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**KENNEDALE CITY COUNCIL AGENDA**
**REGULAR MEETING | February 15, 2018**
**CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**
**WORK SESSION at 5:00 PM | REGULAR SESSION at 7:00 PM**

## I. CALL TO ORDER

***NOTE: Pursuant to §551.071, Texas Government Code, City Council reserves the right to adjourn into Executive Session at any time during the Work Session or the Regular Session to discuss posted Executive Session items or to seek legal advice from the City Attorney on any item posted on the agenda.***

## II. WORK SESSION

A. Hold interviews of candidates for appointment to City Boards and Commissions

B. Discussion of items on Regular Session

C. Hold a discussion and provide staff direction regarding the development of a policy for the calling of Special Meetings of the City Council and for the identification of items to be included on the Council's Agenda for future consideration

D. Discussion of budget amendments

E. Discussion of water/sewer rate review/reduction

F. Discussion of Charter amendments

G. Discussion of Purchasing Matrix Amendment

## III. REGULAR SESSION

## IV. ROLL CALL

## V. INVOCATION

## VI. UNITED STATES PLEDGE AND TEXAS PLEDGE

*"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."*

## VII. VISITOR/CITIZENS FORUM

*At this time, any person with business before the City Council not scheduled on the agenda may address the Council, provided that an official 'Speaker's Request Form' has been completed and submitted to the City Secretary prior to the start of the meeting. All comments must be directed towards the Mayor and Council, rather than individual Councilmembers or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action or discussion can be taken on these items.*

## VIII. REPORTS/ANNOUNCEMENTS

*In addition to specific matters listed below, City Council may receive reports about items of community interest, including but not limited to recognition of individual officials, citizens, or departments, information regarding holiday schedules, and upcoming or attended events.*

A. Updates from the City Council

B. Updates from the City Manager

C. Updates from the Mayor

## IX. MONITORING INFORMATION

A. Monthly Financials – January 2018

B. Schedule of Investment Activity for quarter ending December 31, 2017

**X. INCIDENTAL ITEMS**

**XI. REQUIRED APPROVAL ITEMS (CONSENT)**

*All matters listed under Required Approval Items (Consent) have been previously discussed, require little or no deliberation, or are considered to be routine by the City Council. If discussion is desired, an item can be removed from the Consent Agenda and considered separately.*

A. Consider approval of minutes from January 12, 2018 regular meeting

B. Consider adopting Resolution 518 for a grant application to the Justice Assistance Grant (JAG) Program for rifle-resistant body armor

C. 2017 Racial Profiling Report from the Police Department

**XII. DECISION ITEMS**

A. Presentation by City Secretary of Certifications of Citizens Petitions for recall under Article XI of the City Charter

B. Consider approval of Resolution 516, calling a Special Election for May 5, 2018, pursuant to Article XI of the City Charter

C. Consider approval of Resolution 517, calling the General Election for May 5, 2018

D. Discuss and consider scheduling a Special Session of the City Council

E. Consider making appointments to various Advisory Boards and Commissions including: the Economic Development Corporation Board, Parks and Recreation Board, Board of Adjustment/Building Board of Appeals, and Planning and Zoning Commission

F. Consider appointment of Chair and Vice Chair of the Planning and Zoning Commission

G. Consider appointment of Chair and Vice Chair of the Board of Adjustment/Building Board of Appeals

**XIII. EXECUTIVE SESSION**

*The City Council may meet in Closed Session at any time during the Work Session or the Regular Session, pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda and legal issues regarding the Open Meetings Act.*

**XIV. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED**

**XV. ADJOURNMENT**

*In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989.*

**CERTIFICATION**

*I certify that a copy of the February 15, 2018 agenda was posted on the bulletin board next to the main entrance of City Hall, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times, and that said agenda was posted at least 72 hours preceding the scheduled time of said meeting, in accordance with Chapter 551 of the Texas Government Code.*

Leslie Galloway

LESLIE GALLOWAY, CITY SECRETARY

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** WORK SESSION - A.

**I. Subject:**
Hold interviews of candidates for appointment to City Boards and Commissions

**II. Originated by:**

**III. Summary:**

**Recommendations submitted by Mayor Pro Tem Jan Joplin, via email:**
• BOA/BBA: Move Josh Altom from Place 8 (Alternate) to Place 2; Leave Place 8 (Alternate) vacant at this time
• P&Z: Jadey James, Place 6
• EDC: Stan Seat, Place 1; Ralph Grimes, Place 3; and Marsha Knox, Place 5
• PARKS: Josh Hayes, Place 6

For Council's reference, applications for the above are attached. Each of the newly recommended members was interviewed in Fall of 2017, except Jadey James and Marsha Knox, who Council may interview during this Work Session. As of the time of publication of this packet, no application had been received from Marsha Knox. Josh Altom was first appointed to BOA/BBA in 2016, and his application from that process is also attached.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | Altom, Josh | 2016 Board Appointments_Altom, Josh _NEW.pdf |
| 2. | James, Jadey | James, Jadey.pdf |
| 3. | Seat, Stan | Seat, Stan.pdf |
| 4. | Grimes, Ralph | Grimes, Ralph.pdf |
| 5. | Hayes, Josh | Hayes, Josh.pdf |

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** WORK SESSION - B.

**I. Subject:**
Discussion of items on Regular Session

**II. Originated by:**

Leslie Galloway, City Secretary & Communications Coordinator

**III. Summary:**
At this time, Council may choose to discuss any item on the agenda.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** WORK SESSION - C.

**I. Subject:**
Hold a discussion and provide staff direction regarding the development of a policy for the calling of Special Meetings of the City Council and for the identification of items to be included on the Council's Agenda for future consideration

**II. Originated by:**

**III. Summary:**
This item was added to the Work Session at Council's request.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** WORK SESSION - D.

**I. Subject:**
Discussion of budget amendments

**II. Originated by:**

**III. Summary:**
This item is placed on the agenda for discussion at the request of Mayor Pro Tem Jan Joplin.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** WORK SESSION - E.

**I. Subject:**
Discussion of water/sewer rate review/reduction

**II. Originated by:**

**III. Summary:**
This item is placed on the agenda for discussion at the request of Mayor Pro Tem Jan Joplin.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** WORK SESSION - F.

**I. Subject:**
Discussion of Charter amendments

**II. Originated by:**

**III. Summary:**
This item is placed on the agenda for discussion at the request of Mayor Pro Tem Jan Joplin.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** WORK SESSION - G.

**I. Subject:**
Discussion of Purchasing Matrix Amendment

**II. Originated by:**

**III. Summary:**
This item is placed on the agenda for discussion at the request of Mayor Pro Tem Jan Joplin.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** REPORTS/ANNOUNCEMENTS - A.

**I. Subject:**
Updates from the City Council

**II. Originated by:**

**III. Summary:**
Updates and information from City Council Members, if any.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** REPORTS/ANNOUNCEMENTS - B.

**I. Subject:**
Updates from the City Manager

**II. Originated by:**

**III. Summary:**
Updates and information from City Manager George Campbell, if any.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** REPORTS/ANNOUNCEMENTS - C.

**I. Subject:**
Updates from the Mayor

**II. Originated by:**

**III. Summary:**

Updates and information from Mayor Brian Johnson, if any.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** MONITORING INFORMATION - A.

**I. Subject:**
Monthly Financials – January 2018

**II. Originated by:**

Brady Olsen, Finance Director

**III. Summary:**
Overview of the City's revenues and expenditures for all funds compared to budget and previous year.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | 2018_01 Monthly Financials | 2018_01 Monthly Financials.pdf |

CITY OF KENNEDALE
ANNUAL PROGRAM OF SERVICES
JANUARY 2018

## REVENUE SUMMARY BY FUND

| REVENUES | FY16-17 YTD | FY16-17 ACTUAL | FY17-18 ADOPTED | CURRENT MONTH | FY17-18 YTD | % OF PY ACTUAL EARNED | % OF CY BUDGET EARNED | BUDGET REMAINING |
|---|---|---|---|---|---|---|---|---|
| GENERAL FUND | $ 3,413,269 | $ 5,998,856 | $ 6,386,639 | $ 1,064,702 | $ 3,870,387 | 56.9% | 60.6% | $ 2,331,068 |
| OTHER GENERAL FUNDS | $ 226,427 | $ 1,001,006 | $ 973,127 | $ 27,545 | $ 169,960 | 22.6% | 17.5% | $ 1,475,205 |
| **GENERAL FUND** | **$ 3,639,696** | **$ 6,999,862** | **$ 7,359,766** | **$ 1,092,247** | **$ 4,040,347** | **52.0%** | **54.9%** | **$ 3,806,273** |
| **GENERAL DEBT SERVICE FUND** | **$ 964,994** | **$ 1,282,439** | **$ 1,665,934** | **$ 288,303** | **$ 1,168,203** | **75.2%** | **70.1%** | **$ 202,108** |
| WATER/SEWER FUND | $ 1,051,287 | $ 4,575,237 | $ 4,479,449 | $ 331,435 | $ 1,410,641 | 23.0% | 31.5% | $ 3,581,194 |
| STORMWATER UTILITY FUND | $ 65,023 | $ 349,044 | $ 256,664 | $ 21,802 | $ 87,014 | 18.6% | 33.9% | $ 404,812 |
| WATER IMPACT FUND | $ 10,866 | $ 152,434 | $ 120,450 | $ 9,954 | $ 32,932 | 7.1% | 27.3% | $ 35,726 |
| SEWER IMPACT FUND | $ 132 | $ 41,762 | $ 28,625 | $ 2,950 | $ 15,290 | 0.3% | 53.4% | $ 13,025 |
| **WATER/SEWER FUND** | **$ 1,127,308** | **$ 5,118,477** | **$ 4,885,188** | **$ 366,141** | **$ 1,545,877** | **22.0%** | **31.6%** | **$ 4,034,757** |
| **EDC4B FUND** | **$ 133,500** | **$ 483,952** | **$ 575,878** | **$ 42,864** | **$ 440,399** | **27.6%** | **76.5%** | **$ 492,828** |
| **CAPITAL FUND** | **$ 15,903** | **$ 180,171** | **$ 162,535** | **$ 5,970** | **$ 36,475** | **8.8%** | **22.4%** | **$ 87,545** |
| **SPECIAL REVENUE FUND** | **$ 91,089** | **$ 95,393** | **$ 25,067** | **$ -** | **$ -** | **95.5%** | **0.0%** | **$ 151,223** |
| **TOTAL REVENUES** | **$ 5,972,489** | **$ 14,160,294** | **$ 14,674,368** | **$ 1,795,525** | **$ 7,231,301** | **42.2%** | **49.3%** | **$ 8,774,734** |

## EXPENDITURE SUMMARY BY FUND

| EXPENDITURES | FY16-17 YTD | FY16-17 ACTUAL | FY17-18 ADOPTED | CURRENT MONTH | FY17-18 YTD | % OF PY BUDGET EXPENSED | % OF CY BUDGET EXPENSED | BUDGET REMAINING |
|---|---|---|---|---|---|---|---|---|
| GENERAL FUND | $ 1,856,461 | $ 5,918,989 | $ 6,453,680 | $ 532,309 | $ 2,001,654 | 31.4% | 31.0% | $ 4,487,653 |
| OTHER GENERAL FUND | $ 639,731 | $ 1,070,763 | $ 920,034 | $ 105,052 | $ 273,051 | 59.7% | 29.7% | $ (273,051) |
| **GENERAL FUND** | **$ 2,496,192** | **$ 6,989,752** | **$ 7,373,714** | **$ 637,361** | **$ 2,274,705** | **35.7%** | **30.8%** | **$ 4,214,602** |
| **GENERAL DEBT SERVICE FUND** | **$ 291,797** | **$ 1,423,034** | **$ 1,663,884** | **$ 362,336** | **$ 396,130** | **20.5%** | **23.8%** | **$ 969,497** |
| WATER/SEWER FUND | $ 918,873 | $ 3,708,608 | $ 4,258,316 | $ 480,825 | $ 1,261,720 | 24.8% | 29.6% | $ 3,568,055 |
| STORMWATER UTILITY FUND | $ 76,426 | $ 272,138 | $ 271,303 | $ 3,663 | $ 69,266 | 28.1% | 25.5% | $ 501,891 |
| WATER IMPACT FUND | $ - | $ - | $ 153,573 | $ - | $ - | | 0.0% | $ 154,415 |
| SEWER IMPACT FUND | $ - | $ - | $ 60,000 | $ - | $ - | | 0.0% | $ 60,000 |
| **WATER/SEWER FUND** | **$ 995,299** | **$ 3,980,746** | **$ 4,743,192** | **$ 484,488** | **$ 1,330,986** | **25.0%** | **28.1%** | **$ 4,284,361** |
| **EDC4B FUND** | **$ 159,565** | **$ 602,722** | **$ 592,963** | **$ 74,675** | **$ 216,595** | **26.5%** | **36.5%** | **$ 587,285** |
| **CAPITAL FUND** | **$ 83,630** | **$ 92,209** | **$ 175,170** | **$ 2,130** | **$ 7,203** | **90.7%** | **4.1%** | **$ 209,036** |
| **SPECIAL REVENUE FUND** | **$ 48,627** | **$ 104,097** | **$ 22,984** | **$ -** | **$ -** | **46.7%** | **0.0%** | **$ 151,223** |
| **TOTAL EXPENDITURES** | **$ 4,075,109** | **$ 13,192,560** | **$ 14,571,907** | **$ 1,560,990** | **$ 4,225,619** | **30.9%** | **29.0%** | **$ 10,416,004** |

