u><a href="mailto:ddugger@centertexas.org">ddugger@centertexas.org</a></u></b>

### **Certification to Report 2.132 (Tier 1) – Partial Exemption**

**Policy Requirements (2.132(b) CCP): Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:**

- (1) Clearly define acts constituting racial profiling;
- (2) Strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) Implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) Provide public education relating to the agency's complaint process;
- (5) Require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

## **Option to submit required data by utilizing agency report**

**You must submit your report in PDF format**

### **Electronic Submission of data required by 2.132(b)(6) CCP**

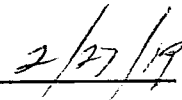
(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above requirements



Chief Administrator



Date

***Send entire documents electronically to this website***

**[www.tcleose.state.tx.us](http://www.tcleose.state.tx.us)**

## Partial Exemption Racial Profiling Reporting (Tier 1)

### Video and Audio Equipment Exemption

#### Partial Exemption Claimed by (2.135(a) CCP):

☒ all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

☐ In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

  
\_\_\_\_\_  
Chief Administrator

2/27/19  
Date

- (6) Require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
- (A) The race or ethnicity of the individual detained;
  - (B) Whether a search was conducted and, if so, whether the individual detained consented to the search; and
  - (C) Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
- (7) Require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
- (A) The Commission of Law Enforcement Officer Standards and Education; and
  - (B) The governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

**These policies are in effect**

  
**Chief Administrator**

  
**Date** 2/27/19

# Checklist

## Checklist

The following requirements **WERE** met by the Center Police Department in accordance with The Racial Profiling Law:

- ☒ Clearly defined act or actions that constitute racial profiling.
- ☒ Statement indication prohibition of any peace officer employed by the Center Police Department from engaging in racial profiling.
- ☒ Implement a process by which an individual may file a complaint regarding racial profiling violations.
- ☒ Provide public education related to the complaint process.
- ☒ Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law.
- ☒ Collect data (Tier 1) that includes information on
  - a) Race and ethnicity of individual detained
  - b) Whether a search was conducted
  - c) If there was a search, whether it was consent search or a probable cause search
  - d) Whether a custody arrest took place
- ☒ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ☒ Produce an annual report of police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2019.
- ☒ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.



# **Table of Contents**

- (I) Introduction**
  - (a) Opening Statement**
  - (b) Table of Contents**
  - (c) TCOLE Guidelines**
  - (d) The Texas Law on Racial Profiling (S.B. 1074)**
  - (e) The most recent legal requirements (H.B. 3389)**
  
- (II) Responding to the Texas Racial Profiling Law**
  - (a) Institutional Policy on Racial Profiling**
  - (b) Educational Campaign Relevant to the Complaint Process - Addressing Allegations of Racial Profiling Practices**
  - (c) Racial Profiling Training of Law Enforcement Personnel**
  - (d) Report on Complaints Filed Against Officers for Violation the Racial Profiling Law (includes outcome of investigation)**
  - (e) Police (Traffic and Motor Vehicle – Related)Contacts Information Table (2018)/Known Ethnicity and Race of Detained and TCOLE Tier 1 Form**
  
- (III) Summary**
  - (a) Checklist**

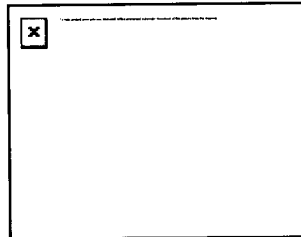
## **ITEMS OF INTEREST**

1. TML Letter.
2. Sales Tax Analysis.
3. Financial Dashboards – December 2018,  
January 2019, February 2019.
4. TCEQ Letter.
5. TCEQ Letter – R&J Recycling.

## Chad Nehring

---

**From:** Texas Municipal League <tmladmin@tml.ccsend.com> on behalf of Texas Municipal League <tmladmin@tml.org>  
**Sent:** Thursday, March 07, 2019 10:28 AM  
**To:** cnehring@centertexas.org  
**Subject:** Message from TML President on Revenue Caps



Dear Texas City Official,

As your TML President, I am writing to let you know that we're making a difference in the fight against the harmful 2.5 percent revenue cap bills, S.B. 2 and H.B. 2. City voices are being heard by our friends at the Capitol.

You may also be hearing that some state officials are trying to blame TML staff for driving city opposition to revenue caps. Nothing could be further from the truth. The vast majority of Texas cities are opposed to caps.

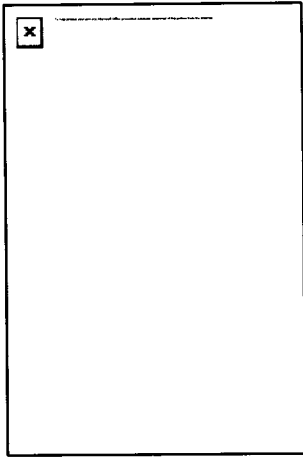
TML is simply our messenger; it's cities who set the message.

Yesterday, the Executive Committee of the TML Board voted unanimously to stay the course in opposition to this harmful legislation. This has been a membership priority for 16 years, and there's no question that it will continue to be so long as the state tries to interfere in local budgets.

The problem with caps is that cities aren't the property tax problem. School finance is the problem, because lack of state funding for schools is driving up local school taxes. Fixing school finance is real, meaningful tax relief. Let's urge our legislators to keep their eye on the school finance ball.

I am proud to lead the League in standing strong on this issue. Any city official with questions about this 16-year priority should feel free to give me a call on my cell phone: (432) 620-0001. I look forward to continuing to work with you on this and the dozens of other critical city issues being debated in Austin. Remember our rallying cry: Our Home, Our Decisions. It's the truth.

