

CEDAR HILL
POLICE DEPARTMENT

2009

RACIAL PROFILING ANALYSIS

PREPARED BY:

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Executive Summary

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested for traffic violations and whether or not those individuals were searched. Since the law provides no clear instruction to a governing body on how to review such data, the Cedar Hill Police Department requested this analysis and review to assist the City Council in reviewing the data.

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

- **A COMPREHENSIVE REVIEW OF THE CEDAR HILL POLICE DEPARTMENT GENERAL ORDERS, SPECIFICALLY GENERAL ORDER 1.02.09-01 OUTLINING THE DEPARTMENT'S POLICY CONCERNING RACIAL PROFILING, SHOWS THAT THE CEDAR HILL 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 CEDAR HILL 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 ANALYSIS OF STATISTICAL INFORMATION FROM CEDAR HILL POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE CEDAR HILL POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**

Introduction

This report details an analysis of the Cedar Hill Police Department's policies, training, and statistical information on racial profiling for the year 2009. This report has been prepared to specifically comply with Article 2.132 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of racial profiling data. Specifically, the analysis will address Articles 2.131 – 2.135 of the CCP and make a determination of the level of compliance with those articles by the Cedar Hill Police Department in 2009. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into five analytical sections: the Cedar Hill Police Department's policy on racial profiling; the Cedar Hill Police Department's training and education on racial profiling; the Cedar Hill Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; and an analysis of the Cedar Hill 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).

Cedar Hill Police Department Policy on Racial Profiling

A review of Cedar Hill Police Department's General Order 1.02.09-01 revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix C). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in General Order 1.02.09-01. The Cedar Hill Police Department's general orders provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined according to the agency's general order on the "Administration of Discipline" up to and including termination. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix B lists the applicable statute corresponding to the Cedar Hill Police Department regulation.

A COMPREHENSIVE REVIEW OF CEDAR HILL POLICE DEPARTMENT'S General Order 1.02.09-01 SHOWS THAT THE CEDAR HILL POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Cedar Hill Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas Peace officers. Information provided by the Cedar Hill Police Department reveals that racial profiling training and certification is current for all officers.

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

Cedar Hill 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. Cedar Hill Police Department utilizes a brochure on “Racial Profiling Complaint Procedures.” This easy to read and accessible brochure outlines the racial profiling complaint process and other pertinent information in an easy to comprehend format. The brochure also lists contact numbers and a website where citizens may receive further information.

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.

Cedar Hill Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic citations and detentions with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also required to be collected. The Cedar Hill Police Department submitted statistical information on all stops in 2009 and accompanying information on the race of the person detained. Accompanying this data was the relevant information on searches and arrests. Cedar Hill Police Department collects information on drivers, passengers, and pedestrians stopped. Since the vast majority of the data provided for this report are on drivers, the term drivers will be used throughout most of this report. Analysis including pedestrian and passenger stops is noted when applicable.

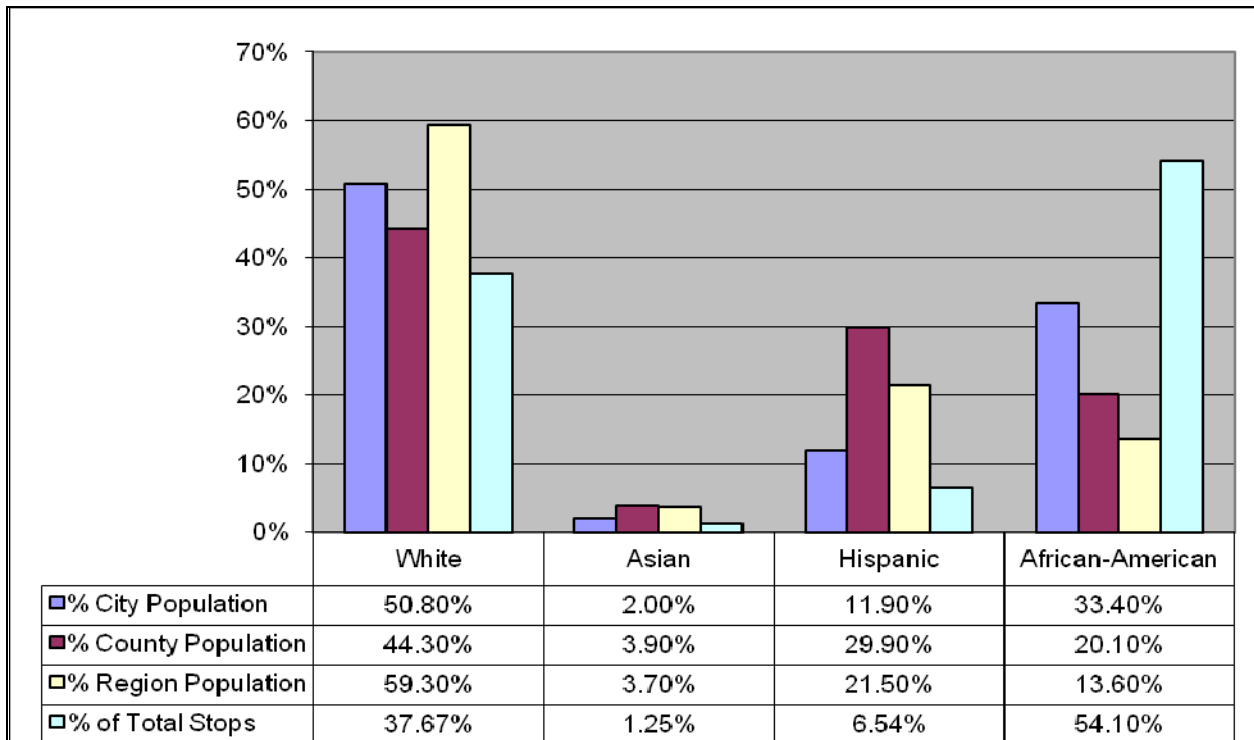
ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