**CITY OF KENNEDALE**
**ANNUAL PROGRAM OF SERVICES**
**JANUARY 2018**

## EXPENDITURE SUMMARY BY DEPARTMENT

| GENERAL FUND | FY16-17 YTD | FY16-17 ACTUAL | FY17-18 ADOPTED | CURRENT MONTH | FY17-18 YTD | % OF PY ACTUAL EXPENSED | % OF CY BUDGET EXPENSED | BUDGET REMAINING |
|---|---|---|---|---|---|---|---|---|
| CITY MANAGER | $ 83,319 | $ 356,066 | $ 352,423 | $ 265,513 | $ 99,570 | 23.4% | 28.3% | $ 252,854 |
| MAYOR/CITY COUNCIL | $ 34,002 | $ 129,553 | $ 115,113 | $ 10,974 | $ 42,137 | 26.2% | 36.6% | $ 72,976 |
| CITY SECRETARY | $ 36,738 | $ 152,017 | $ 144,246 | $ 23,615 | $ 51,563 | 24.2% | 35.7% | $ 92,683 |
| MUNICIPAL COURT | $ 33,859 | $ 109,871 | $ 128,197 | $ 10,491 | $ 31,551 | 30.8% | 24.6% | $ 96,646 |
| HUMAN RESOURCES | $ 41,764 | $ 123,083 | $ 128,583 | $ 893 | $ 40,144 | 33.9% | 31.2% | $ 88,439 |
| FINANCE | $ 69,792 | $ 293,954 | $ 301,564 | $ 24,155 | $ 76,627 | 23.7% | 25.4% | $ 224,937 |
| POLICE | $ 716,309 | $ 2,149,697 | $ 2,405,689 | $ 234,724 | $ 768,993 | 33.3% | 32.0% | $ 1,636,696 |
| FIRE | $ 488,732 | $ 1,679,349 | $ 1,835,873 | $ 131,441 | $ 535,492 | 29.1% | 29.2% | $ 1,300,381 |
| COMMUNITY DEVELOPMENT | $ 83,434 | $ 305,758 | $ 341,663 | $ 25,618 | $ 70,058 | 27.3% | 20.5% | $ 271,605 |
| SENIOR CITIZEN CENTER | $ 14,772 | $ 49,345 | $ 51,439 | $ 2,908 | $ 14,695 | 29.9% | 28.6% | $ 36,744 |
| LIBRARY | $ 78,457 | $ 263,741 | $ 258,031 | $ 19,951 | $ 82,311 | 29.7% | 31.9% | $ 175,720 |
| NONDEPARTMENTAL | $ 175,284 | $ 306,556 | $ 390,859 | $ 12,988 | $ 188,512 | 57.2% | 48.2% | $ 202,347 |
| **TOTAL EXPENDITURES** | **$ 1,856,461** | **$ 5,918,989** | **$ 6,453,680** | **$ 763,271** | **$ 2,001,652** | **31.4%** | **31.0%** | **$ 4,452,028** |

| WATER/SEWER FUND | FY16-17 YTD | FY16-17 ACTUAL | FY17-18 ADOPTED | CURRENT MONTH | FY17-18 YTD | % OF PY BUDGET EXPENSED | % OF CY BUDGET EXPENSED | BUDGET REMAINING |
|---|---|---|---|---|---|---|---|---|
| UTILITY BILLING | $ 180,649 | $ 928,580 | $ 1,237,043 | $ 212,792 | $ 280,934 | 19.5% | 22.7% | $ 956,109 |
| WATER OPERATIONS | $ 328,800 | $ 1,263,519 | $ 1,649,405 | $ 219,383 | $ 589,859 | 26.0% | 35.8% | $ 1,059,546 |
| DEBT | $ 152,813 | $ 511,309 | $ 677,361 | $ - | $ 152,813 | 29.9% | 22.6% | $ 524,548 |
| W&S CAPITAL | $ 31,292 | $ 196,862 | $ 39,796 | $ - | $ - | | 0.0% | $ 39,796 |
| NONDEPARTMENTAL | $ 225,320 | $ 808,339 | $ 654,711 | $ 48,649 | $ 238,114 | 27.9% | 36.4% | $ 416,597 |
| **TOTAL EXPENDITURES** | **$ 918,873** | **$ 3,708,608** | **$ 4,258,316** | **$ 480,824** | **$ 1,261,720** | **24.8%** | **29.6%** | **$ 2,996,596** |

| STREET IMPROVEMENT FUND | FY16-17 YTD | FY16-17 ACTUAL | FY17-18 ADOPTED | CURRENT MONTH | FY17-18 YTD | % OF PY BUDGET EXPENSED | % OF CY BUDGET EXPENSED | BUDGET REMAINING |
|---|---|---|---|---|---|---|---|---|
| STREETS | $ 197,102 | $ 711,530 | $ 698,143 | $ 51,870 | $ 182,383 | 27.7% | 26.1% | $ 515,760 |
| PARKS MAINTENANCE | $ 24,149 | $ 77,298 | $ 161,368 | $ 6,043 | $ 23,741 | 31.2% | 14.7% | $ 137,627 |
| CAPITAL | $ 279,621 | $ 281,935 | $ 60,523 | $ - | $ - | | 0.0% | $ 60,523 |
| **TOTAL EXPENDITURES** | **$ 500,872** | **$ 1,070,763** | **$ 920,034** | **$ 57,913** | **$ 206,124** | **46.8%** | **22.4%** | **$ 713,910** |

| EDC4B FUNDS | FY16-17 YTD | FY16-17 ACTUAL | FY17-18 ADOPTED | CURRENT MONTH | FY17-18 YTD | % OF PY BUDGET EXPENSED | % OF CY BUDGET EXPENSED | BUDGET REMAINING |
|---|---|---|---|---|---|---|---|---|
| ADMINISTRATION | $ 58,017 | $ 190,611 | $ 195,517 | $ 8,791 | $ 40,615 | 30.4% | 20.8% | $ 154,902 |
| DEBT SERVICE | $ 82,525 | $ 324,250 | $ 322,365 | $ 4,766 | $ 80,237 | 25.5% | 24.9% | $ 242,128 |
| TOWN SHOPPING CENTER | $ 19,023 | $ 75,209 | $ 45,362 | $ 61,118 | $ 95,744 | 25.3% | 211.1% | $ (50,382) |
| TOWNCENTER REDEVELOPMENT | $ - | $ 12,653 | $ - | $ - | $ - | | #DIV/0! | $ - |
| **TOTAL EXPENDITURES** | **$ 159,565** | **$ 602,722** | **$ 563,244** | **$ 74,675** | **$ 216,596** | **26.5%** | **38.5%** | **$ 346,648** |

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** MONITORING INFORMATION - B.

**I. Subject:**
Schedule of Investment Activity for quarter ending December 31, 2017

**II. Originated by:**

Brady Olsen, Finance Director

**III. Summary:**
In accordance with Public Funds Investment Act (PFIA), the investments should be reported quarterly. This is for the first quarter for FY18 and subsequently will be presented for each quarter to Council to stay current with PFIA. Included is also the final quarter for FY17.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**
Approve

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | September 30 2017 Qtrly Investment Report | September 30 2017 Qtrly Investment Report.pdf |
| 2. | December 31 2017 Qtrly Investment Report | December 31 2017 Qtrly Investment Report.pdf |

**City of Kennedale, Texas**

# SCHEDULE OF INVESTMENT ACTIVITY

**For The Quarter Ending September 30, 2017**

**CITY OF KENNEDALE, TEXAS**
**INVESTMENT REPORT**
**FOR QUARTER ENDING September 30, 2017**

The Quarterly Investment Report provides the City's investment portfolio position as of the report period indicated above. Fund of the City are invested in accordance with the City of Kennedale Investment Policy as originally adopted on September 13, 2001 and subsequently reviewed in October of 2016.

SUMMARY OF INVESTMENTS FOR THE QUARTER

99.3% of the City of Kennedale's investments are owned by the Pooled Cash Fund. The remaining .7% goes to the $2.0M 2010 CO Bond Fund, $1.7M TX Leverage Fund, and Clearing Funds. As of the reporting quarter, 59.08% of the City's investments are in investment pools, and 40.98% are invested in money market savings accounts.

INVESTMENT STRATEGIES

The City's main objectives in managing the portfolio are as follows: suitability, preservation & safety of principal, liquidity, marketability, diversification, and yield.

INVESTMENT PORTFOLIO ALLOWABLE BREAKDOWN

Certificates of Deposit (25%), Investment Pools (100%)* , Money Market Mutual Funds (100%)*, Repurchase Agreements (50%)*, Government Obligations (25%), US Treasury & US Agency Callables (25%), US Government Agencies & Instrumentalities (100%), and US Treasury Notes/Bills (100%) *(no more than 50% in any individual pool, fund, or repurchase agreement)

MONTHLY BALANCES- INVESTMENTS

| Investment Pool | Account Name | Interest Rate | July 2017 | August 2017 | September 2017 | Interest Earned |
|---|---|---|---|---|---|---|
| Texas Daily | Consolidated Cash | 0.04% | $ 31,666.64 | $ 31,693.43 | $ 31,720.19 | $ 79.31 |
| TexStar | Consolidated Cash | 0.03% | 329,773.32 | 330,063.01 | 330,344.72 | 846.41 |
| TexPool | $2.0M CO Bond | 0.03% | 29,684.50 | 29,709.75 | 29,734.55 | 74.53 |
| TexPool | Central Deposit | 0.01% | 2,353,683.75 | 2,209,678.51 | 2,229,292.10 | 5,974.90 |
| TOTAL INVESTMENT POOLS | | | $ 2,744,808.21 | $ 2,601,144.70 | $ 2,621,091.56 | $ 6,975.15 |

MONTHLY BALANCES- WELLSFARGO

| Bank | Account Name | Interest Rate | July 2017 | August 2017 | September 2017 | Interest Earned |
|---|---|---|---|---|---|---|
| Wellsfargo | Consolidated Cash | N/A | $ 1,681,355.75 | $ 1,521,155.43 | $ 1,767,928.52 | $ - |
| Wellsfargo | Payroll Clearing | 0.04%-0.05% | 193.26 | 145,060.53 | 47,513.69 | 1.94 |
| Wellsfargo | Section 125 Flex | 0.04%-0.05% | - | - | - | - |
| Wellsfargo | Dick Price Rd | 0.005% | - | - | - | - |
| Wellsfargo | Health Reimbursement | 0.00% | - | - | - | - |
| Wellsfargo | Employee Health Benefit Trust | 0.00% | 3.45 | 3.73 | 3.91 | 0.52 |
| TOTAL WELLSFARGO | | | $ 1,681,552.46 | $ 1,666,219.69 | $ 1,815,446.12 | $ 2.46 |

| TOTAL MONTHLY BALANCES- ALL | | | $ 4,426,360.67 | $ 4,267,364.39 | $ 4,436,537.68 | $ 6,977.61 |
|---|---|---|---|---|---|---|

