

JOSHUA POLICE DEPARTMENT

2023

RACIAL PROFILING ANALYSIS

PREPARED BY:

Eric J. Fritsch, Ph.D.

Chad R. Trulson, Ph.D.

Justice Research Consultants, LLC



Executive Summary

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

1. evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;
2. examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;
3. evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and
4. information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

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

- **A COMPREHENSIVE REVIEW OF THE JOSHUA POLICE DEPARTMENT REGULATIONS, SPECIFICALLY GENERAL DIRECTIVE 2.2 (BIASED BASED POLICING) OUTLINING THE DEPARTMENT’S POLICY CONCERNING BIAS-BASED PROFILING, SHOWS THAT THE JOSHUA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE JOSHUA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE JOSHUA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

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

Introduction

This report details an analysis of the Joshua Police Department's policies, training, and statistical information on racial profiling for the year 2023. This report has been prepared to specifically comply with Article 2.132, 2.133, and 2.134 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of traffic stop data. Specifically, the analysis will address Articles 2.131 – 2.134 of the CCP and make a determination of the level of compliance with those articles by the Joshua Police Department in 2023. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

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

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

Joshua Police Department Policy on Racial Profiling

A review of Joshua Police Department General Directive 2.2 (Biased Based Policing) revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix B). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are covered in Directive 2.2. Joshua Police Department regulations provide clear direction that any form of bias-based profiling is prohibited and that officers found engaging in inappropriate profiling will face corrective action as required by the Code of Criminal Procedure. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race or ethnicity. Appendix C lists the applicable statute and corresponding Joshua Police Department regulation.

A COMPREHENSIVE REVIEW OF JOSHUA POLICE DEPARTMENT GENERAL DIRECTIVE 2.2 SHOWS THAT THE JOSHUA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Joshua Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas Peace officers. Documentation provided by Joshua Police Department reveals that all officers have received bias-based/racial profiling training.

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

Joshua Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Joshua Police Department General Directive 2.2 Section IV (F) covers this requirement. In addition, Joshua Police Department has information regarding how to file a complaint on their website, (<https://www.cityofjoshuatx.us/police/pages/commendations-and-complaints>). The department has also prepared a brochure on the complaint process.

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

Joshua Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 and Article 2.133 requires that law enforcement agencies collect statistical information on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to other information noted previously. Joshua Police Department submitted statistical information on all motor vehicle stops in 2023 and accompanying information on the race/ethnicity of the person stopped. Accompanying this data was the relevant information required to be collected and reported by law.

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

Analysis of the Data

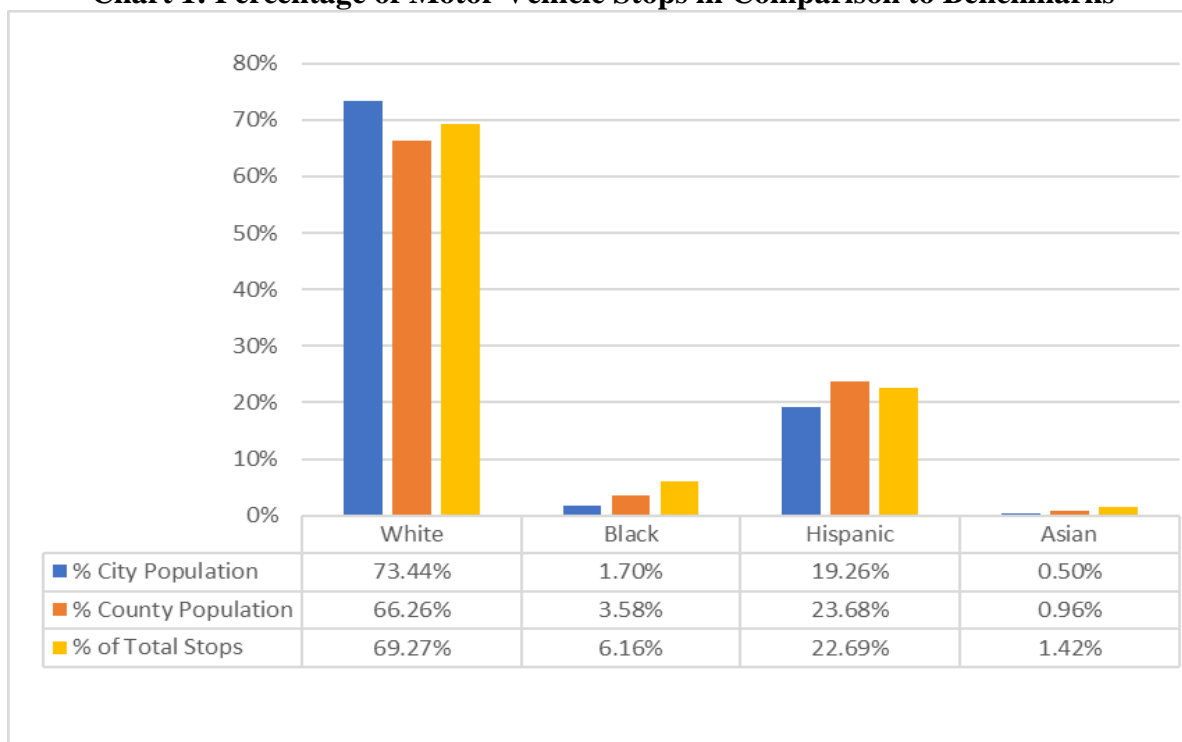
Comparative Analysis #1:

Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities. Texas Code of Criminal Procedure Article 2.134(c)(1)(A)

The first chart depicts the percentages of people stopped by race/ethnicity among the total 6,072 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2023.¹

¹ There were 28 motor vehicle stops of drivers considered Alaska Native/American Indian. These motor vehicle stops were not charted in the first figure of this report due to the small number of cases relative to the population in Joshua and relative to the total number of motor vehicle stops among all drivers (6,072).

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



White drivers constituted 69.27 percent of all drivers stopped, whereas Whites constitute 73.44 percent of the city population and 66.26 percent of the county population.²

Black drivers constituted 6.16 percent of all drivers stopped, whereas Blacks constitute 1.70 percent of the city population and 3.58 percent of the county population.

Hispanic drivers constituted 22.69 percent of all drivers stopped, whereas Hispanics constitute 19.26 percent of the city population and 23.68 percent of the county population.

Asian drivers constituted 1.42 percent of all drivers stopped, whereas Asians constitute 0.50 percent of the city population and 0.96 percent of the county population.

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

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

Methodological Issues

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

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

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

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

Issue #2: Problems Associated with Population Base-Rates

There has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. The base-rate serves as the benchmark for comparison purposes. The outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. While this report utilized the most recent 2020 Census as a population base-rate, this population measure can become quickly outdated, can be inaccurate, and may not keep pace with changes experienced in city and county population measures.

In addition, the validity of the benchmark base-rate becomes even more problematic if analyses fail to distinguish between residents and non-residents who are stopped. This is because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures. **In sum, a valid measure of the driving population does not exist. As a proxy, census data is used which is problematic as an indicator of the driving population.** In addition, stopped motorists who are

not residents of the city or county where the motor vehicle stop occurred are not included in the benchmark base-rate.

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

As illustrated in Table 3 near the end of this report, of the 6,072 motor vehicle stops in 2023, the officer knew the race/ethnicity of the motorist prior to the stop in 0.36% of the stops (22/6,072). This percentage is fairly consistent across law enforcement agencies throughout Texas. An analysis of all annual racial profiling reports submitted to the Texas Commission on Law Enforcement, as required by the Texas racial profiling law, found that in 2.9% of the traffic stops in Texas, the officer knew the race/ethnicity of the motorist prior to the stop.³ The analysis included 1,186 Texas law enforcement agencies and more than 3.25 million traffic stops.

As noted, the legal definition of racial profiling in the Texas Code of Criminal Procedure Article 3.05 is “a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.”

In 2023, Joshua PD officers rarely knew the race/ethnicity of any motorist prior to the stop. This factor further invalidates any conclusions drawn from the stop data presented in Chart 1. If an officer does not know the race/ethnicity of the motorist prior to the stop, then the officer cannot, by legal definition, be racial profiling. Racial profiling is a law-enforcement action based on the race/ethnicity of an individual. If the officer does not know the person's race/ethnicity before the action (in this case, stopping a vehicle), then racial profiling cannot occur.