Analysis of the Data

The first chart depicts the percentages of people stopped by race (Native American and “other” categories are not charted due to extremely small number of cases). Although the term drivers will be used to discuss this chart, the analysis includes pedestrians and passengers as well. White drivers constituted 37.67 percent of all drivers stopped, whereas Whites constitute 50.80 percent of the city population, 44.30 percent of the county population, and 59.30 percent of the region population.¹ Asian drivers constituted 1.25 percent of all drivers stopped, whereas Asians

¹ All population figures are derived from 2000 Census data compiled and published by the North Central Texas Council of Governments. “Regional” population figures are defined as the twelve county Dallas-Ft. Worth

constitute 2.00 percent of the city population, 3.90 percent of the county population, and 3.70 percent of the region population. Hispanic drivers constituted 6.54 percent of all drivers stopped, whereas Hispanics constitute 11.90 percent of the city population, 29.90 percent of the county population, and 21.50 percent of the region population. African-American drivers constituted 54.10 percent of all drivers stopped, whereas African-Americans constitute 33.40 percent of the city population, 20.10 percent of the county population, and 13.60 percent of the region population.



The chart shows that White drivers are stopped at rates lower than the percentage of Whites found in the city, county, and regional population. This same finding holds for Asian and Hispanic drivers. African-American drivers were stopped at rates higher than the percentage of African-Americans in the city, county, and region population.

Although some degree of disparity exists in terms of the rate at which motorists were stopped across the racial categories, easy determinations regarding whether or not Cedar Hill police officers have “racially profiled” a given motorist are impossible given the nature of the data that has been collected and presented for this report. **The Cedar Hill Police Department fully complies with (and in fact exceeds) the data collection mandated by the State’s racial profiling law, however, problems associated with the law as it currently stands make it impossible to discern whether or not profiling has occurred on the basis of comparisons made to population base-rates. The next section will highlight the issues specifically associated with the current racial profiling law in Texas. This section should be viewed as a criticism specific to the existing racial profiling statute rather than the statistics for the**

Consolidated Metropolitan Statistical Area including the following counties: Dallas, Denton, Collin, Hunt, Rockwall, Ellis, Kaufman, Henderson, Tarrant, Parker, Hood and Johnson.

Cedar Hill Police Department in particular. Problems related to the law discussed below include: 1) methodological issues associated with using group-level data to explain individual officer decisions, 2) the lack of objective indicators for the race of the driver that is stopped, and 3) problems associated with population base-rates that are commonly used as a “benchmark” of comparison.

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 decisions based on the examination of aggregate level 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. This kind of determination necessarily requires an examination of data at the individual officer level and a more detailed analysis of individual officer decision-making. Unfortunately, the law does not currently require the collection of this type of data, resulting in a considerable amount of conjecture as to the substantive meaning of aggregate level disparities. That is, who or what is driving the disproportionate rates at which African-Americans seem to be stopped? We cannot know or even begin to examine this issue with analyses that end with aggregate level comparisons of rates.