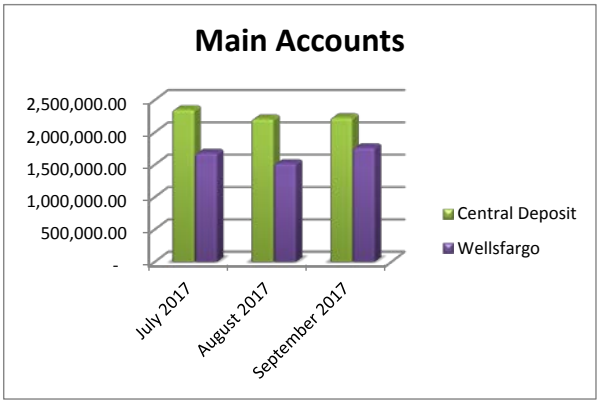
TRANSACTION ACTIVITY- INVESTMENTS

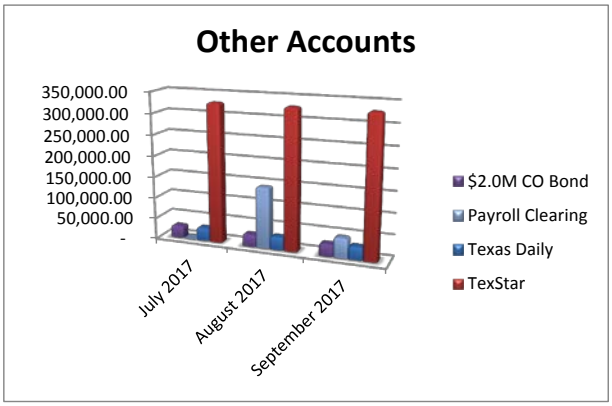
| Investment Pool | Account Name | Balance 6/30/2017 | Deposits | Withdrawls | Interest | Balance 9/30/2017 |
|---|---|---|---|---|---|---|
| Texas Daily | Consolidated Cash | $ 31,640.88 | $ - | $ - | $ 79.31 | $ 31,720.19 |
| TexStar | Consolidated Cash | 329,498.31 | - | - | 846.41 | 330,344.72 |
| TexPool | $2.0M CO Bond | 29,660.02 | - | - | 74.53 | 29,734.55 |
| TexPool | Central Deposit | 2,578,895.64 | 424,753.01 | (780,331.45) | 5,974.90 | 2,229,292.10 |
| TOTAL INVESTMENT POOLS | | $ 2,969,694.85 | $ 424,753.01 | $ (780,331.45) | $ 6,975.15 | $ 2,621,091.56 |

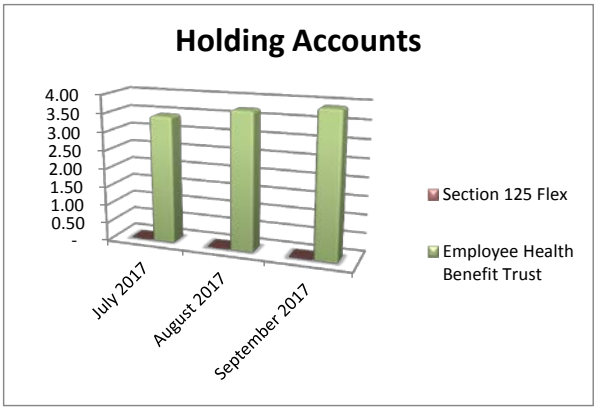
TRANSACTION ACTIVITY- WELLSFARGO

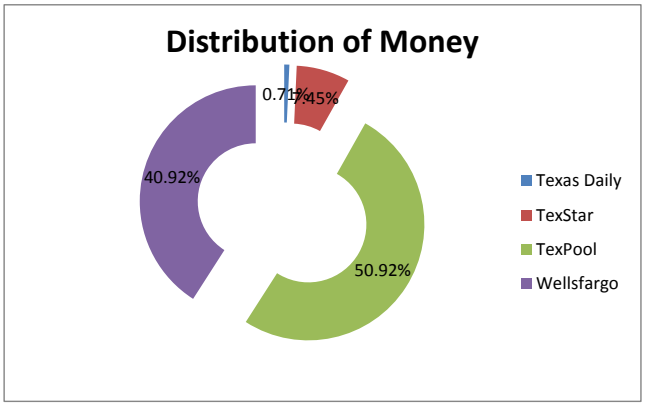
| Bank | Account Name | Balance 6/30/2017 | Deposits | Withdrawls | Interest | Balance 9/30/2017 |
|---|---|---|---|---|---|---|
| Wellsfargo | Consolidated Cash | $ 1,582,743.94 | $ 2,884,443.94 | $ (2,699,259.36) | $ - | $ 1,767,928.52 |
| Wellsfargo | Payroll Clearing | 192.73 | 1,022,777.82 | (975,456.86) | 1.94 | 47,513.69 |
| Wellsfargo | Section 125 Flex | - | 2,137.86 | (2,137.86) | - | - |
| Wellsfargo | Health Reimbursement | - | 2,667.00 | (2,667.00) | - | - |
| Wellsfargo | Employee Health Benefit Trust | 3.39 | 128,804.78 | (128,804.26) | 0.52 | 3.91 |
| TOTAL WELLSFARGO | | $ 1,582,940.06 | $ 4,040,831.40 | $ (3,808,325.34) | $ 2.46 | $ 1,815,446.12 |

| CASH BREAKDOWN BY FUND | July 2017 | August 2017 | September 2017 |
|---|---|---|---|
| 01- General Fund | $2,127,817.11 | $1,951,304.51 | $1,642,404.64 |
| 02- Debt Service Fund | -$48,783.44 | -$133,596.09 | -$127,529.14 |
| 04- Capital Project Fund | $99,011.17 | $105,815.30 | $105,867.13 |
| 05- Capital Replacement Fund | $203,557.54 | $201,666.81 | $197,904.35 |
| 07- Storm Drainage Utility Fund | $97,273.99 | $116,888.76 | $119,271.65 |
| 10- Water/Sewer Fund | $642,389.41 | $742,965.52 | $929,589.69 |
| 12- Court Security Fund | $13,763.75 | $14,103.82 | $14,334.91 |
| 13- Capital Bond Fund | | | |
| 14- Park Dedication Fund | $234,710.46 | $234,830.84 | $234,945.86 |
| 15- Economic Development Fund | -$62,571.53 | -$63,765.86 | $119,981.49 |
| 16- Court Technology Fund | $2,177.41 | $2,622.58 | $2,922.76 |
| 17- Streets Improvement Fund | $354,006.79 | $324,998.35 | $385,798.34 |
| 18- Juvenile Case Manager Fund | $21,899.81 | $21,667.51 | $20,968.58 |
| 19- EDC4B Capital Bond Fund | | | |
| 21- TIF #1 New Hope Fund | -$5,797.92 | -$5,797.92 | -$8,858.42 |
| 31- Police Seizure Fund | | | |
| 32- Library Building Fund | $10,500.23 | $9,612.93 | $9,174.69 |
| 34- LEOSE Fund | $1,803.68 | $1,804.61 | $155.09 |
| 41- Park Rec/Other Donation Fund | $12,542.02 | $12,355.79 | $12,073.55 |
| 45- Roadway Impact Fee Fund | $122,192.98 | $126,265.67 | $138,357.43 |
| 61- Water Impact Fee Fund | $244,297.89 | $253,275.84 | $272,011.49 |
| 62- Sewer Impact Fee Fund | $135,271.62 | $139,925.73 | $146,626.67 |
| 65- Water Improvement Fund | | | |
| 83- Tree Reforestation Fund | $68,109.48 | $68,144.41 | $68,177.79 |
| 85- Unclaimed Property Fund | $1,990.24 | $1,990.24 | $1,990.24 |
| 95- EDC Reserve Fund | $120,513.48 | $120,575.29 | $120,634.34 |
| TOTAL ALL FUNDS | $ 4,396,676.17 | $ 4,247,654.64 | $ 4,406,803.13 |



**City of Kennedale, Texas**

# SCHEDULE OF INVESTMENT ACTIVITY

**For The Quarter Ending December 31, 2017**

**CITY OF KENNEDALE, TEXAS**
**INVESTMENT REPORT**
**FOR QUARTER ENDING December 31, 2017**

The Quarterly Investment Report provides the City's investment portfolio position as of the report period indicated above. Fund of the City are invested in accordance with the City of Kennedale Investment Policy as originally adopted on September 13, 2001 and subsequently reviewed in October of 2016.

SUMMARY OF INVESTMENTS FOR THE QUARTER

99.6% of the City of Kennedale's investments are owned by the Pooled Cash Fund. The remaining .4% goes to the $2.0M 2010 CO Bond Fund, $1.7M TX Leverage Fund, and Clearing Funds. As of the reporting quarter, 73.38% of the City's investments are in investment pools, and 26.62% are invested in money market savings accounts.

INVESTMENT STRATEGIES

The City's main objectives in managing the portfolio are as follows: suitability, preservation & safety of principal, liquidity, marketability, diversification, and yield.

INVESTMENT PORTFOLIO ALLOWABLE BREAKDOWN

Certificates of Deposit (25%), Investment Pools (100%)* , Money Market Mutual Funds (100%)*, Repurchase Agreements (50%)*, Government Obligations (25%), US Treasury & US Agency Callables (25%), US Government Agencies & Instrumentalities (100%), and US Treasury Notes/Bills (100%) *(no more than 50% in any individual pool, fund, or repurchase agreement)

MONTHLY BALANCES- INVESTMENTS

| Investment Pool | Account Name | Interest Rate | October 2017 | November 2017 | December 2017 | Interest Earned |
|---|---|---|---|---|---|---|
| Texas Daily | Consolidated Cash | 0.04% | $ 31,748.40 | $ 31,776.88 | $ 31,809.63 | $ 89.44 |
| TexStar | Consolidated Cash | 0.03% | 330,638.81 | 330,929.47 | 331,260.08 | 915.36 |
| TexPool | $2.0M CO Bond | 0.03% | 29,760.64 | 29,786.33 | 29,816.08 | 81.53 |
| TexPool | Central Deposit | 0.01% | 2,500,088.59 | 2,745,206.25 | 4,879,590.25 | 7,095.53 |
| TOTAL INVESTMENT POOLS | | | $ 2,892,236.44 | $ 3,137,698.93 | $ 5,272,476.04 | $ 8,181.86 |

MONTHLY BALANCES- WELLSFARGO

| Bank | Account Name | Interest Rate | October 2017 | November 2017 | December 2017 | Interest Earned |
|---|---|---|---|---|---|---|
| Wellsfargo | Consolidated Cash | N/A | $ 1,419,527.55 | $ 1,151,251.80 | $ 1,912,377.44 | $ - |
| Wellsfargo | Payroll Clearing | 0.04%-0.05% | 195.39 | 196.02 | 196.57 | 1.90 |
| Wellsfargo | Section 125 Flex | 0.04%-0.05% | - | - | - | - |
| Wellsfargo | Dick Price Rd | 0.005% | - | - | - | - |
| Wellsfargo | Health Reimbursement | 0.00% | - | - | - | - |
| Wellsfargo | Employee Health Benefit Trust | 0.00% | 4.30 | 4.52 | 4.72 | 0.81 |
| TOTAL WELLSFARGO | | | $ 1,419,727.24 | $ 1,151,452.34 | $ 1,912,578.73 | $ 2.71 |
| TOTAL MONTHLY BALANCES- ALL | | | $ 4,311,963.68 | $ 4,289,151.27 | $ 7,185,054.77 | $ 8,184.57 |

TRANSACTION ACTIVITY- INVESTMENTS

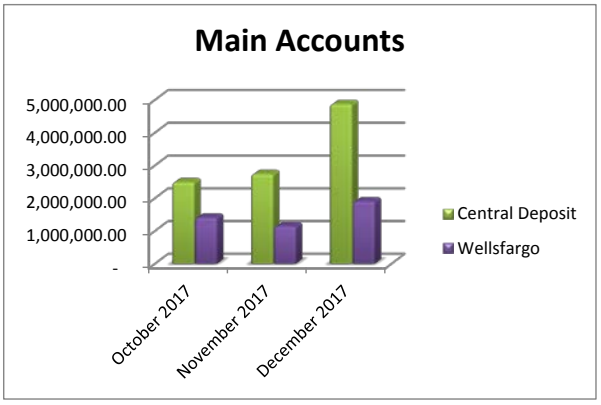
| Investment Pool | Account Name | Balance 9/30/2017 | Deposits | Withdrawls | Interest | Balance 12/31/2017 |
|---|---|---|---|---|---|---|
| Texas Daily | Consolidated Cash | $ 31,720.19 | $ - | $ - | $ 89.44 | $ 31,809.63 |
| TexStar | Consolidated Cash | 330,344.72 | - | - | 915.36 | 331,260.08 |
| TexPool | $2.0M CO Bond | 29,734.55 | - | - | 81.53 | 29,816.08 |
| TexPool | Central Deposit | 2,229,292.10 | 3,737,643.94 | (1,094,441.32) | 7,095.53 | 4,879,590.25 |
| TOTAL INVESTMENT POOLS | | $ 2,621,091.56 | $ 3,737,643.94 | $ (1,094,441.32) | $ 8,181.86 | $ 5,272,476.04 |