John B. Love III  
Mayor Pro Tem, City of Midland  
President, Texas Municipal League



Texas Municipal League, 1821 Rutherford Lane, Suite 400, Austin, TX 78754

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Sent by [tmladmin@tml.org](#)

City of Center  
 Sales Tax Analysis  
 Historical Total Sales Tax Receipts by Month

MARCH 2019

Month	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	Monthly Percentage	FY 2019	Percent Change
October	335,201	245,967	244,899	228,115	231,497	238,942	248,034	8%	254,722	2.70%
November	338,279	302,511	259,984	276,664	294,255	293,524	285,077	9%	311,900	9.41%
December	265,303	206,335	232,741	226,007	236,836	229,978	235,009	7%	251,078	6.84%
January	302,637	246,183	241,181	231,378	231,546	246,897	245,441	8%	249,205	1.53%
February	365,493	331,108	349,611	336,519	314,037	332,583	326,532	11%	356,361	9.13%
March	263,274	206,065	201,810	208,247	212,208	207,108	223,858	7%	241,773	8.00%
April	264,284	249,697	210,844	210,221	227,687	222,669	231,114	7%		-100.00%
May	312,786	293,299	285,819	279,420	326,257	291,837	332,039	10%		-100.00%
June	247,419	216,356	222,767	230,377	224,919	226,133	236,845	7%		-100.00%
July	248,010	224,280	231,096	224,098	236,589	242,449	263,496	8%		-100.00%
August	311,966	272,497	266,114	299,026	292,434	294,075	317,658	9%		-100.00%
September	243,919	228,343	231,038	237,446	241,060	229,515	254,085	8%		-100.00%
	3,498,572	3,022,640	2,977,904	2,987,519	3,069,326	3,055,709	3,199,187		1,665,038	

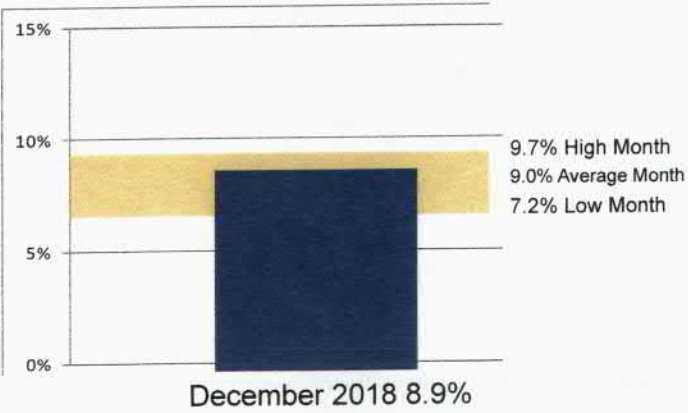
Monthly Allocation		241,772.92
City of Center	1%	120,886.46
4B Economic Development Corporation	0.50%	60,443.23
4A Economic Development Corporation	0.25%	30,221.62
Sales Tax for Property Tax Relief	0.25%	30,221.62
		241,772.92