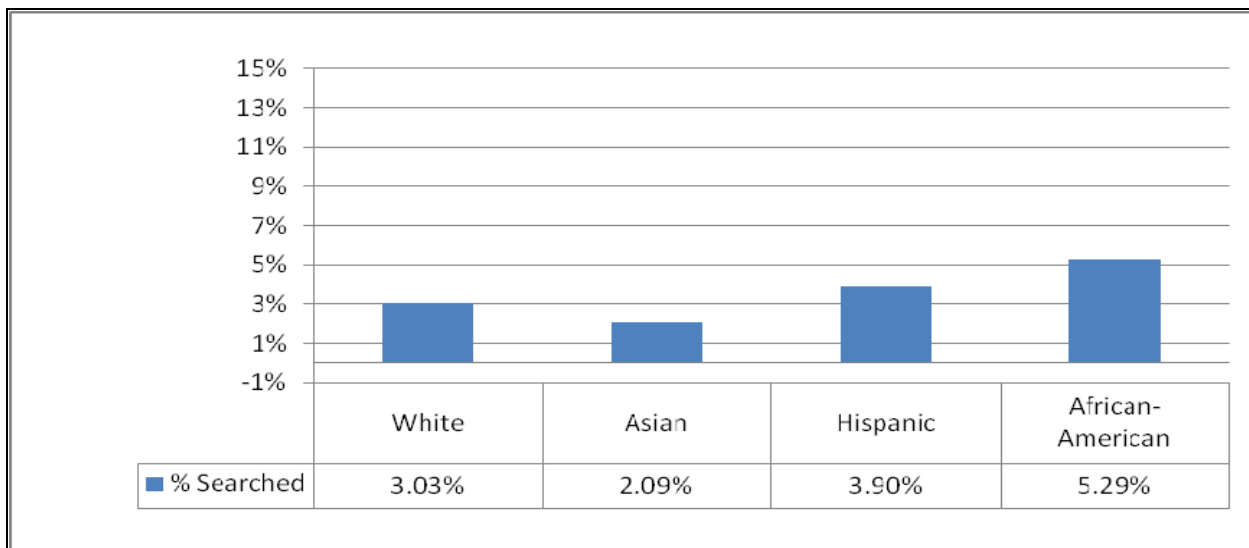
Additional interpretation problems remain in regards to the specific measurement of “racial profiling” as defined by Texas state code. For example, officers are currently forced to make subjective determinations regarding an individual's race based on his or her personal observations because the Texas Department of Public Safety does not provide an objectively-based determination of an individual's race/ethnicity on the Texas driver's license. The absence of any verifiable race/ethnicity data on the driver's license is especially troubling given the racial diversity within the city of Cedar Hill and the North Texas region as a whole, and the large numbers of citizens who are African-American, Hispanic, or mixed racial descent. The validity of any racial/ethnic disparities discovered in the aggregate level data becomes threatened in direct proportion to the number of subjective “guesses” officers are forced to make when trying to determine an individual's racial/ethnic background.

Moreover, there has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. Questions concerning the most appropriate base-rate are most problematic in the case of traffic stops, because there are problems associated with using any number of different population measures to determine whether or not aggregate level racial disparities exist. The outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. In addition, the explosive rate of growth that has recently occurred across much of North Texas and particularly in the city of Cedar Hill has made the base-rate issue especially problematic because measures derived exclusively from the U.S. census can become quickly outdated since they are compiled only once per decade. The determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, 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. Data regarding

the residential status of drivers stopped in Cedar Hill in 2009 are presented in the final tables of this report. Overall, 35 percent of the stopped drivers were not residents of the City of Cedar Hill.²

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.

The bar chart below presents summary statistics of drivers (excluding passengers and pedestrians) who were subject to a search after being stopped across racial categories. The chart shows that the vast majority of stopped drivers were not subject to a search across the racial categories. For example, 3.03 percent of all White drivers who were stopped were subject to a search, 2.09 percent of Asian drivers who were stopped were searched, 3.90 percent of all Hispanic drivers who were stopped were subject to a search, and 5.29 percent of all African-American drivers who were stopped were subject to a search.



It should be noted that aggregate level comparisons regarding the rates at which drivers are searched by police are subject to some of the same methodological issues as those outlined above regarding analyses of aggregate level stop rates. Of particular concern is the fact that Texas’ current racial profiling statute fails to mandate the collection of data that could be used to separate discretionary searches from non-discretionary searches. For example, searches that are conducted incident to an arrest or as part of a vehicle tow inventory should not be included in analyses designed to examine whether or not racial profiling has occurred because these types of searches are non-discretionary in that the officer is compelled by law or departmental guidelines to conduct the search irrespective of the race of the stopped driver. An officer cannot be determined to be “racially profiling” when organizational rules and state codes compel them to search regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of search rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions. In this regard, however, the Cedar Hill Police Department exceeds the minimum data collection requirements mandated by the state. The Cedar Hill Police

² This figure is based upon 3,899 stops where the residency status of the driver was available.