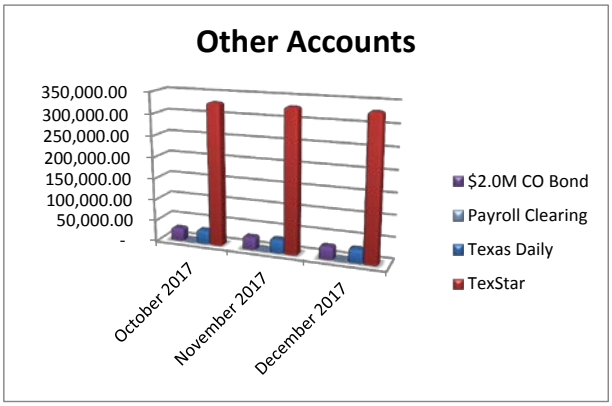
TRANSACTION ACTIVITY- WELLSFARGO

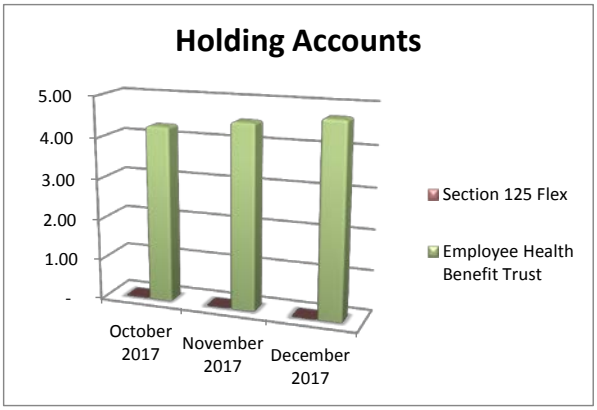
| Bank | Account Name | Balance 9/30/2017 | Deposits | Withdrawls | Interest | Balance 12/31/2017 |
|---|---|---|---|---|---|---|
| Wellsfargo | Consolidated Cash | $ 1,767,928.52 | $ 3,219,659.77 | $ (3,075,210.85) | $ - | $ 1,912,377.44 |
| Wellsfargo | Payroll Clearing | 47,513.69 | 907,273.70 | (954,590.82) | 1.90 | 196.57 |
| Wellsfargo | Section 125 Flex | - | 1,587.48 | (1,587.48) | - | - |
| Wellsfargo | Health Reimbursement | - | 3,399.00 | (3,399.00) | - | - |
| Wellsfargo | Employee Health Benefit Trust | 3.91 | 129,442.87 | (129,442.06) | 0.81 | 4.72 |
| TOTAL WELLSFARGO | | $ 1,815,446.12 | $ 4,261,362.82 | $ (4,164,230.21) | $ 2.71 | $ 1,912,578.73 |

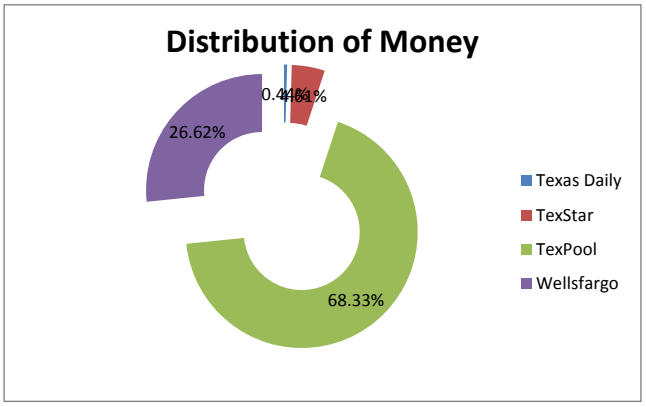
CASH BREAKDOWN BY FUND

| | October 2017 | November 2017 | December 2017 |
|---|---|---|---|
| 01- General Fund | $1,349,760.70 | $1,108,806.98 | $2,822,011.27 |
| 02- Debt Service Fund | -$97,019.42 | $109,862.75 | $794,577.88 |
| 04- Capital Project Fund | $119,225.63 | $43,272.86 | $55,447.35 |
| 05- Capital Replacement Fund | $192,839.16 | $439,216.86 | $436,119.94 |
| 07- Storm Drainage Utility Fund | $86,021.02 | $14,078.14 | $21,258.40 |
| 10- Water/Sewer Fund | $1,187,555.08 | $1,324,695.47 | $1,386,909.83 |
| 12- Court Security Fund | $14,599.23 | $14,812.11 | $15,064.89 |
| 13- Capital Bond Fund | $ - | $ - | $ - |
| 14- Park Dedication Fund | $235,070.54 | $235,360.20 | $236,242.06 |
| 15- Economic Development Fund | $78,606.00 | $91,858.54 | $441,693.32 |
| 16- Court Technology Fund | $3,266.59 | $3,540.83 | $3,868.79 |
| 17- Streets Improvement Fund | $320,358.09 | $274,176.96 | $321,795.20 |
| 18- Juvenile Case Manager Fund | $20,240.76 | $19,731.85 | $19,318.35 |
| 19- EDC4B Capital Bond Fund | $ - | $ - | $ - |
| 21- TIF #1 New Hope Fund | -$8,858.42 | -$8,858.42 | -$8,858.42 |
| 31- Police Seizure Fund | $ - | $ - | $ - |
| 32- Library Building Fund | $8,564.17 | $7,975.51 | $4,534.84 |
| 34- LEOSE Fund | $155.17 | $155.26 | $155.35 |
| 41- Park Rec/Other Donation Fund | $11,312.80 | $10,774.37 | $19,797.56 |
| 45- Roadway Impact Fee Fund | $142,440.92 | $150,545.88 | $154,640.20 |
| 61- Water Impact Fee Fund | $278,033.78 | $132,662.69 | $140,574.23 |
| 62- Sewer Impact Fee Fund | $149,128.67 | $95,681.34 | $98,967.16 |
| 65- Water Improvement Fund | $ - | $ - | $ - |
| 83- Tree Reforestation Fund | $68,213.97 | $68,254.47 | $68,292.65 |
| 85- Unclaimed Property Fund | $1,990.24 | $1,990.24 | $1,990.24 |
| 95- EDC Reserve Fund | $120,698.36 | $120,770.05 | $120,837.60 |
| TOTAL ALL FUNDS | $ 4,282,203.04 | $ 4,259,364.94 | $ 7,155,238.69 |



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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** REQUIRED APPROVAL ITEMS (CONSENT) - A.

**I. Subject:**
Consider approval of minutes from January 12, 2018 regular meeting

**II. Originated by:**

Leslie Galloway, City Secretary & Communications Coordinator

**III. Summary:**
Please see the attached minutes for your approval.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**
Approve

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | 2018_01.12_Minutes_City Council Regular Meeting_DRAFT | 2018_01.12_Minutes_City Council Regular Meeting_DRAFT.pdf |

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# *KENNEDALE CITY COUNCIL MINUTES*

**REGULAR MEETING | January 12, 2018**
**CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**
**WORK SESSION - 5:30 PM | REGULAR SESSION - 7:00 PM**

## I. CALL TO ORDER

Mayor Brian Johnson called the meeting to order at 5:31 p.m.

## II. WORK SESSION

A. Discussion of items on regular agenda

There was no discussion at this time.

B. Discussion of potential board appointments to fill vacancies

Mayor Pro Tem Jan Joplin recommended the following appointments:

- BOA/BBA: Move Josh Altom up from alternate, leaving his place vacant
- P&Z: Newly appoint Jadey James
- EDC: Newly appoint Stan Seat, Ralph Grimes, and Marsha Knox
- Parks: No current recommendation

Councilmember Gilley voiced his support of Stan Seat. Mayor Johnson suggested interviewing these candidates at the next Regular Meeting.

Mayor Johnson recessed into Executive Session at 5:38 p.m. Council recessed from 6:10 p.m. until the Regular Session.

## III. REGULAR SESSION

Mayor Johnson opened the Regular Session at 7:00 p.m.

## IV. ROLL CALL

**Present:** Mayor Brian Johnson; Mayor Pro Tem Jan Joplin, Place 5; Rockie Gilley, Place 1; Liz Carrington, Place 2; Sandra Lee, Place 3; and Kelly Turner, Place 4. **Absent:** None

***Staff:*** *City Manager George Campbell, City Secretary and Communications Coordinator Leslie Galloway, Finance Director Brady Olsen, HR Director Kelly Cooper, Fire Chief Mike McMurray, Police Chief Tommy Williams, Public Works Director Larry Ledbetter, Public Works Superintendent Larry Hoover, Library Director Amanda King, City Attorney Wayne Olson*

## V. INVOCATION

Pastor Greg Adams of Covenant Life Baptist Church provided the invocation.

## VI. UNITED STATES PLEDGE AND TEXAS PLEDGE

## VII. VISITOR/CITIZENS FORUM

- **Sandra Childres**, 121 W Mansfield Avenue, submitted a written opinion that she felt the petition for the recall of Sandra Lee should be disregarded.
- **Eric Elam**, 349 Kennedale Sublett Road, stated his dissatisfaction with the procedure for ordering items on the agenda, pointing out that City Attorney Wayne Olson had stated in a recent email to staff that acting consistently regarding policy and procedures

DRAFT UNTIL APPROVED BY COUNCIL

was in the best interest of the City.

- **Loree Boyd**, 321 W 3rd Street, stated her dissatisfaction with how the Councilmembers elected in May 2017 had been treated and concern with the ordering of the agenda.
- **Joe Palmer**, 4017 Sanguinet Court, Fort Worth, TX, began to speak about the petition, but was told by the Mayor that addressing items on the agenda was not allowed during the Visitor/Citizens Forum.

**Motion** To approve the suspension of the adopted parliamentary procedures of the Kennedale City Council for this meeting. **Action** Approve, **Moved By** Gilley, **Seconded By** Mayor Pro Tem Joplin.

In response to Councilmember Turner's question, City Attorney Wayne Olson stated that while this would have been best considered by being listed as an agenda item, a majority of the Council can, indeed, choose to adopt alternative procedures for the meeting.

**Motion passes 3-2,** with Carrington and Turner voting against.

- **Joe Palmer**, continued stating that those circulating the petition gave, in his opinion, false information to those residents whose signatures they were soliciting. He added that the majority vote of the current Council should determine the direction of the City.

## VIII. REPORTS/ANNOUNCEMENTS

A. Updates from the City Council

- **Councilmember Gilley** applauded the Public Works Department for their recent overnight repair of a water leak in Winding Creek during sub-freezing temperatures.
- **Mayor Pro Tem Joplin** stated that she was awaiting a response from Finance Director Brady Olsen regarding her questions about the monthly Financial Summaries. She stated that she also attended BOA/BBA and KKB meetings. She closed by saying that she chose to run for City Council after the water bill increase in 2016 and what she saw as a misrepresentation by then City Manager Bob Hart of the reasons behind that increase; and stated her frustration with what she felt was an inability to move forward on many issues that need to be addressed.

B. Updates from the City Manager

City Manager George Campbell had no updates at this time.

C. Updates from the Mayor

Mayor Brian Johnson stated that the Southeast Tarrant Transportation Partnership (SETTP) would have a public meeting at the Arlington Board of Realtors building on Wednesday, February 14, at 9:00 a.m., which would include updates on funding for local transportation projects.

## IX. MONITORING INFORMATION

A. Monthly Financials – December 2017

There was no discussion at this time.

## X. INCIDENTAL ITEMS

DRAFT UNTIL APPROVED BY COUNCIL

## XI. REQUIRED APPROVAL ITEMS (CONSENT)

A. Consider approval of minutes from December 18, 2017 regular meeting

**Motion To** approve all required approval items on consent agenda. **Action** Approve, **Moved By** Turner, Seconded By Carrington. **Motion passed Unanimously.**

## XII. DECISION ITEMS

**Motion** To approve the reordering of Decision Items, taking them in the order of D, C, B, A. **Action** Approve, **Moved By** Gilley, **Seconded By** Mayor Pro Tem Joplin. **Motion denied** by Mayor Johnson**.**

City Attorney Wayne Olson stated that he was not aware of any adopted procedure allowing that change to be made. Councilmember Gilley stated that he felt Section 3.8 of the Charter would allow the Council to reorder these items to the chronological order in which they occurred, should a majority vote for such a change. Olson stated that he did not interpret the Charter in that manner, and that Council would need to adopt procedures to address such an issue, but at this time needed to follow the current adopted Parliamentary Procedures.

**Motion** To adjourn. **Action** Adjourn, **Moved By** Gilley, **Seconded By** Lee. **Motion passed 3-2,** with Turner and Carrington voting against.

The meeting was adjourned at 7:20 p.m.

A. Certification by City Secretary of Citizens Petitions for recall under Article XI of the City Charter; and Consideration and/or action regarding Citizens Petitions for recall under Article XI of the City Charter

The meeting was adjourned before this item was discussed.

B. Consider approval of Resolution 516, calling a Special Election for May 5, 2018, pursuant to Article XI of the City Charter

The meeting was adjourned before this item was discussed.

C. Determination of violation of express prohibition of City Charter/Forfeiture of Office for Councilmember Sandra Lee, pursuant to Section 3.06 of the City Charter

The meeting was adjourned before this item was discussed.

D. Determination of Excused Absences/Forfeiture of Office for Councilmember Liz Carrington, pursuant to Section 3.06 of the City Charter

The meeting was adjourned before this item was discussed.