YTD Change      1,563,951      6.5%

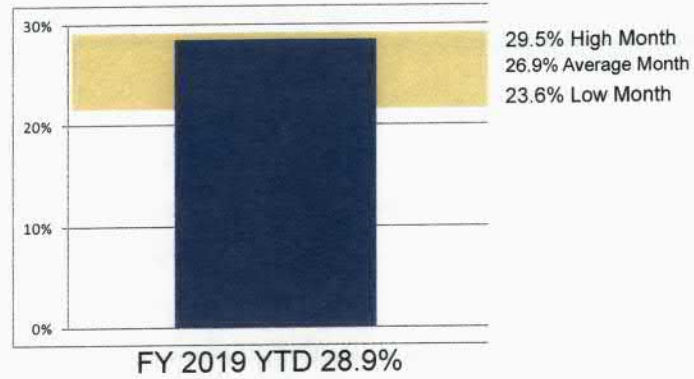


# FINANCIAL DASHBOARD DECEMBER 2018

## General Fund December Monthly Expenses

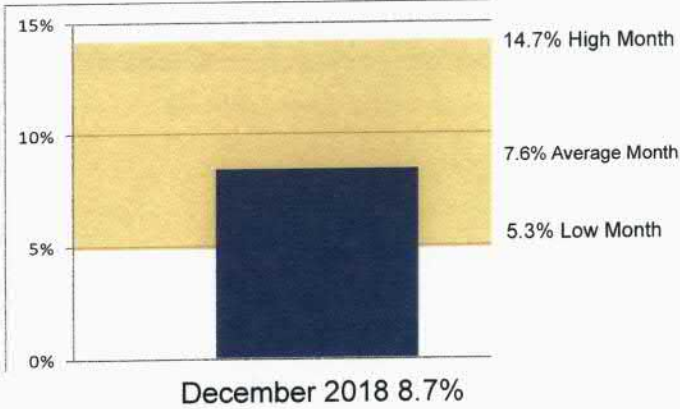


## Year to Date Expenses

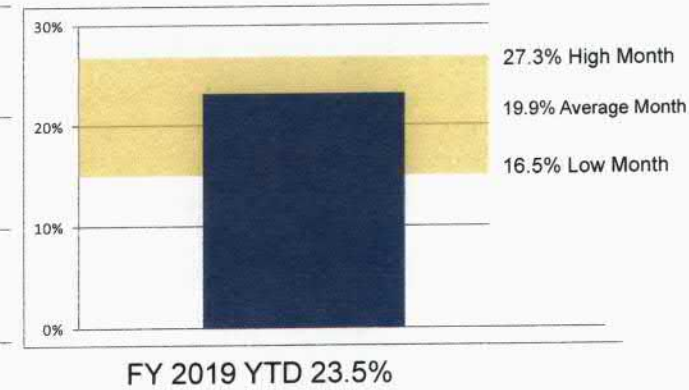


General Fund	FY 2019 Adopted Budget	December 2018	YTD
Non-Departmental	370,650	10,400	204,770
City Hall	790,550	86,504	224,003
Police	2,051,500	194,329	562,953
Fire	496,400	46,255	129,192
Streets	353,050	28,792	90,000
Airport	92,100	7,552	17,239
Cemetery	22,500	1,190	5,950
Parks	181,500	10,488	35,884
Inspections	52,450	3,817	10,443
Animal Control	24,200	1,319	4,346
Municipal Court	107,400	9,741	26,423
Civic Center	224,700	27,755	69,097
Community Facilities	85,700	6,155	22,182
<b>Total</b>	<b>4,852,700</b>	<b>434,299</b>	<b>1,402,483</b>
REVENUES	4,852,700	472,364	1,340,177
<b>DIFFERENCE</b>	<b>0</b>	<b>38,065</b>	<b>(62,305)</b>

## Utility Fund December Monthly Expenses



## Year to Date Expenses

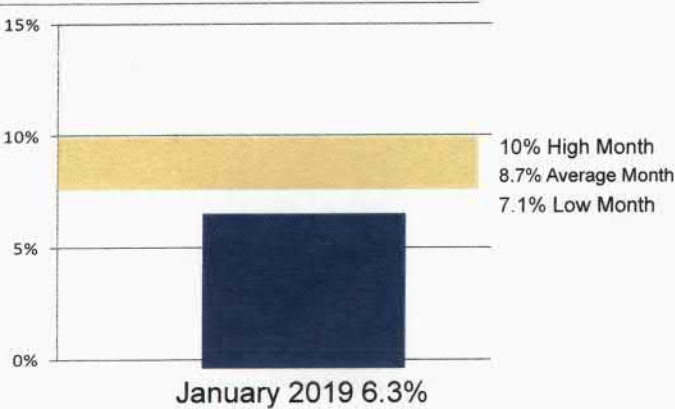


Utility Fund	FY 2019 Adopted Budget	December 2018	YTD
Non-Departmental	966,300	114,006	185,739
Water Production	1,369,750	82,223	291,007
Water Distribution	420,150	36,869	140,443
Sewer Collection	316,200	23,743	54,265
Sewer Treatment	521,000	56,998	166,859
Public Works	295,000	26,029	74,110
<b>TOTAL</b>	<b>3,888,400</b>	<b>339,867</b>	<b>913,424</b>
REVENUES	3,888,400	294,211	914,846
<b>DIFFERENCE</b>	<b>0</b>	<b>(45,656)</b>	<b>1,422</b>

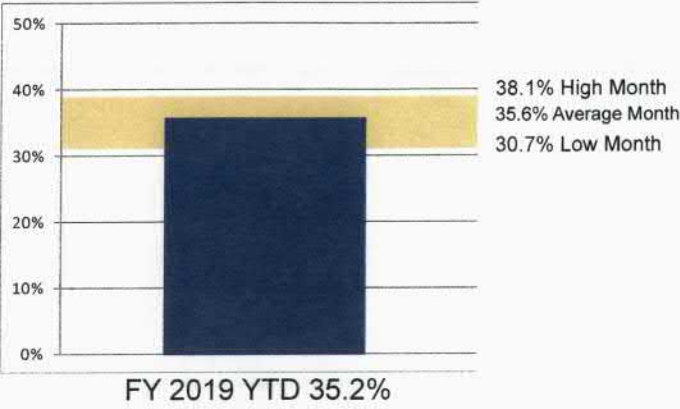


# FINANCIAL DASHBOARD JANUARY 2019

## General Fund January Monthly Expenses

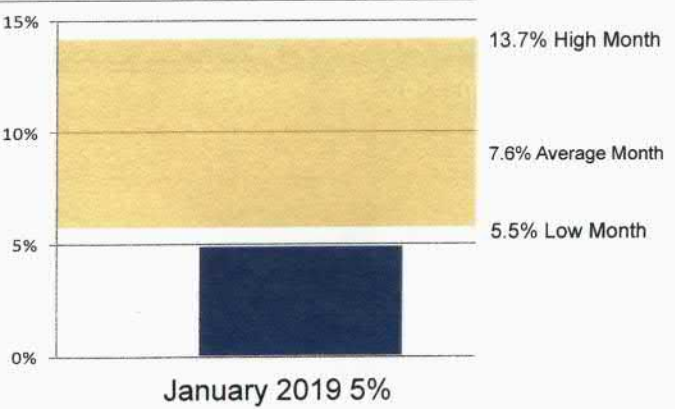


## Year to Date Expenses

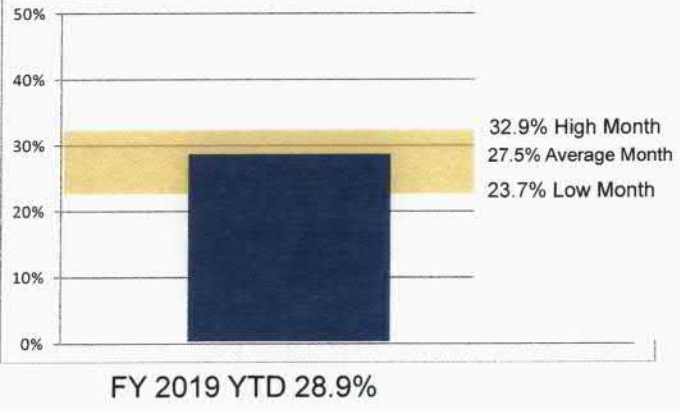


General Fund	FY 2019 Adopted Budget	January 2019	YTD
Non-Departmental	370,650	18,014	222,784
City Hall	790,550	52,105	276,108
Police	2,051,500	130,765	693,719
Fire	496,400	36,896	166,088
Streets	353,050	18,395	108,395
Airport	92,100	4,957	22,196
Cemetery	22,500	1,190	7,140
Parks	181,500	9,259	45,143
Inspections	52,450	2,771	13,214
Animal Control	24,200	1,724	6,070
Municipal Court	107,400	8,603	35,026
Civic Center	224,700	13,837	82,934
Community Facilities	85,700	5,877	28,059
<b>Total</b>	<b>4,852,700</b>	<b>304,393</b>	<b>1,706,875</b>
REVENUES	4,852,700	760,993	2,101,170
DIFFERENCE	0	456,600	394,295