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

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

Table 1 reports the summaries for the total number of motor vehicle stops in which a ticket, citation, or warning was issued, and to arrests made as a result of those stops, by the Joshua Police Department in 2023. Table 1 and associated analyses are utilized to satisfy the comparative analyses as required by Texas law, and in specific, Article 2.134 of the CCP.

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

Comparative Analysis #2:

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

As shown in Table 1, there were a total of 6,072 motor vehicle stops in 2023 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 58 percent of stops resulted in a written warning (3,545/6,072) and roughly 41 percent resulted in a citation. These actions accounted for roughly 99 percent of all stop actions and will be the focus of the below discussion.

Specific to **written warnings**, White motorists received a written warning in roughly 61 percent of stops involving White motorists (2,545/4,206), Black motorists received a written warning in roughly 64 percent of stops of Black motorists, Hispanic motorists received a written warning in roughly 50 percent of stops of Hispanic motorists, and Asian motorists received a written warning in roughly 66 percent of stops of Asian motorists.

White motorists received a **citation** in roughly 39 percent of stops involving White motorists (1,638/4,206), Black motorists received a citation in roughly 35 percent of stops of Black motorists, Hispanic motorists received a citation in roughly 49 percent of stops of Hispanic motorists, and Asian motorists received a citation in roughly 34 percent of stops of Asian motorists.

Finally, **arrests** were rare in 2023. Of the 6,072 total stops, only 40 arrests [written warning and arrest (15) and citation and arrest (25)] were made in 2023. An arrest occurred in 0.66 percent of all stops.

As illustrated in Table 1, the 40 arrests were typically based on a **violation of the penal code** (62.5%; 25/40) or an **outstanding warrant** (27.5%; 11/40).

Finally, as presented in Table 1, **physical force resulting in bodily injury** occurred during 8 stops in 2023. In each instance, the suspect was injured. Because Table 1 reflects the race/ethnicity of the suspect, and not officers, it should be noted that in 2 stops an officer only was injured, and then in 2 other stops both the suspect and officer were injured.

Table 1: Traffic Stops and Outcomes by Race/Ethnicity

Stop Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	4,206	374	1,378	86	28	6,072
Gender						
Female	1,956	133	540	26	9	2,664
Male	2,250	241	838	60	19	3,408
Reason for Stop						
Violation of Law	108	13	36	2	1	160
Preexisting Knowledge	29	7	15	0	0	51
Moving Traffic Violation	2,423	205	775	48	16	3,467
Vehicle Traffic Violation	1,646	149	552	36	11	2,394
Result of Stop						
Verbal Warning	0	0	0	0	0	0
Written Warning	2,545	241	685	57	17	3,545
Citation	1,638	131	679	29	10	2,487
Written Warning and Arrest	8	1	6	0	0	15
Citation and Arrest	15	1	8	0	1	25
Arrest	0	0	0	0	0	0
Arrest Based On						
Violation of Penal Code	17	0	7	0	1	25
Violation of Traffic Law	2	0	2	0	0	4
Violation of City Ordinance	0	0	0	0	0	0
Outstanding Warrant	4	2	5	0	0	11
Physical Force Resulting in Bodily Injury Used?						
No	4,200	374	1,376	86	28	6,064
Yes	6	0	2	0	0	8

Comparative Analysis #3:

Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches. Texas Code of Criminal Procedure Article 2.134(c)(1)(C)

In 2023, a total of 176 **searches** of motorists were conducted, or roughly 3 percent of all stops (176/6,072) resulted in a search (see Table 2). Among searches within each racial/ethnic group, White motorists were searched in 2.5 percent of all stops of White motorists (104/4,206), Black motorists were searched in 4.5 percent of all stops of Black motorists, Hispanic motorists were searched in 3.7 percent of all stops of Hispanic motorists, and Asian motorists were searched in 3.5 percent of all stops of Asian motorists (3 total searches).