## XIII. EXECUTIVE SESSION

*The City Council may meet in closed session at any time during the work session or the regular session, pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda, public official liability insurance, legal issues regarding the Open Meetings Act, interpretation of City Charter requirements regarding forfeiture of office, and the following litigation:*

A. Ray v. Johnson, et al; Civil Action No. 4:17-CV-1006-Y

DRAFT UNTIL APPROVED BY COUNCIL

This item was taken out of order. Mayor Johnson recessed into Executive Session at 5:35 p.m., following the Work Session, but before the Regular Session.

## XIV. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

There was no action at this time.

## XV. ADJOURNMENT

**Motion** To adjourn. **Action** Adjourn, **Moved By** Gilley, **Seconded By** Lee. **Motion passed 3-2,** with Turner and Carrington voting against.

The meeting was adjourned at 7:20 p.m.

APPROVED:

Brian Johnson, Mayor

ATTEST:

Leslie Galloway, City Secretary

DRAFT UNTIL APPROVED BY COUNCIL

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** REQUIRED APPROVAL ITEMS (CONSENT) - B.

**I. Subject:**
Consider adopting Resolution 518 for a grant application to the Justice Assistance Grant (JAG) Program for rifle-resistant body armor

**II. Originated by:**

Tommy Williams, Police Chief

**III. Summary:**
The Police Department has applied for a grant through the Justice Assistance Grant (JAG) Program to purchase rifle-resistant body armor. Adoption of this resolution is required for the grant application to be considered by JAG.No matching funds are required for this grant.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**
Approve

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | Resolution 518: JAG Rife Resistant Body Armor Grant Support | R518_JAG_Rifle Resistant Body Armor_2018.pdf |

# RESOLUTION NO. 518

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, IN SUPPORT OF AN APPLICATION TO THE JUSTICE ASSISTANCE GRANT PROGRAM.**

**WHEREAS**, the City Council of the City of Kennedale finds it in the best interest of the citizens of Kennedale, Texas, that the Rifle Resistant Body Armor be operated for the year 2018; and

**WHEREAS**, the City Council of the City of Kennedale agrees to provide matching funds for said project, as required by the Office of the Governor grant application; and

**WHEREAS**, the City Council of the City of Kennedale assures that in the event of loss or misuse of the Office of the Governor funds, that those funds will be returned to the Office of the Governor in full; and

**WHEREAS**, the City Council of the City of Kennedale designates City Manager George Campbell as the grantee's authorized official, affording him the power to apply for, accept, reject, alter, or terminate the grant on behalf of the applicant agency.

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS** that the City Council of Kennedale, Texas approves submission of the grant application for the **Rifle Resistant Body Armor** (GRANT #3466001) to the Office of the Governor.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, ON THE 15TH DAY OF FEBRUARY, 2018.**

**APPROVED:**

_____
**MAYOR, BRIAN JOHNSON**

**ATTEST:**

_____
**CITY SECRETARY, LESLIE GALLOWAY**

**APPROVED AS TO FORM AND LEGALITY:**

_____
**CITY ATTORNEY, WAYNE OLSON**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** REQUIRED APPROVAL ITEMS (CONSENT) - C.

**I. Subject:**
2017 Racial Profiling Report from the Police Department

**II. Originated by:**

Tommy Williams, Police Chief

**III. Summary:**
As required by Senate Bill 1074, attached is the 2017 Racial Profiling Report for the Police Department. This report is required to be presented to Council by March 1 of each year. This year's report was completed by Dr. Alex del Carmen of Del Carmen and Associates. Dr. del Carmen is a leading expert on the subject matter of racial profiling and reporting requirements. No Council action is required other than to accept the report.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**
Approve

**VII. Alternative Actions:**
Approve and accept.

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | Kennedale PD Report 2017 | Kennedale PD Report 2017.docx |

DEL CARMEN
CONSULTING, LLC

# Annual Contact Report
# 2017
## The Kennedale Police Department

# (I) Introduction

# Opening Statement

January 6, 2018

Kennedale City Council
405 Municipal Drive
Kennedale, Texas 76060

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001 the Texas Racial Profiling Law. The current report serves as evidence that the Kennedale Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Moreover, in 2017, the Sandra Bland Act was passed and signed into law (along with HB 3051 which introduced new racial and ethnic designations). The Sandra Bland Law requires for all law enforcement agencies in the state to collect additional data and provide a more detailed analysis.

This particular report contains three sections with information on traffic and motor vehicle- related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Kennedale Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074); which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling as well as the Sandra Bland Act. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation which demonstrates compliance by the Kennedale Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/17 and 12/31/17. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Kennedale Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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# TCOLE GUIDELINES

# Guidelines for Compiling and Reporting Data under Senate Bill 1074

## Background

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

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

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

## Standard 1

Each law enforcement agency has a detailed written directive that:

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

## Commentary

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

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

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

## Standard 2

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

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

## Commentary

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

## Standard 3

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

## Commentary

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

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

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

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

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

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

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

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

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

## Standard 4

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

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

## Commentary

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

## Standard 5

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

## Commentary
None

## Standard 6
Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

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

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

## Standard 7
Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

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

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

# The Texas Law on Racial Profiling

S.B. No. 1074

AN ACT

relating to the prevention of racial profiling by certain peace officers.

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

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

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

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual

who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

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

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

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

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

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

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

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

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

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

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

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

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

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

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

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

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

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

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

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

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

effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

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

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

(2) the registration number of the vehicle involved;

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

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

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

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

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

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

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

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as

added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

SECTION 12. This Act takes effect September 1, 200

President of the Senate Speaker of the House

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

Secretary of the Senate

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

Chief Clerk of the House

Approved:

Date

Governor

# Modifications to the Original Law (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

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

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

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

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

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

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

(a) In this article:

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) In this article:

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

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

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

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

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

(A) evaluate and compare the number of motor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

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

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

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

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN

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

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

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

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

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

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

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

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

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

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

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

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

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

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . $4;

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

(7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed $30; [~~and~~]

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed $7; and

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

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

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

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

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

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

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4; [~~and~~]

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

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

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

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

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

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

(1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or

(3) a commission rule.

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

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

# Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051

AN ACT

relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

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

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

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

(A) Alaska native or American Indian;

(B) [~~of a particular descent, including Caucasian, African, Hispanic,~~] Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino [~~, Native American, or Middle Eastern descent~~].

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) [~~of a particular descent, including Caucasian, African, Hispanic,~~] Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino [~~, or Native American descent~~].

SECTION 3. This Act takes effect September 1, 2017.

_____ _____

President of the Senate Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

_____

Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

_____

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

# The Sandra Bland Act
# (S.B. 1849)

S.B. No. 1849

AN ACT

relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

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

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental

retardation], the magistrate, except as provided by Subdivision (2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of

Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article:

(1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is

amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(b) Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants,

the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative;

and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or

intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas] Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the indictment [same] to the accused or the accused's [his] counsel[,] at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk

shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may demand a copy, which shall be given as early as possible

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(a) The commission shall:

(1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;

(2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

(5) revise, amend, or change rules and procedures if necessary;

(6) provide to local government officials consultation on and technical assistance for county jails;

(7) review and comment on plans for the construction and major modification or renovation of county jails;

(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail

within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;

(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;

(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;

(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;

(12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;

(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;

(15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the

inspections process;

(16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; [and]

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20

minutes duration each;

(21) [(20)] require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(22) [(20)] adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a

day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of

not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county jail:

(1) a suicide;

(2) an attempted suicide;

(3) a death;

(4) a serious bodily injury, as that term is defined by Section 1.07, Penal Code;

(5) an assault;

(6) an escape;

(7) a sexual assault; and

(8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection (a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows:

commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program 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. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including

techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

(1) topics selected by the agency; and

(2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity;

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]

(C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and

(D) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and

(ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF

CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

(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; [and]

(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.

(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.

(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.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(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; [and]

(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.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

(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; [and]

(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.

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

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 [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with

body worn cameras [as described by Article 2.135(a)(1)(A)]. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

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

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(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 [the] amount not to exceed $5,000 [of $1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and

(B) a glossary of terms relating to the information to make the information readily understandable to the public.

this Act takes effect September 1, 2017.

_____ _____ President of the Senate Speaker of the House

I hereby certify that S.B. No. 1849 passed the Senate on May 11, 2017, by the following vote: Yeas 31, Nays 0.

_____

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on May 20, 2017, by the following vote: Yeas 137, Nays 0, one present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

_____

Date

_____

Governor

_____

Chief Clerk of the House

# (II) Responding to the Law

# Institutional Policy on Racial Profiling

# Kennedale Police Department

**Reference: Chapter 2** **Policy #1**
**Subject: Professional Standards & Conduct- Bias Based Profiling** **Date: 08/01/2011**
**Revised: 12/04/2017**

**Purpose:** To reaffirm the Kennedale Police Department's professional commitment to unbiased policing in all its encounters between our police officers and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of agency policy, state, and federal laws.

## Authority:

1. United States Constitution, 4th Amendment & 14th Amendment
2. Texas Code of Criminal Procedure, Articles 2.131 – 2.138 and 3.05
3. SB 1074 (2001) The Texas Racial Profiling Law
4. HB 3389 (2009) Update on Original Law
5. HB 3051 (2017) Racial and Ethnic Designations
6. SB 1849 (2017) The Sandra Bland Act
   (Non-Data Requirements (established by SB 1074, HB 3389 and SB 1849)

## Definitions;

1. Acts Constituting Racial Profiling: are acts initiating law enforcement action, such as a motor vehicle contact, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin, or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.

2. Bias Based Profiling: the selection of an individual based solely on a trait common to a group for enforcement action. This includes, but is not limited to: race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

3. 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 contacts in the routine performance of the officer's official duties.

4. MVR: an acronym for mobile video / audio recording equipment.

5. Probable Cause: also known as reasonable suspicion. Probable Cause is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that a crime has been committed, is about to be committed, or is in the process of being committed. Probable Cause can be based on the observations of a police officer, combined with his/her training and law enforcement experience, and/or reliable information received from credible sources.

6. Race or Ethnicity: means of a particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern descent. Determining a person's race or ethnicity shall be determined by the officer in accordance with applicable state and federal standards.

7. 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.

8. Texas Commission on Law Enforcement: TCOLE is a state agency created in 1965 by an act of the 59th Texas Legislature, empowered to establish minimum licensing and training standards for Texas peace officers to improve the proficiency of law enforcement services.

9. Motor vehicle contact: means the stopping of a motor vehicle by a police officer for an alleged violation of law or ordinance regulating traffic.

10. Verbal Warnings : If an officer elects to complete a motor vehicle contact with a verbal warning, a response must still be entered into all of the required racial profiling fields in CAD.

## Discussion:

The Kennedale Police Department is charged with enforcing the law, as well as, protecting citizen's constitutional rights, regardless of race, color, ethnicity, national origin, age, gender, sexual orientation, religion, disability, or economic status. Because of the nature of our law enforcement profession, police officers are required to be observant, to identify unusual occurrences, suspicious behavior, and law violations, taking appropriate and reasonable law enforcement action. It is this proactive enforcement that prevents crime, keeps our citizens free from crime, our city streets safe, and that detects and apprehends criminals. This agency policy is intended to accomplish our police mission, while enforcing the law and arresting criminals within constitutional restrictions.

While criminal behavior profiling can be a useful investigative tool to assist law enforcement officers in carrying out their duties, peace officers are prohibited from engaging in racial profiling. Instead, police officers should focus on a person's behavior, conduct, or other factual information. They should not let their personal bias or prejudices interfere with their professional performance as a peace officer. Officers must have reasonable suspicion supported by specific articulated facts that the person is committing, has committed, or is about to commit a crime, or is presenting a threat to the safety of themselves or others. Employees shall treat all citizens with fairness, respect, and

dignity. Police Officers should always conduct themselves in a dignified, respectful and professional manner at all times when interacting with the public.

## Policy:

It is the policy of the Kennedale Police Department to police in a proactive manner, to aggressively investigate suspicious persons, vehicles, and circumstances, while actively enforcing the motor vehicle traffic laws. Officers shall actively enforce state and federal laws in a responsible and professional manner, without regard to a person's race, ethnicity or national origin. However, agency policy strictly prohibits our police officers from engaging in racial profiling as defined by state law. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

## Procedure:

A. Bias Based Profiling Prohibited: Kennedale's police officers are strictly prohibited from engaging in bias based profiling including racial profiling in traffic contacts, field contacts, and in asset seizure and forfeiture efforts. Officers profiling individuals based on ethnic background, color, gender, sexual orientation, religion, economic status, age, cultural group, physical impairment or any other identifiable group in the performance of their official law enforcement duties are legally, morally, and ethically wrong.