## Utility Fund January Monthly Expenses



## Year to Date Expenses



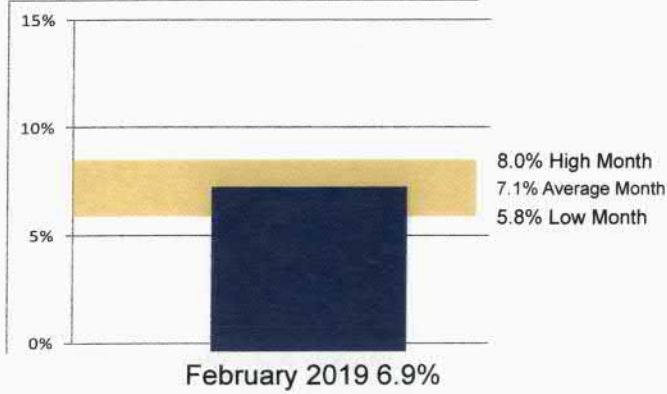
Utility Fund	FY 2019 Adopted Budget	January 2019	YTD
Non-Departmental	966,300	14,343	200,082
Water Production	1,369,750	91,170	382,176
Water Distribution	420,150	25,323	165,766
Sewer Collection	316,200	10,986	65,251
Sewer Treatment	521,000	46,622	213,481
Public Works	295,000	19,282	94,392
<b>TOTAL</b>	<b>3,888,400</b>	<b>207,726</b>	<b>1,121,149</b>
REVENUES	3,888,400	320,276	1,235,122
DIFFERENCE	0	112,551	113,973



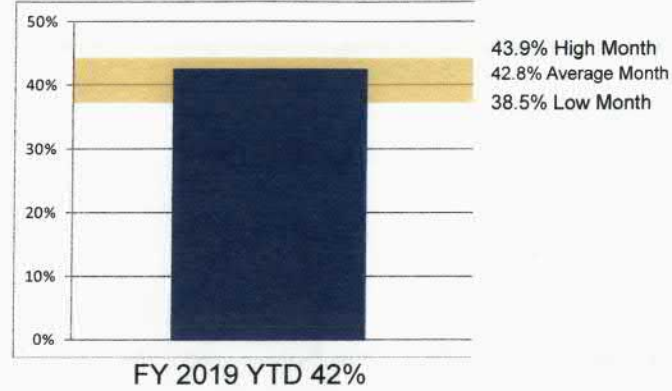


## FINANCIAL DASHBOARD FEBRUARY 2019

### General Fund February Monthly Expenses

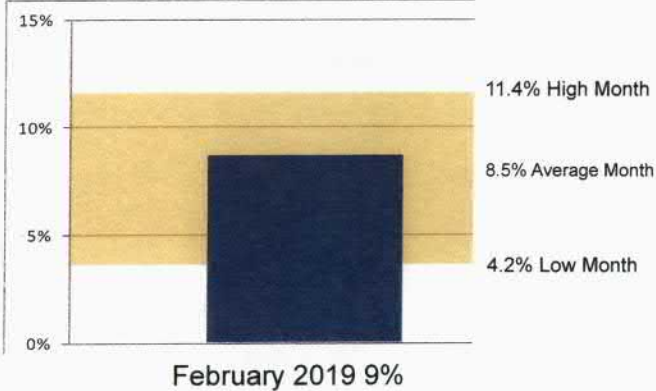


### Year to Date Expenses

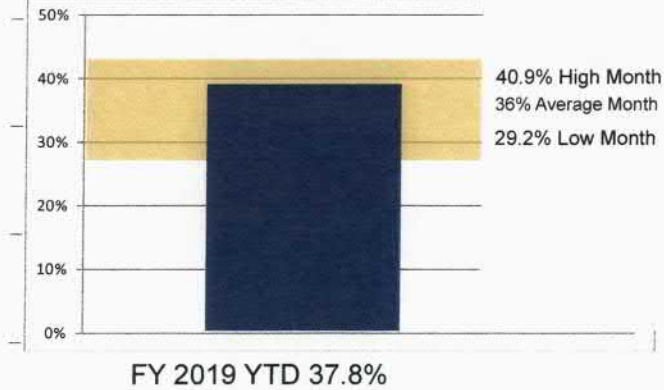


General Fund	FY 2019 Adopted Budget	February 2019	YTD
Non-Departmental	370,650	25,761	248,587
City Hall	790,550	56,759	333,234
Police	2,051,500	141,102	834,987
Fire	496,400	35,698	201,934
Streets	353,050	19,545	128,584
Airport	92,100	11,506	27,852
Cemetery	22,500	0	7,140
Parks	181,500	7,618	52,891
Inspections	52,450	4,335	17,645
Animal Control	24,200	1,315	7,738
Municipal Court	107,400	7,859	43,135
Civic Center	224,700	15,696	98,630
Community Facilities	85,700	6,372	34,431
<b>Total</b>	<b>4,852,700</b>	<b>333,567</b>	<b>2,036,790</b>
REVENUES	4,852,700	412,908	2,514,078
DIFFERENCE	0	79,341	477,288