Department currently collects data concerning the authority under which officers search vehicles and/or persons. This data is presented and discussed on pages 10 through 12 of the report.

The table below presents statistics concerning the total number of drivers (including passengers and pedestrians, except for the “Searched” row which includes drivers only) who were stopped across the racial categories, as well as the number of drivers that were searched within each racial category. The table also presents the number of arrests that occurred, as well as the number of searches that were consensual.³ The table indicates that arrests were rare, occurring in 4.00 percent of all stops. There was some variation across racial categories in terms of arrests. For example, arrests were more common among Hispanic drivers (3.70 percent of all stops) and African-American drivers (5.13 percent of all stops) than they were among White drivers (2.56 percent of all stops).

Action	White	Asian	Hispanic	African-American	Other	Total
Total Stopped	5,752	191	999	8,261	66	15,269
Searched	174	4	39	437	1	655
Consent	66	1	7	87	0	161
Arrested	147	2	37	424	1	611

Importantly, a large percentage of arrests were the result of the existence of outstanding warrants, indicating that the decision to arrest was non-discretionary and required by law much of the time. The existence of outstanding warrants for arrested drivers was prevalent across the racial categories, as 71 percent of African-Americans who were arrested had outstanding warrants, 53 percent of Whites who were arrested had outstanding warrants, and 22 percent of Hispanics who were arrested had outstanding warrants. Clearly, the statistics regarding arrests point to the need for analyses that separate the discretionary decisions of officers (i.e. those that should be analyzed in regards to racial profiling issues) from those that are non-discretionary and the result of legal or departmental guidelines.

The final tables below provide additional statistics concerning police stops, searches, and arrests across the racial categories, as well as additional situational variables related to the stop. The specific variables discussed below include: a) whether or not the driver’s race was identified prior to the stop, b) the initial reason for the stop, and c) the result of the stop.

Most officers indicated that they did not know the race of the driver prior to the stop across the racial categories. For example, officers indicated that they did not know the race of 99 percent of drivers who were eventually identified as African-American, 99 percent of those drivers eventually identified as White, and 99 percent of those drivers eventually identified as Hispanic.⁴ Moreover, the overwhelming majority of drivers were initially stopped because of observed

³ “Consent Searches” include consensual searches of drivers, passengers, and/or vehicles.

⁴ These figures are based on Scantron data only which includes information on 3,899 stops.

traffic violations across the racial categories.⁵ Those drivers who were initially stopped for observed traffic violations included 79 percent of the African-American drivers stopped, 83 percent of the White drivers stopped, and 88 percent of the Hispanic drivers stopped.

A slightly larger percentage of stopped White drivers received traffic citations than did African-American or Hispanic drivers. For example, 13 percent of stopped Hispanic drivers received citations, 21 percent of stopped African-American drivers received citations and 22 percent of White drivers received citations. Also, differences in terms of the rate at which drivers received warnings were extremely slight across the racial categories. For example, 72 percent of White drivers received warnings while 70 percent of African-American drivers and 79 percent of Hispanic drivers received warnings.

⁵ Traffic violations include “Traffic violation,” “Unsafe lane change,” “Traffic/Equipment,” “Ran red light,” “Speeding” and “MVI” from the table.

Stop Information (2009)						
		African-American	White	Hispanic	Asian	Other
Total Stopped		8,261	5,752	999	191	66
Gender*	Male	878	740	326	59	17
	Female	799	792	231	47	10
Race/Ethnicity determination*	Stated by person	0	0	0	0	0
	Officer observation	1,677	1,532	557	106	27
Race identifiable prior to stop*	Yes	22	15	5	3	0
	No	1,655	1,517	552	103	27
Resident of agency service area*	Yes	722	424	176	46	6
	No	955	1,108	381	60	21
Type of stop	Motor vehicle	7,332	5,249	555	105	65
	Motorist assistance	27	18	367	78	0
	Field contact	813	427	68	7	0
	Passenger	68	40	9	1	1
	Bicyclist	21	13	0	0	0
Reason for stop	Traffic violation	3,001	2,457	654	123	37
	Unsafe lane change	26	9	2	2	0
	Penal code violation	30	17	9	0	0
	Call for service	479	244	37	7	1
	Traffic/Equipment	1,822	1,061	98	24	14
	Ran red light	54	32	2	2	0
	Speeding	731	665	75	13	6
	MVI	865	541	47	11	6
	Other**	1,258	732	72	9	2
N/A	8	4	0	0	0	
Result of stop	Advice/Warning	5,826	4,176	573	135	49
	Field contact	232	136	15	0	1
	Citation	1,764	1,272	96	13	5
	Report	18	7	2	0	0
	Arrest	424	147	37	2	1
	No action*	36	33	5	2	0
Charge	Warrant	302	78	8	1	0
	Property crime	12	5	5	0	0
	Crime of violence	6	4	2	0	0
	Traffic violation	531	359	62	8	4
	DWI	8	11	3	1	0
	Not charged	1,372	868	22	17	1
	Drug violation	70	52	7	0	1
	Penal code*	0	2	0	0	0
Other*	0	1,530	0	0	0	