Racial profiling is prohibited by both state / federal laws. Racial profiling serves no legitimate law enforcement purpose. It leads to allegations of violations of the constitutional rights of the citizens we serve, while undermining legitimate law enforcement objectives. Additionally, racial profiling alienates citizens, destroys public trust of law enforcement, and invites media scrutiny, legislative action, and judicial intervention

The prohibition against profiling does not preclude the use of race, ethnicity, or national origin as factors in a detention decision. Race, ethnicity, or national origin may be legitimate factors in such a detention when used in part as a description of a criminal suspect or witnesses for whom a police officer is searching.

1. Police practices, known as racial profiling, are unlawful. Officers practicing racial profiling are guilty of discrimination by race, which is a violation of state / federal laws.

2. Acts constituting racial profiling may include: a police officer engaging in pre-textual motor vehicle contacts of minorities, with the intent of searching the driver and occupants for contraband, such as drugs; or detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or posses that specific make or model of vehicle; or stopping a young black male who is observed in a predominantly white neighborhood.

3. Officers should focus their enforcement or investigative efforts upon criminal behavior or conduct, not one's race, ethnicity, or gender. However, it is not illegal to use race as descriptive information, such as a robbery suspect description- young black male, 6'5", 185 lbs., wearing a red jacket, and silver Dallas Cowboy's baseball cap. (TBP 2.01)

B. Complaint Process:

1. Any individual may file a complaint with the Chief of Police, if the individual believes that a Kennedale Police Officer has engaged in racial profiling with respect to the individual. No person shall be discouraged, intimidated, or coerced from filing such a complaint or discriminated against because they filed such a complaint.

2. To make a compliment or complaint with respect to each ticket, citation, or warning issued by a police officer, send to the following:

   Chief of Police
   401 Municipal Dr.
   Kennedale, Texas 76060
   817-985-2160
   E-mail – twilliams@cityofkennedale.com

3. The Kennedale Police Department shall accept and investigate citizen complaints alleging racial profiling by its police officers in the same consistent manner as other complaints of police misconduct. Such complaints must be in writing, including the identity or description of the officer, date, time, place and details of the alleged incident of racial profiling.

4. Any police officer, city employee, or city official who receives a citizen complaint alleging racial profiling shall direct the complaint to the Chief of Police, who retains the right to assign the complaint to an investigator, within or outside the police department, including the Tarrant County Sheriff's Department, Tarrant County District Attorney, Texas Rangers, Texas Attorney General, or FBI.

5. The accused officer will be given the opportunity to respond, in writing, to the citizen's allegations. Depending upon the circumstances and facts, the investigation may be either administrative, criminal, or both.

6. The investigator shall seek to determine if the accused officer has engaged in a pattern of racial profiling that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.

7. The investigator shall record findings supporting sustained, unfounded, or exonerated. Any recommendations for disciplinary action or changes in policy, training, or patrol tactics should be included.

8. If a complaint involves an audio / video recording, the Chief of Police shall, upon commencement of the investigation and written request of the officer, provide a copy of the recording to the accused police officer.

9. The Chief of Police will acknowledge in writing receipt of the complaint. Upon conclusion of the investigation, the Chief of Police shall notify the complainant of the final results. If a racial profiling complaint is sustained against an officer, it will result in

appropriate corrective and/or disciplinary action, as directed by the Chief of Police. The Chief of Police will make the final determination about the disposition of any complaint.

C. Public Education:

1. The Chief of Police is responsible to provide public education relating to the agency's compliant process.

2. This public awareness effort may include, but is not limited: to news media, radio, civic club presentations, citizen police academies, the internet, printed pamphlets, as well as, city council meetings.

D. Corrective Action:

1. The Kennedale Police Department does not condone the practice of racial profiling. Any peace officer who is found to have engaged in racial profiling shall be subject to corrective action as deemed appropriate by the Chief of Police.

2. Depending upon the facts and circumstances, corrective action may include cultural diversity and racial sensitivity training, employee counseling, disciplinary action, and/or dismissal.

E. Motor Vehicle Contact Data Collection & Reporting:

1. The Kennedale Police Department collects racial profiling data.

2. Patrol officers are required to record the following information relating to motor vehicle contacts, resulting in a citation or arrest: the violator's race or ethnicity, whether a search was conducted, and if so, was the search consensual.

3. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual.

4. Whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code ("means physical pain, illness, or any impairment of physical condition), during the contact;

a. The location of the contact, and
b. The reason for the contact
c. Complete the Use of Force Report as required.

5. While this information may be gathered in various ways, including mobile data terminals, hand-held devices, reports, patrol officers shall record this information on (CAD) OSSI.

6. Race or Ethnicity: The following categories must be used:

- White (W)
- Black (B)
- Hispanic or Latino (H)
- Asian or Pacific Islander (A)
- Alaska Native or American Indian (AI)
- Middle Eastern (ME)
- There is no "other" category.

You must identify someone's race or ethnicity to the best of your ability using one of these categories

7. Data Fields: Information that must be collected.

    Initial Reason for Contact?
    Free text field that defaults to same reason as offense
    Race – W, B, H, A, AI, ME

Officer Knew Race Prior to Contact?
    Yes or No

Search Type?
    No Search (default)
    Consent
    Plain View
    Probable Cause (includes a search warrant or K9 hit)
    Incident to Arrest
    Inventory

Contraband?

    None found
    Drugs
    Weapons
    Other Contraband

Arrest?
    Yes
    No (default)

Arrest based on:
    Penal Code Violation
    Traffic Law Violation
    City Ordinance Violation
    Outstanding Warrant

Offense Charged:
    Free text field

Use of Force Resulting in Bodily Injury?
    Yes
    No (default)

If an officer elects to complete a motor vehicle contact with a verbal warning, a response must still be entered into all of the required racial profiling fields in CAD.
It is not necessary to enter the vehicle information unless it is specifically relevant to the warning being issued.

F. Annual Administrative Review / Report: Annually, this administration shall review agency practices related to motor vehicle contacts. One purpose of this administrative review is to identify any violations related to this written directive, state, or federal laws, including training deficiencies.

1. As part of the Annual Police Report, the Chief of Police shall report to the Kennedale City Council a statistical summary of motor vehicle contacts, resulting in a citation, arrest, and/or search.

2. The information collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to the Kennedale City Council no later than March 1 of the following year.

3. The 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 contacts.

4. The report will contain required information, including:
   - Number of citations by race or ethnicity;
   - Number of citations resulting in a search;
   - Number of consensual searches; and
   - Number of citations resulting in custodial arrest.

5. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any police officer involved in a motor vehicle contact or arrest.

6. This data collected as a result of reporting requirements (State Law) shall not constitute prima facia evidence of racial profiling!

G. Audio and Video Equipment:

1. As part of the new "racial profiling" law, law enforcement agencies were encouraged to install video / audio cameras in every patrol vehicle to ensure officer accountability. If patrol vehicles are equipped with mobile video / audio recording equipment, the agency is exempt from compiling information contained in Articles 2.133 and 2.134.
   The feasibility of equipping each officer who regularly detains or stops motor vehicles with a body worn camera, as the term is defined by Section 1701.651, Occupation Code will be examined.

2. This administration has gone to great expense installing MVR systems in all patrol vehicles to accomplish the many patrol objectives, including officer accountability, documentation, evidence, and training.

3. All motor vehicle contacts shall be recorded. During motor vehicle contacts, MVR equipment shall automatically activate and remain on until the motor vehicle contact is terminated.

4. If a complaint is filed with this department, the agency shall retain that videotape until final disposition of the complaint.

5. First-Line Supervisors will ensure that patrol officers are recording their motor vehicle contacts, in compliance with agency policy, as well as, state law. First-Line Supervisors are responsible to periodically review the videos, monitoring the performance of patrol officers, and taking corrective measures, as warranted, to prevent any police misconduct, including racial profiling. First-Line Supervisors are required to review at least three random videos each quarter (3 months) per officer. When conducting random, quarterly, supervisory reviews of officer's video, review the footage in a manner intended to gain an understanding of that officer's performance and adherence to policy and law. All audio/video recordings of a racial profile use of force will be investigated and saved.

6. Any evidence of racial profiling or police mis-conduct, the First-Line Supervisor will forward the videotape to the Chief of Police for corrective measures, including sanctions.

H. Racial Profiling Training: All officers, including the Chief of Police, are responsible to adhere to the Texas Commission on Law Enforcement (TCOLE) and the Law Enforcement Management Institute of Texas (LEMIT) training and education requirements, as mandated by state law.

1. All officers shall complete a TCOLE training and education program on racial profiling, in accordance with state law.

2. The Chief of Police will be required to attend the LEMIT program on racial profiling.

**Tommy Williams** **BP 2.01**
**Chief of Police**

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

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

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

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

# Racial Profiling Training

## Racial Profiling Training

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

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

# Racial Profiling
# Course Number 3256
# Texas Commission on Law Enforcement
# September 2001

## Racial Profiling 3256

**Instructor's Note:**
You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.


### Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by
legislative mandate: 77R-SB1074.


**Target Population:** Licensed law enforcement personnel in Texas

**Prerequisites:** Experience as a law enforcement officer

**Length of Course:** A suggested instructional time of 4 hours

**Material Requirements:** Overhead projector, chalkboard and/or flip charts, video tape player,
handouts, practical exercises, and demonstrations

**Instructor Qualifications:** Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

### Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the
examination. It must, however, sufficiently demonstrate the mastery of the subject content by the
student.

**Reference Materials**
Reference materials are located at the end of the course. An electronic copy of this instructor guide
may be downloaded from our web site at http://www.tcleose.state.tx.us.

# Racial Profiling 3256

## 1.0 RACIAL PROFILING AND THE LAW

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

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

**Racial Profiling Requirements:**
Racial profiling CCP 3.05
Racial profiling prohibited CCP 2.131
Law enforcement policy on racial profiling CCP 2.132
Reports required for traffic and pedestrian stops CCP 2.133
Liability CCP 2.136
Racial profiling education for police chiefs Education Code 96.641
Training program Occupations Code 1701.253
Training required for intermediate certificate Occupations Code 1701.402
Definition of "race or ethnicity" for form Transportation Code 543.202

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

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

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

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

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

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

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

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)
1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)
1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases
1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
6. New York v. Belton, 453 U.S. 454 (1981)

## 2.0 RACIAL PROFILING AND THE COMMUNITY

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

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

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

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

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

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

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

## 3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

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

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

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

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug

courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

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

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

**3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.**
A. Drug courier profile (adapted from a profile developed by the DEA)
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

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

**3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.**
A. Thinking about the totality of circumstances in a vehicle stop

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

C. Pre-stop indicators
1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car

3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

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

## Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)
Web address for legislation 77R-SB1074:
http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm

# Report on Complaints

## Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/17---12/31/17, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

**X**

A check above indicates that the Kennedale Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/17 ---- 12/31/17.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

| Complaint No. | Alleged Violation | | | Disposition of the Case |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

**Additional Comments:**

_____
_____
_____
_____
_____
_____
_____
_____

# Tables Illustrating Traffic and Motor Vehicle-Related Contacts

# Tier 1 Data

# (I) Tier 1 Data

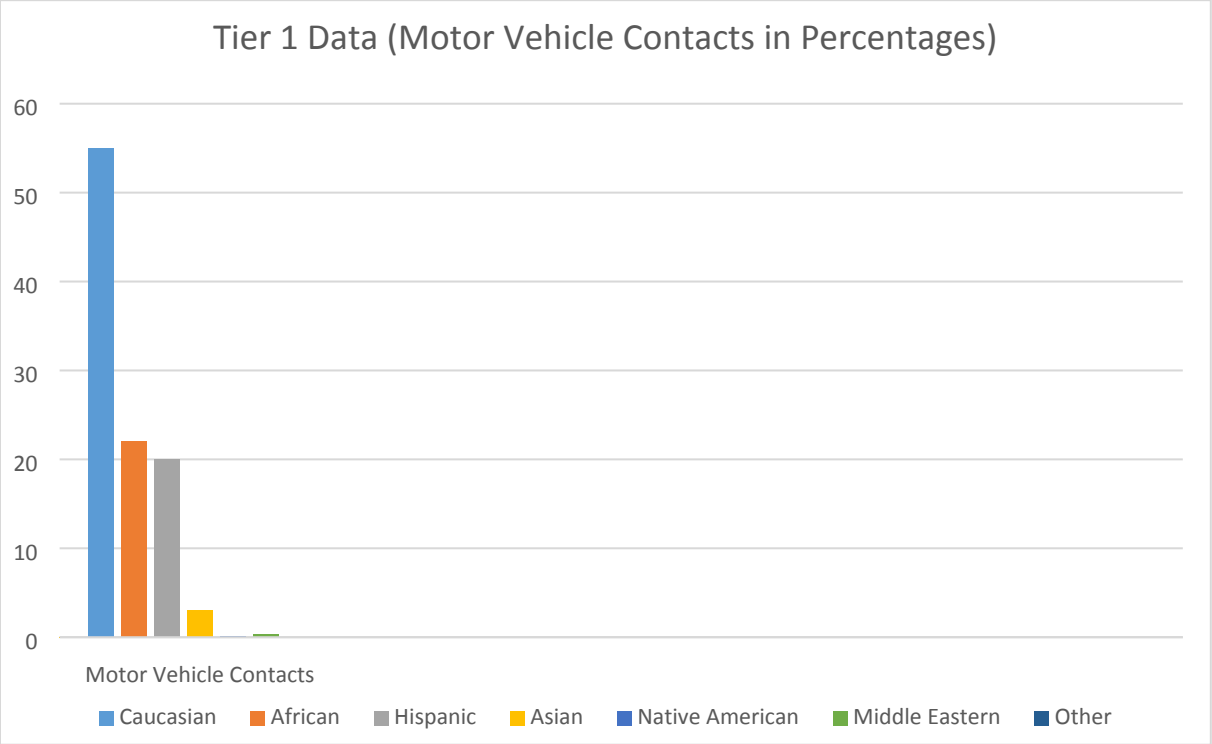
Motor Vehicle-Related Contact Information (1/1/17—12/31/17)