### Utility Fund February Monthly Expenses



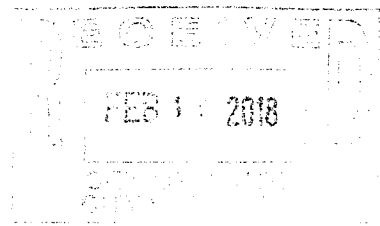
### Year to Date Expenses



Utility Fund	FY 2019 Adopted Budget	February 2019	YTD
Non-Departmental	966,300	186,535	388,868
Water Production	1,369,750	61,852	444,816
Water Distribution	420,150	18,726	184,491
Sewer Collection	316,200	15,847	81,102
Sewer Treatment	521,000	37,380	250,861
Public Works	295,000	23,272	118,028
<b>TOTAL</b>	<b>3,888,400</b>	<b>343,611</b>	<b>1,468,168</b>
REVENUES	3,888,400	269,293	1,504,415
DIFFERENCE	0	(74,319)	36,247



Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 14, 2019

**CERTIFIED MAIL {7015 0640 0004 7993 7572}  
RETURN RECEIPT REQUESTED**

The Honorable David Chadwick  
Mayor of the City of Center  
617 Tenaha St  
Center, Texas 75935

Re: Acceptance of Compliance Plan for:  
City of Center, Center (Shelby County), Texas  
Regulated Entity No. RN101390409, PWS ID No. 2100001, Investigation No. 1538662

Dear Mayor Chadwick:

The Texas Commission on Environmental Quality (TCEQ) Beaumont Region Office has completed a review of the compliance plan that you submitted January 9, 2019, for resolving the alleged violation regarding backflow prevention assemblies. This alleged violation was noted during the investigation of the above-referenced facility conducted on August 14, 2018. The compliance plan appears to identify necessary corrective action for the alleged violation. We will monitor your progress in implementing the corrective action. You should submit compliance documentation to our office by **April 9, 2019**, demonstrating that the alleged violation has been resolved. Please be advised, though, that if we determine during follow-up monitoring that you are not working towards compliance or the problem has escalated, further enforcement action will be considered.

The Texas Commission on Environmental Quality appreciates your assistance in this matter and anticipates that you will resolve the alleged violation as required in order to protect the State's environment. If you or members of your staff have any questions, please feel free to contact Mr. Dustin Lorange in the Beaumont Region Office at (409) 898-3838.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Vidrine".

Chris Vidrine, Water Section Team Leader  
Beaumont Region Office  
Texas Commission on Environmental Quality

CV/DL/bd

---

TCEQ Region 10 • 3870 Eastex Fwy. • Beaumont, Texas 77703-1830 • 409-898-3838 • Fax 409-892-2119

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# Summary of Investigation Findings

CITY OF CENTER

617 TENAHA ST  
CENTER, SHELBY COUNTY, TX 75935

Additional ID(s): 2100001

Investigation #

1538662

Investigation Date: 01/11/2019

## OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION

Track No: 692751 Compliance Due Date: 04/09/2019

30 TAC Chapter 290.44(h)(1)

30 TAC Chapter 290.46(j)

### Alleged Violation:

Investigation: 1512068

Comment Date: 09/28/2018

Failure by City of Center to provide an adequate backflow prevention assembly where one is required.

During the investigation, a list of locations within the city which may require backflow prevention devices, based on an actual or potential health hazard that exist at the connection, was provided to the water system. The list includes the following locations:

America's Best Value Inn (1005 Hurst St)  
Lake Country Inn (701 San Augustine St)  
Shelby Energy Lodge (365 Shelbyville St)  
Pine Colony Inn (500 Shelbyville St)  
Lakeside Village Assisted Living (1468 Loop 500)  
Center Intermediate School (624 Malone Dr)  
Center Middle School (302 Kennedy St)  
Allen's Auto Repair (504 Shelbyville St)  
Wright Chrysler Dodge Jeep (1858 Tenaha St)  
Ray Jones Chevrolet (1727 Tenaha St)  
Windham & Son Radiator Services (710 Crawford St)  
David's Auto & Diesel Repair (302 Cora St)  
Any private wells connected to the water supply

The following locations were also included on the list as they have carbonated drink dispensers present which require an RPBA to be installed and tested annually:

Las Margaritas (110 Nacogdoches St)  
Mi Casita (133 Tenaha St)  
Estrella Restaurant (224 Tenaha St)  
Nettie's Nook & Sammich Shop (109 Shelbyville St)  
The Pizzeria (225 San Augustine St)  
Martinez Billar Comida Mexicana (310 Travis St)  
Taqueria El Rincon Mexican Restaurant (114 Newman St)  
The Century Shoppe (606 Shelbyville St)  
Darrell's Bar-B-Que (520 Hurst St)  
Chicken Express (323 Tenaha St)  
Dairy Queen (401 Tenaha St)  
Rancho Grande Mexican Restaurant (816 Tenaha St)  
Pineywoods Seafood & Steaks (1003 Hurst St)  
Sombrero's Mexican Grill & Cantina (1123 Hurst St)  
Royal Buffet (902 Hurst St)  
TR's Steaks & More (892 Hurst St)  
Chaps Bar-B-Que (866 Hurst St)  
Texaco Mart (701 Southview Cir)  
Conoco Mart & Car Wash (815 Shelbyville St)

Exxon Shady Oaks Mart (1521 Shelbyville St)  
Investigation: 1538662

Comment Date: 02/11/2019

The water system has submitted adequate documentation for all of the locations except for the following:

America's Best Value Inn (1005 Hurst St)  
Lake Country Inn (701 San Augustine St)  
Shelby Energy Lodge (365 Shelbyville St)  
Center Intermediate School (624 Malone Dr)  
Center Middle School (302 Kennedy St)  
Ray Jones Chevrolet (1727 Tenaha St)  
David's Auto & Diesel Repair (302 Cora St)  
Las Margaritas (110 Nacogdoches St)  
Darrell's Bar-B-Que (520 Hurst St)  
Rancho Grande Mexican Restaurant (816 Tenaha St)  
Pineywoods Seafood & Steaks (1003 Hurst St)  
Sombbrero's Mexican Grill & Cantina (1123 Hurst St)

The water system has been granted a new deadline of April 9, 2019, to obtain compliance with this violation.