* Based on Scantron data only;**Susp. activity, pre-existing knowledge, and viol. of city ord.

Search Information (2009)						
		African-American	White	Hispanic	Asian	Other
Search Conducted	Driver searched	437	174	39	4	1
	Passenger searched	83	36	7	1	1
	Vehicle searched	254	107	19	2	1
	Property searched	79	25	1	0	0
	Pedestrian*	0	0	0	0	0
	No search	7,603	5,477	943	184	64
	N/A	0	0	0	0	0
Search Authority	Probable cause	73	37	1	1	1
	Odor	93	35	6	1	1
	Dog alert	1	1	0	0	0
	Incident to arrest	328	106	32	2	0
	Plain view	42	19	2	0	0
	Tow/Inventory	4	1	0	1	0
	Consent	87	66	7	1	0
	Reasonable suspicion	24	5	4	0	0
	Other*	0	0	0	0	0
Contraband Found	Cocaine	3	2	0	0	0
	Currency	0	0	0	0	0
	Dangerous drugs	3	5	1	0	0
	Stolen property	7	3	2	0	0
	Marijuana	129	54	6	1	1
	Weapons	12	2	0	0	0
	Alcohol	15	14	4	0	0
	Illegal drugs/paraph*	0	0	0	0	0
	Other	13	17	1	0	0
	None/No	1,297	622	85	17	5
	N/A	240	164	18	6	0

* Based on Scantron data only.

Other Information (2009)						
		African-American	White	Hispanic	Asian	Other
Vehicle equipped with a camera*	Yes	24	28	6	0	0
	No	1,653	1,504	551	106	27
Location	1	0	0	0	0	0
	2	0	0	0	0	0
	3	0	0	0	0	0
	4	0	0	0	0	0
	State highway	140	128	16	2	0
	Residential	571	385	50	5	2
	Business	319	210	13	10	4
* Based on Scantron data only.						

Analysis of Racial Profiling Compliance by the Cedar Hill Police Department

The foregoing analysis shows that the Cedar Hill 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 of data in compliance with the law.

Finally, internal records indicate that the department received one racial profiling complaint in 2009 involving officer-initiated citizen stops. After internal investigation, this complaint was resolved as unfounded.

In addition to providing summary reports and analysis of the data collected by the Cedar Hill Police Department in 2009, 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.

It should be noted that the Cedar Hill Police Department has instituted a data collection system that exceeds the requirements of the current racial profiling law in Texas. The Department's current data collection system exceeds the state requirements in a number of ways including 1) the collection of data for all traffic stops, including those that do not result in a citation, 2) the collection of information that can be used to separate the discretionary decisions of officers from those that are largely non-discretionary. As such, the department's data collection system should serve as a model for other police agencies in Texas in regards to mitigating or eliminating many of the problems associated with the current state law.

Finally, it is also important to note that the racial profiling law in Texas was modified during the 2009 legislative session. The changes took effect on January 1, 2010. In particular, the new law requires the collection of information only on drivers during traffic stops in which citations are issued. Previously, information had to be collected on all vehicle occupants in addition to information on pedestrian stops. In addition, the new law requires each agency to submit a racial profiling report to the Texas Commission on Law Enforcement Officers Standards and Education each year.

Appendix A

Racial Profiling Statutes and Laws

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, § 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, § 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 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.

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

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.

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

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**.

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

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.

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

§ 1701.253. School Curriculum

(a) The commission shall establish minimum curriculum requirements for preparatory and advanced courses and programs for schools subject to approval under Section 1701.251(c)(1).