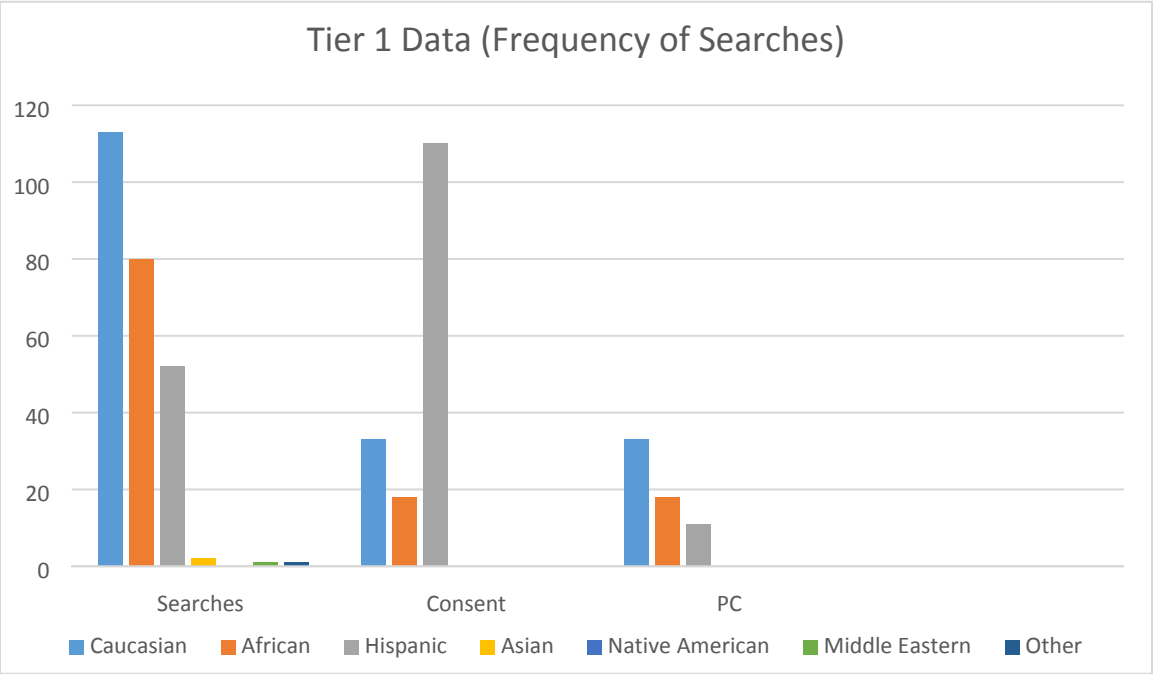
| Race/Ethnicity* | Contacts | | Searches | | Consensual Searches | | PC Searches | | Custody Arrests | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |
| | **N** | **%** | **N** | **%** | **N** | **%** | **N** | **%** | **N** | **%** |
| **Caucasian** | 1,293 | 55 | 113 | 45 | 33 | 53 | 32 | 32 | 45 | 50 |
| **African** | 509 | 22 | 80 | 32 | 18 | 29 | 43 | 43 | 21 | 24 |
| **Hispanic** | 471 | 20 | 52 | 21 | 11 | 18 | 23 | 23 | 21 | 24 |
| **Asian** | 63 | 3 | 2 | .8 | 0 | 0 | 1 | 1 | 1 | 1 |
| **Native American** | 2 | .08 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Middle Eastern** | 6 | .3 | 1 | .4 | 0 | 0 | 0 | 0 | 1 | 1 |
| **Other** | 1 | .04 | 1 | .4 | 0 | 0 | 0 | 0 | 0 | 0 |
| | | | | | | | | | | |
| **Total** | 2,345 | 100 | 249 | 100 | 62 | 100 | 99 | 100 | 89 | 100 |

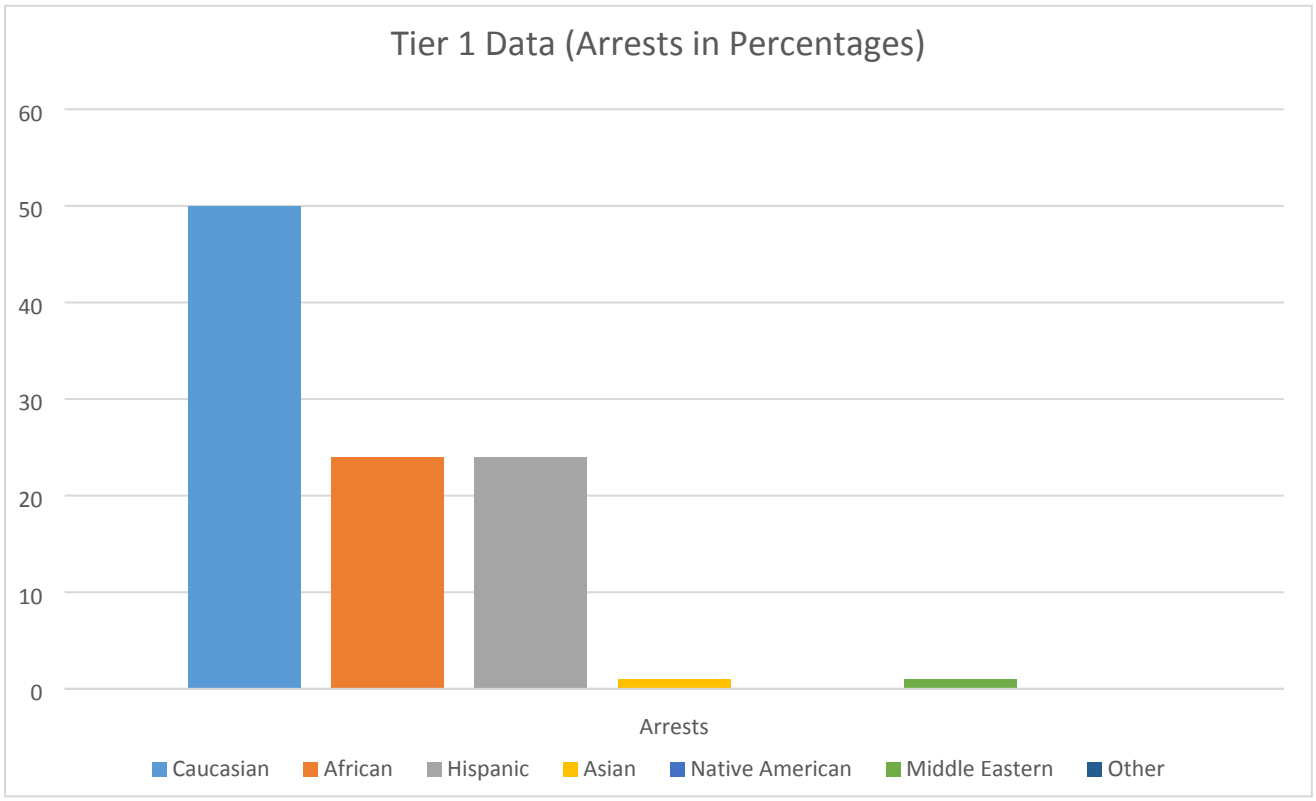
"N" represents "number" of traffic-related contacts

* Race/Ethnicity is defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern".

**Figure has been rounded

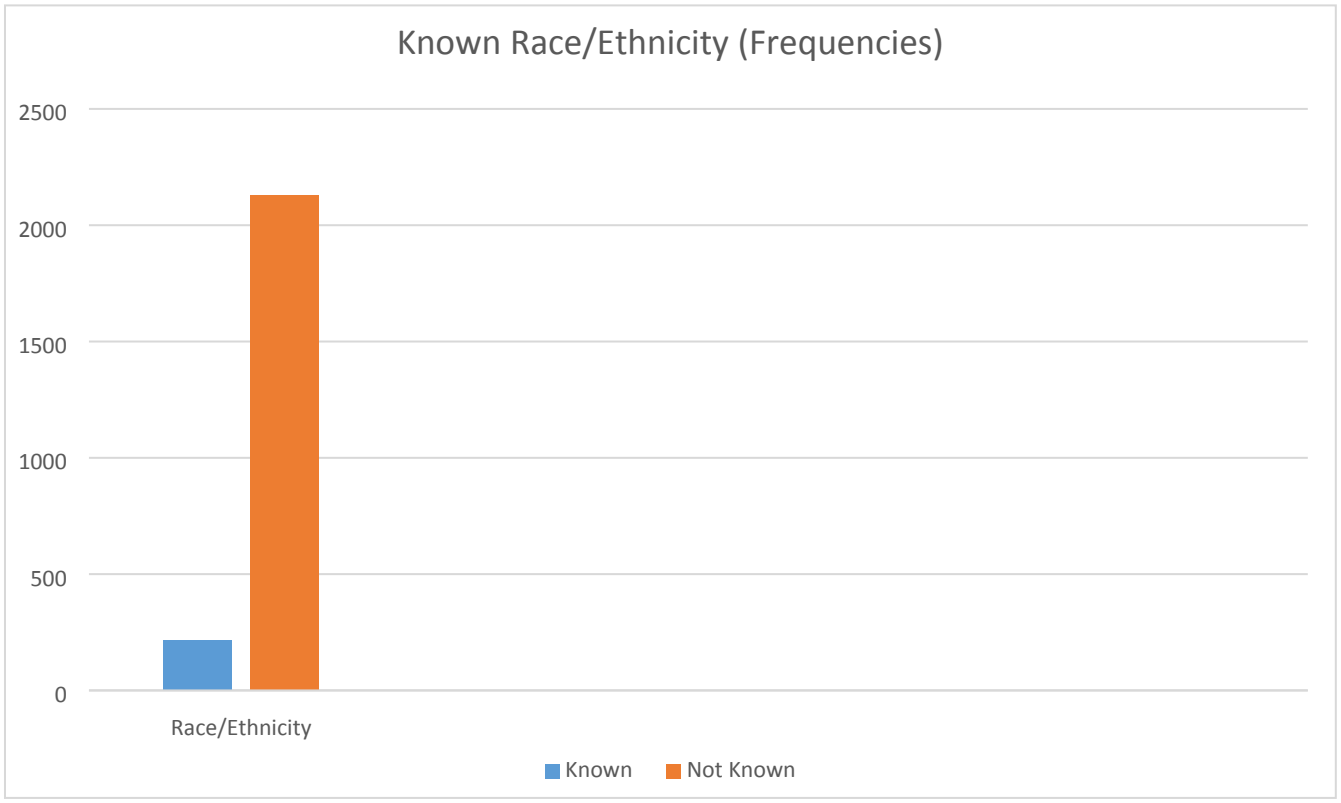

Tier 1 Data (Motor Vehicle Contacts in Percentages)
60
50
40
30
20
10
0
Motor Vehicle Contacts
Caucasian
African
Hispanic
Asian
Native American
Middle Eastern
Other


Tier 1 Data (Frequency of Searches)
120
100
80
60
40
20
0
Searches
Consent
PC
Caucasian
African
Hispanic
Asian
Native American
Middle Eastern
Other


Tier 1 Data (Arrests in Percentages)
60
50
40
30
20
10
0
Arrests
Caucasian
African
Hispanic
Asian
Native American
Middle Eastern
Other

Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/17--12/31/17)

| **Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained** | **Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained** |
|---|---|
| | |
| 216 | 2,129 |


Known Race/Ethnicity (Frequencies)
2500
2000
1500
1000
500
0
Race/Ethnicity
Known
Not Known

# Tier 1 (Partial Exemption TCLEOSE Form)

## Partial Exemption Racial Profiling Reporting (Tier 1)

**Department Name: Kennedale Police Department**

**Agency Number: 2201700**

**Chief Administrator Name: Tommy Williams**

**Reporting Name: Tommy Williams**

**Contact Number: 817.985.2161**

**E-mail Address: twilliams@cityofkennedale.com**

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

(5) require appropriate corrective action to be taken against a peace

officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

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

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

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

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

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

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

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

These polices are in effect

Chief Tommy Williams
Chief Administrator

Date: February 8, 2018

**Partial Exemption Racial Profiling Reporting**

**(Tier 1)**

# Video and Audio Equipment Exemption

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

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

OR

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

I claim this exemption

Chief Tommy Williams
Chief Administrator

Date: February 8, 2018

## Partial Exemption Racial Profiling Reporting (Tier 1)

(This is the TCLEOSE recommended form. The form is not mandatory. The information contained in this form, however, is mandatory. You may use your form, but all information must be provided.)