**Recommended Corrective Action:** Install an acceptable backflow prevention assembly at all locations where required or conduct a Customer Service Inspection (CSI) to determine that backflow prevention assemblies are not required due to a lack of health hazards present. Submit results of the initial backflow prevention assembly tests or CSI certificates to the Beaumont Regional Office.

### **ALLEGED VIOLATION(S) NOTED AND RESOLVED ASSOCIATED TO A NOTICE OF VIOLATION**

Track No: 692773

30 TAC Chapter 290.44(h)(1)

**Alleged Violation:**

Investigation: 1512068

Comment Date: 09/28/2018

Failure by City of Center to maintain all backflow prevention assemblies in a location not subject to submergence.

During the investigation, it was noted on the provided test forms that the RPBA that is located behind Center High School and in front of the Agriculture Building is located in a vault below ground level. Please note that all backflow prevention assemblies should be installed at locations which are not subject to submergence.

Investigation: 1538662

Comment Date: 02/08/2019

The RPBA has been raised above ground level.

**Recommended Corrective Action:** Relocate the RPBA to a location which is not subject to submergence. Submit photographic documentation which displays compliance to the Beaumont Regional Office.

**Resolution:** On January 9, 2019, the Beaumont Regional Office received photographic documentation which displays that the RPBA has been raised above ground level.

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 26, 2019

Honorable David Chadwick  
Mayor  
City of Center  
617 Tenaha Street  
Center, Texas 75935

Re: Proposed R&J Recycling and Disposal Transfer Station - Shelby County  
Municipal Solid Waste - Permit No. 2401  
Permit Application - Application Summary for Agency Review  
Tracking No. 23595121; CN603019555/RN110587854

Dear Mayor Chadwick:

We are currently evaluating an application submitted by Stacy Wershing, for authorization of the above-referenced municipal solid waste transfer station facility. Enclosed for your review is an Application Summary. The complete application may be found posted on the internet at the following website address:

[http://www.tceq.texas.gov/permitting/waste\\_permits/msw\\_permits/msw\\_posted\\_apps.html](http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_posted_apps.html)

Please submit any comments you may have within thirty (30) days from the date of this letter. If you have any questions or desire additional information, please contact Ms. Eun Ju Lee, Ph.D., P.E. at (512) 239-4774, or in writing at the address on our letterhead (please include mail code MC 124 on the first line).

Sincerely,

A handwritten signature in cursive script, appearing to read "Gulay Aki".

Gulay Aki, Team Leader  
Municipal Solid Waste Permits Section  
Waste Permits Division

GA/EJL/br

Enclosure

**Application Summary  
of the  
R&J Recycling and Disposal Transfer Station  
MSW Permit Application  
No. 2401**

**Type V  
Municipal Solid Waste Facility  
Shelby County, Texas**

**Applicant:  
Stacy Wershing**

Date Prepared: February 2019

By the  
Municipal Solid Waste (MSW) Permits Section  
Office of Waste, Waste Permits Division  
Texas Commission on Environmental Quality

The information contained in this summary is based upon the permit application and has not been independently verified.

Name of Applicant: Stacy Wershing  
P.O. Box 2047  
Center, Texas 75935

Name of Facility: R&J Recycling and Disposal Transfer Station

Contact Person: Stacy Wershing  
P.O. Box 2047  
Center, Texas 75935  
(936) 591-9695

Consulting Engineer: Mr. Bob Staehs, P.E.  
Everett Griffith, J. & Associates, Inc.  
P.O. Box 1746  
Lufkin, Texas 75902  
(936) 634-5528

## 1.0 **General Information**

### 1.1 Purpose:

The applicant has submitted this application requesting authorization to construct and operate a new Type V transfer station in Shelby County, Texas. This application was submitted on November 26, 2018 in accordance with Title 30 of the Texas Administrative Code (30 TAC) Chapter 330. The area within the proposed facility boundary is approximately 4.11 acres.

### 1.2 Waste Streams to be Accepted:

The facility will accept municipal household and commercial solid wastes and construction debris.

### 1.3 Waste Steams Not Authorized to be Accepted:

Any other waste which is prohibited or not listed in Section 1.2 may not be accepted. The facility will not accept regulated hazardous waste, polychlorinated biphenyls waste, radioactive waste, medical waste, industrial waste, regulated asbestos containing materials, special wastes, whole used or scrap tires, and liquid waste listed in Part II, Section 2.1.4.2 of the application.

## 2.0 **Application Review**

This application is under review for compliance with the applicable requirements of 30 TAC Chapters 281, 305, and 330. On January 18, 2019, the application was determined to be administratively complete. The application is currently being technically reviewed by the Municipal Solid Waste Permits Section to determine its compliance with the applicable requirements in 30 TAC Chapters 305 and 330. Chapter 330 contains the minimum regulatory criteria for municipal solid waste facilities. When it is determined that the information in this permit application demonstrates compliance with these regulatory requirements and a draft permit can be prepared, the application will be declared technically complete. A Notice of Application and Preliminary Decision will be issued when the technical review is completed.