(b) In establishing requirements under this section, the commission shall require courses and programs to provide training in:

(1) the investigation and documentation of cases that involve:

(A) child abuse or neglect;

(B) family violence; and

(C) sexual assault;

(2) issues concerning sex offender characteristics; and

(3) crime victims' rights under Chapter 56, Code of Criminal Procedure, and Chapter 57, Family Code, and the duty of law enforcement agencies to ensure that a victim is afforded those rights.

(c) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on civil rights, **racial** sensitivity, and cultural diversity for persons licensed under this chapter.

(d) Training in documentation of cases required by Subsection (b) shall include instruction in:

(1) making a written account of the extent of injuries sustained by the victim of an alleged offense;

(2) recording by photograph or videotape the area in which an alleged offense occurred and the victim's injuries; and

(3) recognizing and recording a victim's statement that may be admissible as evidence in a proceeding concerning the matter about which the statement was made.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 657, § 4

(e) As part of the minimum curriculum requirements relating to the vehicle and traffic laws of this state, the commission shall require an education and training program on laws relating to the operation of motorcycles and to the wearing of protective headgear by motorcycle operators and passengers. In addition, the commission shall require education and training on motorcycle operator **profiling** awareness and sensitivity training.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 897, § 1

(e) Training officers and recruits in investigation of cases required by Subsection (b)(1)(B) shall include instruction in preventing dual arrest whenever possible and conducting a thorough investigation to determine which person is the predominant aggressor when allegations of family violence from two or more opposing persons are received arising from the same incident.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 929, § 5

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on asset forfeiture under Chapter 59, Code of Criminal Procedure, 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.

Text of subsection (e) added by Acts 2001, 77th Leg., ch. 947, § 4

(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.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 657, § 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 897, § 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 929, § 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 947, § 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1034, § 14, eff. Sept. 1, 2001.

§ 1701.402. Proficiency Certificates

(a) The commission shall issue certificates that recognize proficiency based on law enforcement training, education, and experience. For this purpose the commission shall use the employment records of the employing agency.

(b) As a requirement for a basic proficiency certificate, the commission shall require completion of local courses or programs of instruction on federal and state statutes that relate to employment issues affecting peace officers and county jailers, including:

- (1) civil service;
 - (2) compensation, including overtime compensation, and vacation time;
 - (3) personnel files and other employee records;
 - (4) management-employee relations in law enforcement organizations;
 - (5) work-related injuries;
 - (6) complaints and investigations of employee misconduct; and
 - (7) disciplinary actions and the appeal of disciplinary actions.
- (c) An employing agency is responsible for providing the training required by this section.

Text of subsec. (d) as added by Acts 2001, 77th Leg., ch. 929, § 6

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

Text of subsec. (d) as added by Acts 2001, 77th Leg., ch. 947, § 5

(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).

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 929, § 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 947, § 5, eff. Sept. 1, 2001.

Appendix B

Racial Profiling Laws and Corresponding Regulations and Procedures

Texas CCP Article	CEDAR HILL POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	G.O. 1.02.09-01 (IV A)
2.132(b)2	G.O. 1.02.09-01 (IV A)
2.132(b)3	G.O. 1.02.09-01 (IV C)
2.132(b)4	G.O. 1.02.09-01 (IV C) & Complaint Brochure
2.132(b)5	G.O. 1.02.09-01 (IV A)
2.132(b)6	G.O. 1.02.09-01 (IV D)
2.132(b)7	G.O. 1.02.09-01 (IV F)

Appendix C

Cedar Hill Police Department General Order 1.02.09-01 and Racial Profiling Complaint Brochure

I. PURPOSE

The purpose of this directive is provide guidance to officers in the area of traffic stops, detentions, and enforcement of laws; to ensure that traffic enforcement is carried out in a proactive manner within the constraints of the United States and Texas constitutions and laws so that all citizens are treated fairly; and to protect our officers from unwarranted accusations of misconduct when they act within the law and department policies.

II. POLICY

A. It is the policy of the Cedar Hill Police Department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce motor vehicle laws.

B. Racial profiling is a not an acceptable patrol tactic and will not be condoned. The department will utilize various management tools to ensure that racial profiling is not practiced.

C. This policy shall not preclude an officer from stopping a person to offer assistance. In fact, to promote quality customer service, officers are encouraged to offer assistance as it is needed – without the fear of reprisal.

D. This directive relates to racial profiling issues and is intended to bring the department into compliance with legislative mandates related to racial profiling. Other procedures related to conduct during citizen contacts, taking enforcement action, searches and seizures or persons and property, methods for conducting vehicle and pedestrian stops, are governed by other written directives, and shall be consistent with this directive. Any conflicts or inconsistencies between this directive and any other directive relating to officer conduct, the stricter standard shall prevail.