As illustrated in Table 2, the most common searches were **probable cause** (111), **consent** (41), and **incident to arrest** (19). These three search categories accounted for 97.2 percent of all searches conducted pursuant to a motor vehicle stop (171/176 total searches).

Regarding searches, it should be further noted that only 41 searches (see Table 2) were based on consent, which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (6,072), discretionary consent searches occurred in 0.68 percent of stops.

Of the searches that occurred in 2023, and as shown in Table 2, contraband was discovered in 95 or roughly 54 percent of all searches (95/176 total searches). Most of the contraband discovered in searches was drugs.⁴ Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested 8.4 percent of the time (8/95 contraband discoveries).

⁴ Note in Table 2 the number of searches where contraband was found was 95, yet under “Description of Contraband”, the total equals 103. This occurs because more than one form of contraband can be discovered in a single search.

Table 2: Searches and Outcomes by Race/Ethnicity

Search Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Search Conducted						
Yes	104	17	51	3	1	176
No	4,102	357	1,327	83	27	5,896
Reason for Search						
Consent	33	1	6	0	1	41
Contraband in Plain View	1	0	0	0	0	1
Probable Cause	57	15	36	3	0	111
Inventory	2	0	2	0	0	4
Incident to Arrest	11	1	7	0	0	19
Was Contraband Discovered						
Yes	55	8	30	2	0	95
No	49	9	21	1	1	81
Description of Contraband						
Drugs	45	8	23	2	0	78
Weapons	1	0	3	0	0	4
Currency	0	0	1	0	0	1
Alcohol	6	1	8	0	0	15
Stolen Property	2	0	0	0	0	2
Other	1	0	2	0	0	3
Did Discovery of Contraband Result in Arrest?						
Yes	5	1	2	0	0	8
No	50	7	28	2	0	87

Comparative Analysis #4:

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

In 2023, internal records indicate that the Joshua Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling.

Additional Analysis:

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

In 2023, 6,072 motor vehicle stops were made by the Joshua Police Department. Of these stops, 2,664 or roughly 44 percent were female drivers (2,664/6,072), and roughly 56 percent were male drivers (see Table 1).

According to 2019 American Community Survey (ACS) city and county population estimates of the U.S. Census Bureau, the City of Joshua was composed of 51.6 percent females and 48.4 percent males. County population 2019 ACS estimates indicate that females accounted for 49.9 percent of the county population and males accounted for 50.1 percent of the county population.

Overall, in 2023, males were stopped at rates higher than their proportion of the city and county populations.

Additional Information Required to be Reported to TCOLE

Table 3 below provides additional information relative to motor vehicle stops in 2023 by the Joshua Police Department. The data are required to be collected by the Joshua Police Department under the Texas Code of Criminal Procedure Article 2.133.

As previously noted, the Joshua Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling in 2023. Furthermore, as previously discussed, of the 6,072 motor vehicle stops in 2023, the officer knew the race/ethnicity of the motorist prior to the stop in less than 1% of the stops (22/6,072).

Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	22
No	6,050
Approximate Location of Stop	
City Street	1,178
US Highway	0
County Road	200
State Highway	4,614
Private Property/Other	80
Number of Complaints of Racial Profiling	0
Resulted in Disciplinary Action	0
Did Not Result in Disciplinary Action	0

Analysis of Racial Profiling Compliance by Joshua Police Department

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

In addition to providing summary reports and analysis of the data collected by the Joshua Police Department in 2023, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Joshua Police Department as well as police agencies across Texas.

Appendix A: Racial Profiling Statutes and Laws

Texas Racial Profiling Statutes

Art. 3.05. RACIAL PROFILING.

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

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

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

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

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

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

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

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

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

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

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

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

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

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

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

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

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

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

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for the stop; and

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

(A) the Texas Commission on Law Enforcement; and

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

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

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

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

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

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

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

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

Amended by:

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

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

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

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

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

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

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

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

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

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

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

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

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

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

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

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

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

Amended by:

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

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

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

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

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

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

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

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

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

(B) examine the disposition of motor vehicle stops made by officers employed by the agency,

categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

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

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

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

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

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

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

Amended by:

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

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

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

Art. 2.136. LIABILITY.