### **3.0 Facility Location and Size**

#### **3.1 Location**

The R&J Recycling and Disposal Transfer Station is proposed to be located in Shelby County, Texas at the FM 2468 approximately 830 feet northwest of the intersection of FM 2468 and FM 699 near the City of Center. The location is illustrated in Attachment 1 (General Location Map) of this Application Summary.

#### **3.2 Facility Permanent Benchmark**

Latitude: 31° 48' 42.58" N  
Longitude: 94° 10' 35.98" W  
Elevation: 315 feet above mean sea level (msl)

#### **3.3 Facility Size:**

The total area within the permit boundary under the proposed permit is approximately 4.11 acres. The site layout is illustrated in Attachment 2 (Site Layout Plan) of this Application Summary.

### **4.0 Facility and Operations**

The facility consists of a site entrance gate, security fencing, entrance road to the site, interior roadway, gravel surface, office, scale house, covered bin storage, transfer building for working area and floor drain, and oil-sand separator and holding tank for contaminated water collection. The permittee will be authorized to operate the facility subject to the limitations contained in the permit. All waste processing operations will be limited to the units and other features identified in the Site Development Plan and the Site Operating Plan. The permittee will be authorized to collect waste from services areas then transfer waste to a landfill for final disposal.

### **5.0 Facility Design and Construction**

The facility will be equipped with a covered transfer building that is constructed with a loading dock with a pit design. The facility will have a capacity to receive and process up to 300 tons of waste per day. The pit area of the loading dock will be accessed by a ramp from the exterior gravel surface and driveways. The ramp allows for empty walking floor trailers to be lowered into the pit and then removed when full. The working floors will be slightly above natural ground level and accessible from the proposed exterior gravel surface and driveways. Collection vehicles will be able to enter the transfer building and deposit their loads onto the working floors, from which point the solid waste will be transferred to the trailers in the pit area. Those trailers will then be loaded onto trucks when full and delivered to an approved landfill for final disposal. This facility will be partially enclosed to protect it from rainfall and equipped with floor drains to accommodate wastewater.

The working floor will be gently sloped to direct wastewater to the pit area. The pit area will be equipped with a drain that directs wastewater or other liquids to the proposed oil-sand separator and holding tank. The site is designed with a grade so that all storm water runoff is directed away from the facility.

### **6.0 Land Use**

Land use in the vicinity of the site was evaluated in accordance with 30 TAC §330.61(h).

6.1 Zoning

The facility will be located approximately 830 feet northwest of the intersection of FM 2468 and FM 699, within the extraterritorial jurisdiction of the City of Center, the location is outside of the incorporated limits of the any city and is therefore not subject to any known city zoning ordinances.

6.2 Surrounding Area Land Use

The surrounding land is used for agriculture/undeveloped (32.6%), residential areas (20.7%), commercial areas (6.4%), manufacturing areas (5.5%), water features (2.3%), and project site (0.2%) within one mile.

6.3 Growth Trends

The facility will be located approximately 500 feet north of the incorporated limits of the City of Center, Texas in the unincorporated areas of Shelby County. A population growth in City of Center and unincorporated areas of Shelby County is expected to increase by 7.55% over the next decade. Population growth is expected through the 2070, with the overall growth rate declining from the high of 7.55% to 4.37% based on population projections obtained from the Texas Water Development Board (TWDB)'s 2021 Regional Water Plan.

6.4 Residences and Businesses

There are approximately 760 housing units within one mile of the facility. The closest resident is 730 feet to the northeast of the facility's boundary.

There are numerous commercial establishments within one mile of the facility. The nearest commercial building is located approximately 150 feet southwest of the facility's boundary.

6.5 Schools and Churches

Center middle school is located approximated 0.7 miles southwest of the site and the Center special education campus is located approximated 0.75 miles southwest of the site.

Central Baptist church is located approximated 0.62 miles south of the site and New Life church is located approximated 1.00 miles southwest of the site.

6.6 Cemeteries

There are no known cemeteries within one mile of the site.

6.7 Historical Sites

There are no known historical sites within one mile of the site.

6.8 Water Wells

He TWDB groundwater database indicates that there are no known wells located within a 500 feet radius of the facility boundary.

7.0 **Location Restrictions**

Location restrictions for municipal solid waste facilities are set forth in 30 TAC Chapter 330 Subchapter M.



7.1 Easements and Buffer Zones

There are no drainage, pipeline, or utility easements within or adjacent to the facility. No solid waste unloading, storage, disposal, or processing operations will occur within any easement, buffer zone, or right-of-way that crosses the facility.

7.2 Floodplains:

The permit boundary is not located within a 100-year floodplain.

7.3 Wetlands:

There are potential wetland features in or near the site based on the National Wetlands Inventory map obtained from the U.S. Fish Wildlife Service's National Wetlands Inventory database. The coordination letter dated December 19, 2019 from the US Army Corps of Engineers was received, which states that this project would not involve activities subject to the requirements of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899.

7.4 Protection of Endangered Species

The coordination response from the Texas Parks and Wildlife Department (TPWD) was received and offered recommendations regarding this project with respect to the federal and state regulations. The coordination letter from the US Army Corps of Engineers was received mentioned in Section 7.3 and best management practices will be utilized during construction to reduce erosion and minimize the potential for sediment transport to streams to be consistent with TPWD recommendations. For State fish and wildlife resources, precaution be taken to avoid impact to species of greatest conservation need and natural plant communities during site assessment, construction, operation, and maintenance.

8.0 **Facility Transportation and Access**

The primary access route to the facility is from FM 2468, which runs parallel and immediately adjacent to the site's southwestern boundary. FM 2468 is a two-lane paved road and is adequate to handle the vehicular traffic associated with the site. A coordination response from the Texas Department of Transportation for the project and the design of the site entrance from FM 2468 is awaited.

The volume of traffic to the facility is anticipated to be 84 vehicles per day at the maximum daily capacity.