E. Nothing in this directive shall preclude the practice of criminal profiling, which relies on the analysis of multiple factors collectively to predict or to identify criminal activity.

III. DEFINITIONS

Pedestrian stop - means a non-custodial detention of a pedestrian for the purpose of investigating a violation of law or suspicious activity.

Race or ethnicity - is a particular descent of a person, including Caucasian, African, Hispanic, Asian, or Native American descent.

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.

Reasonable suspicion - also known as articulable suspicion, is a belief by a reasonable and prudent person, based on articulable facts and circumstances, that some type of criminal activity is afoot; or, a belief by a reasonable and prudent peace officer, based on articulable facts and circumstances and the inferences that can be made from those facts and circumstances because of the officer's experience and knowledge, that some type of criminal activity is afoot, and the detainee is somehow involved.

Traffic stop - means a non-custodial detention of a motorist for purpose of investigating a violation of law or suspicious activity.

IV. PROCEDURE

A. Conduct Prohibited

1. Racial profiling occurs when the officer initiates a law enforcement action that is based on an individual's race, ethnicity, or national origin rather than on reasonable suspicion that the person has committed, is committing, or is about to commit some violation of the law. In the absence of credible information that includes a physical description, a person's gender, race, ethnicity, national original, or other personal characteristic shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.

2. Racial profiling is strictly prohibited. Persons engaging in racial profiling are subject to the consequences enumerated in the general order on "Administration of Discipline."

B. Training

1. Officers will receive education and training on racial profiling that is consistent with §§ 1701.253 and 1701.402, Texas Occupations Code, and with § 96.641, Texas Education Code.

2. The department will review on a continual basis the need for further training relating to racial profiling issues.

3. The Personnel & Training Section shall ensure that all training mandated by statute and by this directive have been completed.

C. Complaint Process

1. Information is available to the public, in accordance with general order on "Citizen Complaints," about how a person may file a complaint against a police department member for alleged misconduct and for filing a complaint about a department practice or procedure. No person will be discouraged or intimidated from filing a complaint for conduct that is prohibited by this directive.

2. Complaints of racial profiling will be received and investigated in the manner specified in the directive on “Citizen Complaints,” with the following exceptions:

a. Complaints will be accepted for alleged racial profiling that occurred up to 90 days prior to the date of the complaint;

b. All complaints of racial profiling will be forwarded directly to the Chief of Police.

3. An allegation of racial profiling is a serious charge, which could have a devastating impact on the accused officer, regardless of the merits of the allegation. Therefore, complaints of racial profiling will be investigated thoroughly and expeditiously.

This section of the General Order is effective immediately even though other portions of the racial profiling bill enacted by the 77th Legislature does not take effect until January 1, 2002.

D. Data Collection

1. For the purposes of this section, “data” includes written, video, or audio recordings of a traffic or a pedestrian stop.

2. Articles 2.131 through 2.136, Code of Criminal Procedure, establish certain data collection and reporting requirements relating to vehicle and pedestrian stops. However, the officer and the department are exempt from some of the data collection and reporting requirements if requirements in Art. 2.135, CCP, are met. Regardless of the exemptions, the officer will collect certain data.

3. Video/Audio Recording Equipment

a. Required Use

(1) An officer operating a police vehicle that is equipped with a video/audio recording device will ensure that the entire pedestrian or vehicle stop is recorded, regardless of whether the stop is officer-initiated, is in response to information received from a citizen or another officer, or is in response to a call for service.

(2) The video/audio recording device will be operated in accordance with the standard operating procedure on “In-car Mobile Video/audio Recording Equipment.”

b. Retention

(1) All in-car video tapes and audio recordings will be maintained for at least 90 days in accordance with the standard operating procedure on “In-car Mobile Video/audio Recording Equipment.”

(2) If a complaint is filed with the department alleging that a Cedar Hill officer has engaged in racial profiling, any video or audio recording of the related incident will be retained until the final disposition of the complaint.

4. "Pedestrian & Traffic Stop Data Sheet (Data Sheet)."

a. Required Use

(1) An officer will complete a data sheet for each pedestrian and traffic stop the officer conducts, regardless of whether the stop is officer-initiated, is in response to information received from a citizen or another officer, or is in response to a call for service, and regardless of whether the stop is video or audio recorded.

(2) The data required to be collected by the department shall minimally include the information required to be collected under Art. 2.321, CCP.

(3) Retention

(a) The data sheets shall be retained for at least 90 days after the contact for which the record was made.