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

- (1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;
- (2) smaller jurisdictions; and
- (3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using video and audio equipment and body worn cameras for those purposes.

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

Amended by:

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

Art. 2.138. RULES.

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

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

Art. 2.1385. CIVIL PENALTY.

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

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

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

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

Amended by:

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

Appendix B: Agency Policy



General Directive

2.2 Biased Based Policing

Effective Date: October 1, 2022

Approved:

A handwritten signature in blue ink, appearing to read "J. H. [unclear]", is written over a horizontal line.

Chief of Police

I. PURPOSE

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

II. DEFINITIONS

- A. Biased policing: Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- B. Ethnicity: A cluster of characteristics that may include race but also cultural characteristics or traits that are shared by a group with a common experience or history.
- C. Race: A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern, or Native American descent. As distinct from ethnicity, race refers only to physical characteristics sufficiently distinctive to group people under a classification.
- D. 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.

III. POLICY

- A. Respect for diversity and equitable enforcement of the law are essential to our mission. Employees shall exercise sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, sexual orientation, national origin, ethnicity, age, or religion.
- B. Officers are prohibited from engaging in bias-based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. These characteristics may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. (TBP: 2.01)

Bias Based Policing

- C. All enforcement detentions or searches shall be based on the standards of reasonable suspicion or probable cause.
- D. Officers shall complete all training required by state law regarding bias- based profiling. (TBP: 2.01)

IV. PROCEDURES

- A. Individuals shall be subjected to stops, seizures, or detentions only upon reasonable suspicion or probable cause that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
- B. Officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause except as provided below.
- C. Officers shall not consider race/ethnicity in deciding to initiate nonconsensual encounters that do not amount to legal detentions or to request consent to search except as provided below.
- D. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion.
- E. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
- F. Complaints
 - 1. The department shall publish written documents concerning the complaint process and policy regarding racial profiling and make those available at the police department. The department's complaint process and its bias-based profiling policy will be posted on the city website and be available in the police department lobby.
 - 2. Supervisors and officers shall provide information on the complaint's process anytime it is requested or when circumstances make it seem appropriate.
 - 3. Supervisors shall facilitate the filing of any complaints about law-enforcement service including racial profiling.
 - 4. Complaints alleging incidents of bias-based profiling will be fully investigated.
 - 5. Complainants will be notified of the results of the investigations when the investigation is completed.
 - 6. Supervisors shall identify and correct instances of bias in the work of their subordinates.
 - 7. Corrective action will be taken as required by the Code of Criminal Procedure should an investigation conclude an officer has engaged in racial profiling.
- G. Records and Reporting
 - 1. Officers will on each occasion when a ticket, citation or warning is issued or an arrest made document to the best of their ability:
 - a. The race or ethnicity of the individual detained,

- b. Whether a search was conducted and if the person detained consented to the search and
 - c. Whether he/she knew the race or ethnicity of the person detained before detaining the individual.
- 2. When a person suffers bodily injury as defined by the penal code as a result of physical force used by the officer and the use of force is not otherwise reportable by policy, the reason for the stop, description of the force used and a description of the bodily injury evident or reported will be documented by in an arrest or incident report.
- 3. The department will maintain records on traffic stops in accordance with state law.
 - a. Each vehicle traffic stop shall be documented by with a citation or written warning.
 - b. Traffic stops recordings will be maintained for 90 days unless it is submitted as evidence in a criminal or internal disciplinary case.
 - c. An annual report and analysis will be conducted as required by the Code of Criminal Procedure. The report will be submitted to the city council and TCOLE on or before March 1of each year.

FALSE COMPLAINTS

Sometimes people make false complaints against police department members for variety of reasons. Making a false complaint against a department member, however, is a violation under Texas Penal Code, Section 37.02, which states that a person commits an offense if the person "...makes a false statement under oath or swears to the truth of a false statement previously made; and the statement is required or authorized by law to be made under oath."

A person convicted under this Section can be punished by a fine of up to \$4,000, confinement in jail for up to one year, or both.

A falsely-accused member may also have civil recourse against a person making a false complaint.