9.0 **Surface Water Protection**

The site will be graded to protect the transfer station from external storm water runoff. Wash-water and contaminated water from the working floor and pit area of the transfer building will be directed to drains. The drains from the pit area will be directed to an underground holding tank that will be equipped with an oil-sand separator will be emptied by vacuum truck on an as-needed basis and the contents transported to a TCEQ approved facility for disposal.

10.0 **Site Development and Operation**

The Site Development Plan (SDP) is Part III of the permit application and sets forth the engineering design and other technical aspects of the facility. The Site Operating Plan (SOP) is Part IV of the permit application.

The SOP provides operating procedures for the site management and the site operating personnel for the daily operation of the facility to maintain the facility in compliance with the engineering design and applicable regulatory requirements. These documents become part of the permit.

**11.0 Financial Assurance**

Financial assurance will be maintained for the facility in accordance with 30 TAC Chapter 37 (Financial Assurance) and 30 TAC Chapter 330 Subchapter L.

**12.0 Attachments**

Two attachments from the permit application are included with this application summary:

Attachment 1 - General Location Map

Attachment 2 - Site Layout Plan

**13.0 Additional Information**

For information concerning the regulations covering this application, contact:

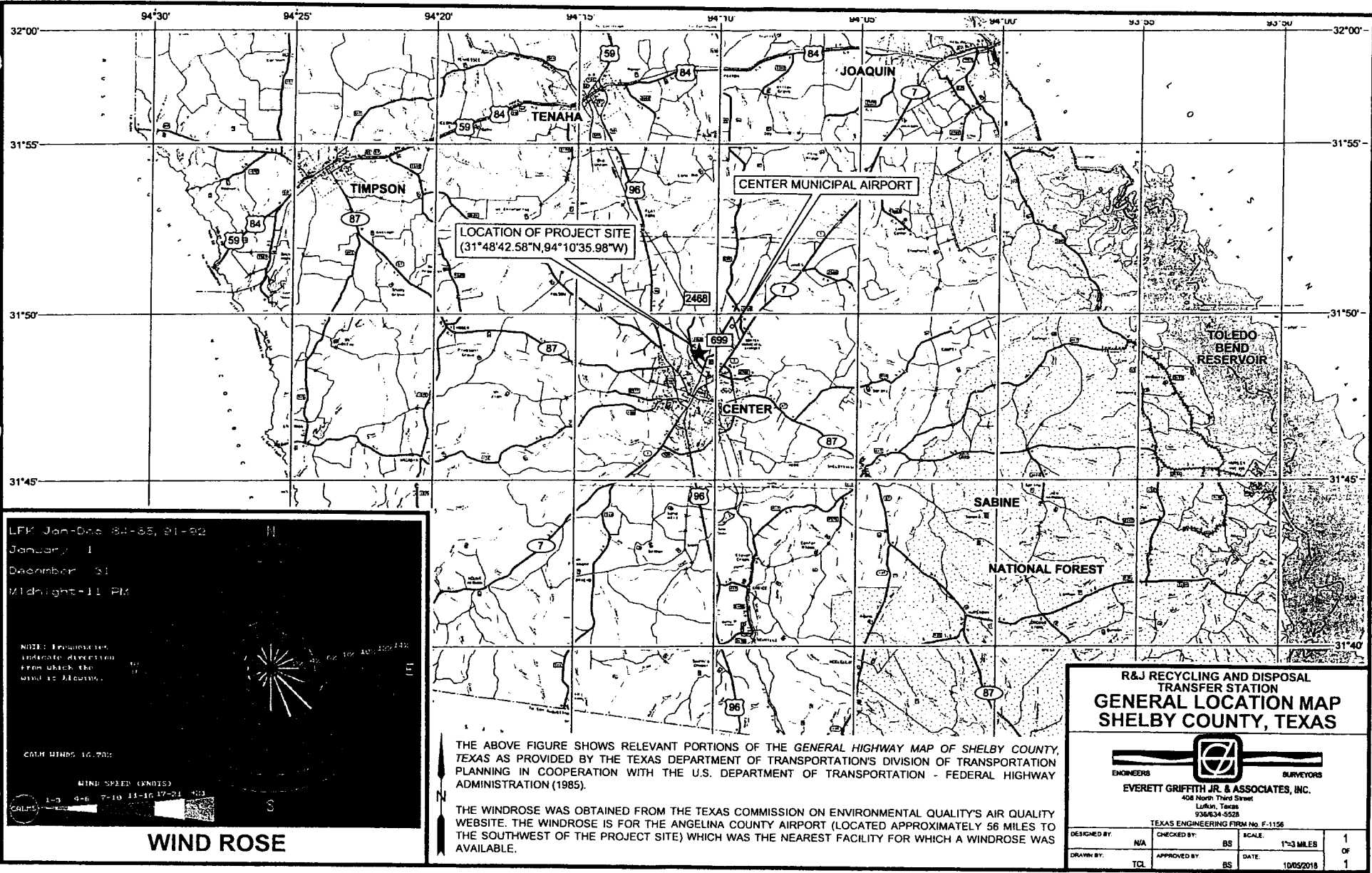
Ms. Eun Ju Lee, Ph.D., P.E.  
MSW Permits Section, MC 124  
Waste Permits Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711  
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For more detailed technical information concerning any aspect of this application or to request a copy of the Site Development Plan, please contact the Consulting Engineer or the Applicant at the address provided at the beginning of this summary.

The complete application may be found posted on the internet at the following website address:

[http://www.tceq.texas.gov/permitting/waste\\_permits/msw\\_permits/msw\\_posted\\_apps.html](http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_posted_apps.html)

Attachment 1. General Location Map



Attachment 2. Site Layout Plan