(b) If a complaint is filed with the department alleging that a Cedar Hill officer has engaged in racial profiling, any data sheet completed related to the alleged incident will be retained until the final disposition of the complaint.

(4) Effective date for required data collection is January 1, 2002. The department may begin data collection prior to the required effective date.

E. Reviewing or Oversight of Data Collection

1. For the purposes of this section, "data" has the meaning assigned under the section on "Data Collection," above.

2. First line supervisors will randomly review mobile video and audio tapes of each subordinate and will determine whether the subordinate is complying with the provisions of this and other applicable directives.

3. On a quarterly basis the supervisor will submit to the Division Commander a completed "Racial Profiling Assessment Form." The first quarterly submission is due April 1, 2002. Along with the form, the supervisor will submit recommendations for training, policy revisions, and modifying procedures, as needed.

4. The Division Commander will review the form and recommendations submitted by the supervisor and will forward them to the Office of the Chief of Police.

5. Both the supervisor and the commander will identify any need for training, for revising policy, and for modifying procedure.

F. Reports Required

1. The department will submit to the governing body not later than March 1 of each year an annual report of the information collected under the section on "Data Collection" in accordance with Art. 2.132, CCP.
2. The purpose and content of the report shall be in accordance with Art. 2.132, CCP.
3. The first report to the governing body is due March 1, 2003, for the reporting period of January 1, 2002, through December 31, 2002.

V. EFFECTIVE DATE: September 12, 2001

Cedar Hill Police Department

601 East Belt Line Road

Cedar Hill, Texas 75104

(972) 291-5181



**Racial Profiling
Complaint
Procedures**

Policy Statement

The Cedar Hill Police Department is vitally interested in taking action when any of its employees performs below acceptable standards.

The Police Department, through its written directives and training, strictly prohibits the practice of racial profiling. All racial profiling complaints will be thoroughly and fairly investigated.

Definitions

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.

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

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.

Who May File A Complaint?

Generally, the person who was wronged must file the complaint; other persons may give statements as witnesses.

A complaint may be filed against a Cedar Hill Police Department employee by:

- . • another employee
- . • a supervisor, or

- a member of the community

How Are Complaints Made?

The complaint process may be started by contacting the Police Department in any of the following ways:

- . • In person
- . • By telephone
- . • By mail
- . • Through the Police Department's Web site (when available)

Complaints made in person or by telephone should be directed to the on-duty supervisor, who will forward the complaint as required.

Texas law requires that a complaint against a police officer be in writing and signed by the complainant.

Barring extenuating circumstances, racial profiling complaints must be made within 90 days of the alleged incident.

False Complaints

Filing a false complaint is a violation of Section 37.02, Texas Penal Code. If a person knowingly and intentionally makes a false statement under oath, or swears to the truth of a false statement previously made under oath, a person may be found guilty and punishable by a fine up to \$4,000, or confined in jail up to one year, or both.

The accused officer may also have civil recourse against the person making a false statement or complaint.

What Happens Next?

- . • The complaint is forwarded to the Administration Bureau where the complaint is classified and assigned for investigation
- . • The allegations are listed on a “Universal Complaint” form, which is presented to the employee
- . • The employee signs the form to acknowledge receiving the complaint—signing the complaint does not indicate guilt or innocence

Polygraph Examinations

Both the complaint and the accused employee may be asked to submit to a polygraph examination. Usually, a police officer may not be compelled to submit to a polygraph examination unless the complainant first takes and passes a polygraph examination.

How Long Will the Investigation Take?

Most investigations are completed within 30 working days. However, extenuating circumstances and/or the need for legal review may extend the time period.

The investigator assigned the complaint will inform the complainant if an extended investigation is needed.

What Happens if the Complaint is Sustained?

If a complaint is sustained, each person in the employee’s chain of command reviews the finding and makes a disciplinary recommendation.

Disciplinary Action

If a complaint is sustained, the accused employee is subject to any of the following disciplinary actions:

- . • Counseling Report
- . • Oral or Written Reprimand
- . • Training
- . • Suspension
- . • Demotion
- . • Transfer
- . • Probation
- . • Termination

Appeals

The accused employee has a right to appeal a disciplinary action in accordance with “City of Cedar Hill Personnel Policy Manual.”

If the complainant is not satisfied with the finding and recommendation, the complainant may appeal to Chief of Police or to the City Manager.

Cedar Hill Police Department

601 East Belt Line Road Cedar Hill, Texas 75104 (972) 291-5181

or visit our Web site at:

www.cedarhilltxgov.org/police.htm