COMPLAINANT NOT SATISFIED WITH INVESTIGATION OR ITS FINDINGS

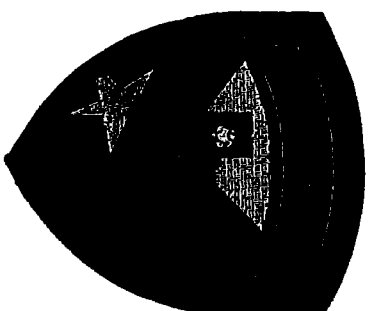
If a complainant is not satisfied with the investigation, with its findings, or with the results, the complainant may appeal to the police chief, to the city manager, or may pursue the matter in court.

Service
Teamwork
Accountability
Integrity
Respect

Citizen Complaints
Against

Joshua Police
Department
Members

Joshua Police Department
102 S. Main St.
Joshua, TX 76058
817-558-3197
817-645-1874 (fax)



Policy Statement

The Joshua Police Department is dedicated to providing the most competent and professional service possible to all the citizens of Joshua. Police Department members are carefully selected and trained in order to provide the level of service that is expected.

At times, a customer may be displeased with the level of service that was provided or with the conduct of a Joshua Police Department member and will file a complaint. In order to be responsive to the complaint, the police department is providing the following information about how complaints are filed, investigated, and resolved.

HOW ARE COMPLAINTS MADE?

Time Limits to File Complaint. Barring extenuating circumstances, complaints against police department members must be made within 30 days of the alleged misconduct.

Processing Complaint. Any person in the police department may receive a complaint from a customer. The complaint will be forwarded to the police department administration. The administration will classify the complaint into one or both of the following categories: "administrative", if the alleged misconduct is not a criminal act, or "criminal", if the alleged misconduct includes a criminal act.

Form of Complaint. Under Texas state law, a complaint against a police officer must be made under oath, be in writing, and be signed by the complainant before the investigation can be proceed. The police department will not investigate any complaint against any member of the department unless the complaint is in writing, is signed, and is sworn to under oath by the complainant.

INVESTIGATION OF COMPLAINT

Assignment of Complaint. Administrative investigations (noncriminal) will be assigned to either the accused member's supervisor or to an internal affairs investigator, depending on the allegation. Allegations involving a criminal act will be assigned to the Criminal Investigations Division.

Member's Rights During Investigation. The member against whom the complaint is being lodged:

- will receive a copy of the complaint and will be given an opportunity to respond to the complaint.
- will be accorded all federal and state Constitutional and statutory rights and privileges.
- may not be required to submit to a polygraph examination unless the complainant submits to and passes a polygraph examination.

FINDINGS OF COMPLAINT

A complaint finding will be classified into one of the following general categories:

- **Sustained** - the evidence is sufficient to support the allegation.
- **Unfounded** - the alleged misconduct, if committed, did not constitute a violation of policy or law.
- **Exonerated**-the evidence indicates the member's conduct was justified by policy, by law, or by the circumstances that were present at the time of the alleged conduct.
- **Policy failure**- the member committed the alleged misconduct, but a policy did not adequately address the conduct.
- **False or untrue**-the alleged misconduct never occurred. (See false complaints, below.)

VALID COMPLAINTS

When the investigation of the complaint reveals that the allegation is valid and the complaint should be sustained, the accused member may be assessed any of the following forms of disciplinary action:

- Remedial training
- Counseling
- Reprimand
- Suspension
- Demotion
- Termination

The City of Joshua Personnel Manual and the Joshua Police Department Operations Manual provide for an appeal process if the member is adversely affected by the findings of the investigation.

Appendix C: Racial Profiling Laws and Corresponding Standard Operating Procedures

Texas CCP Article	JOSHUA POLICE DEPARTMENT General Directive 2.2 (Biased Based Policing)
2.132(b)1	Definitions Section (II)
2.132(b)2	Policy Section (III)
2.132(b)3	Complaints Section (IV F)
2.132(b)4	Complaints Section (IV F) & Website & Agency Brochure
2.132(b)5	Complaints Section (IV F)
2.132(b)6	Records and Reporting (IV G)
2.132(b)7	Records and Reporting (IV G)