**If you claim a partial exemption you must submit a report that contains the following data or use this format to report the data.**

**Instructions: Please fill out all boxes. If zero, use 0.**

**1. Total on lines 4, 11, 14, and 17 Must be equal**

**2. Total on line 20 Must equal line 15**

**Number of Motor Vehicle Stops:**

1. 1188 citation only

2. 180 arrest only

3. 27 both

4.1,395 Total

**Race or Ethnicity:**

5. 509 African

6. 63 Asian

7. 1293 Caucasian

8. 471 Hispanic

9. 6 Middle Eastern

10. 2 Native American

1 Other

11. 2,345Total

**Race or Ethnicity Known Prior to Stop?**

12. 216 Yes

13. 2,129 No

14. 2,345 Total

**Search Conducted:**

15. 249 Yes

16. 2096 No

17. 2,345 Total

**Was Search Consented?**

18. 62 Yes

19. 187 No

20. 249 Total (Must Equal # 15)

# Option to submit required data by utilizing agency report

## You must submit your report in PDF format

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

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

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

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

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

This report meets the above requirements

| | |
|---|---|
| Chief Tommy Williams | February 8, 2018 |
| Chief Administrator | Date |

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

**www.tcleose.state.tx.us**

# Tier 1 Baseline Comparison
# (Fair Roads Standard)

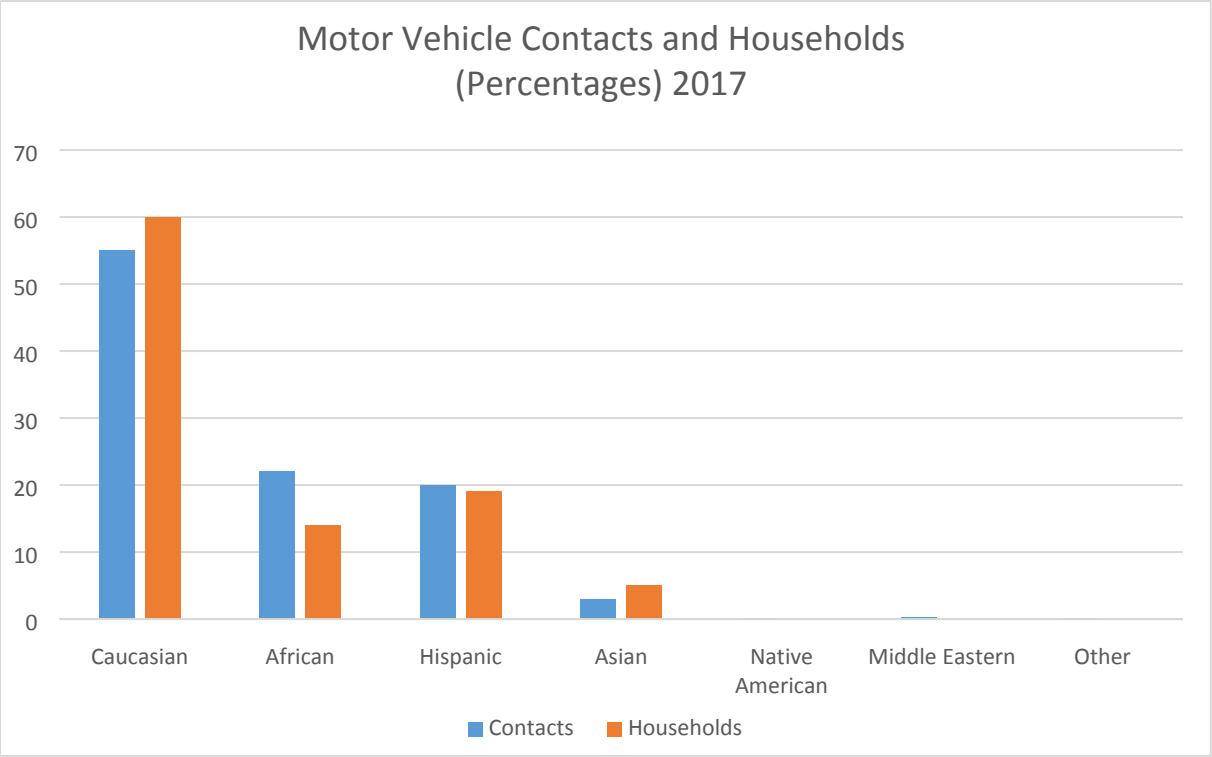
## (II) Motor Vehicle-Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households in DFW that have vehicle access (in percentages). (1/1/17—12/31/17)

| Race/Ethnicity* | Contacts (in percentages) | Households with vehicle access (in percentages) |
|---|---|---|
| | | |
| **Caucasian** | 55 | 60 |
| **African** | 22 | 14 |
| **Hispanic** | 20 | 19 |
| **Asian** | 3 | 5 |
| **Native American** | .08 | N/A |
| **Middle Eastern** | .3 | N/A |
| **Other** | .04 | N/A |
| | | |
| **Total** | 100 | 98** |

* Race/Ethnicity are defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, Native American and Middle Eastern".

**Represents rounded figure


Motor Vehicle Contacts and Households
(Percentages) 2017
70
60
50
40
30
20
10
0
Caucasian
African
Hispanic
Asian
Native American
Middle Eastern
Other
Contacts
Households

# Analysis and Interpretation of Data

## Analysis

In 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. That is, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

The Texas Racial Profiling Law also requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if individual police officers are engaging in racial profiling, from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic or motor vehicle-related contacts.

As stated previously, in 2009, the Texas Legislature passed House Bill 3389, which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These most recent changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the 2009 law requires adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year. I am pleased to inform you that these additional requirements have been addressed, since 2009, by the Kennedale Police Department as it is demonstrated throughout this report.

In 2017, the Texas Legislators passed H.B. 3051 which removed the Middle Eastern data requirement but standardized the racial and ethnic categories relevant to the individuals that

came in contact with the police. In addition, the Sandra Bland Act (S.B. 1849) was passed and became law. That is, the most significant legislative act in Texas history regarding future data requirements on law enforcement contacts, became law and effective January 1, 2018. All future reports will contain more extensive data entries and analysis as well as records regarding audits and the analysis of searches, as required by law.

In an effort to comply with The Texas Racial Profiling Law, the Kennedale Police Department commissioned the analysis of its 2017 motor vehicle contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2017 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the "other" category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2017 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Kennedale Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Kennedale Police Department in 2017 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of "households" that have access to vehicles. Thus, proposing to compare "households" (which may have multiple residents and only a few vehicles) with "contacts" (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite

this, the Kennedale Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its "good will" and "transparency" before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort-Worth (DFW) Metroplex.

Tier 1 (2017) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2017, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. With respect to searches, most of them were performed on Caucasian drivers. This was followed by African Americans and Hispanics. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in motor vehicle-related contacts; this was followed by African Americans and Hispanics.

Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of "households" in DFW who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American and Hispanic descent that came in contact with the police was higher than the percentage of African American and Hispanic households in DFW that claimed, in the 2010 census, to have access to vehicles. With respect to Caucasians and Asians, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Asian drivers that came in contact with the police in 2017 was lower than the percentage of Caucasian and Asian households in DFW with access to vehicles.

Summary of Findings

The comparison of motor vehicle contacts showed that the Kennedale Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Asian drivers than the percentage that resided in DFW and had access to vehicles. Further, the data suggested that the percentage of African American and Hispanic drivers that came in contact with the police in 2017 was higher than the percentage of African American and Hispanic households in DFW with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

While considering the findings made in this analysis, it is recommended that the Kennedale Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making

with all individuals; particularly with African Americans and Hispanics. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public.

As part of this effort, the Kennedale Police Department is now required by law to:

1) Perform an independent search analysis on the search data collected throughout 2018.

2) Commission data audits in 2017 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Kennedale Police Department has complied with the Texas Racial Profiling Law.

# (III) Summary

# Checklist

## Checklist

The following requirements **were** met by the Kennedale Police Department in accordance with The Texas Racial Profiling Law:

☒ Clearly defined act or actions that constitute racial profiling

☒ Statement indicating prohibition of any peace officer employed by the Kennedale Police Department from engaging in racial profiling

☒ Implement a process by which an individual may file a complaint regarding racial profiling violations

☒ Provide public education related to the complaint process

☒ Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law

☒ Collect data (Tier 1) that includes information on

a) Race and ethnicity of individual detained
b) Whether a search was conducted
c) If there was a search, whether it was a consent search or a probable cause search
d) Whether a custody arrest took place

☒ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.

☒ Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2018.

☒ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

# Contact Information

## Contact Information

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting, LLC
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** DECISION ITEMS - A.

**I. Subject:**
Presentation by City Secretary of Certifications of Citizens Petitions for recall under Article XI of the City Charter

**II. Originated by:**

Leslie Galloway, City Secretary & Communications Coordinator

**III. Summary:**
City Secretary and Communications Coordinator Leslie Galloway will present the certifications of the citizens petitions to City Council, calling for the recall of Councilmembers Jan Joplin and Sandra Lee.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | City Sec Certification | Certification_CS_2018Petition.pdf |

STATE OF TEXAS §
COUNTY OF TARRANT §
CITY OF KENNEDALE §

# CERTIFICATION OF PETITION BY CITY SECRETARY

I, Leslie Galloway, City Secretary of the City of Kennedale, Texas, do hereby certify that the attached petition regarding the recall of City Council Member SANDRA LEE, PLACE 3, filed in my office Monday, January 8, 2018, by John Clark contained 501 signatures, of which at least 425 were verified as adequate and complete.

**Section 11.03 (Recall) of the City of Kennedale Home Rule Charter reads:**

> *The qualified voters of the City shall have the power to recall any elected official of the City and may exercise that power by filing with the City Secretary a petition containing the same number of signatures and qualifications as required for an initiative petition* under this Charter. If the petition is certified by the City Secretary to be sufficient, the City Council shall call an election to determine whether the official named in the petition shall be recalled. The election shall be held no earlier than thirty (30) days after the City Council receives the petition, nor no later than the next special election as allowed in the Texas Election Code.*

**Section 11.01 (Initiative) of the City of Kennedale Home Rule Charter reads:**

> *Any initiated ordinance may be submitted to the City Council by a petition signed by qualified voters equal in number to *at least twenty-five (25) percent of the votes cast in the last regular municipal election, but not less than two hundred and fifty (250) signatures.*

According to Tarrant County Election Records, there were 1,216 voters in the most recent General Election, held May 6, 2017; therefore a minimum of 304 signatures is required. **There are a sufficient number of verified signatures.** I have determined that the petition has a proper, attached affidavit of the person who filed the petition and it otherwise meets the procedures of the Charter and other laws. Pursuant to Section 11.03 of the Charter, the City Council shall call a Special Election to determine whether the official named in the petition – SANDRA LEE, PLACE 3– shall be recalled. The next Special Election date that meets the requirements of the Charter and state law is Saturday, May 5, 2018, and the deadline for calling such an election is Friday, February 16, 2018.

WITNESS MY HAND AND THE SEAL OF THE CITY OF KENNEDALE, TEXAS, THIS THE 9TH DAY OF JANUARY, 2018.

CITY OF KENNEDALE ★ TARRANT COUNTY, TEXAS ★

Leslie Galloway

LESLIE GALLOWAY, CITY SECRETARY
CITY OF KENNEDALE, TEXAS

STATE OF TEXAS §
COUNTY OF TARRANT §
CITY OF KENNEDALE §

# CERTIFICATION OF PETITION BY CITY SECRETARY

I, Leslie Galloway, City Secretary of the City of Kennedale, Texas, do hereby certify that the attached petition regarding the recall of City Council Member JAN JOPLIN, PLACE 5, filed in my office Monday, January 8, 2018, by John Clark contained 498 signatures, of which at least 421 were verified as adequate and complete.

**Section 11.03 (Recall) of the City of Kennedale Home Rule Charter reads:**

> *The qualified voters of the City shall have the power to recall any elected official of the City and may exercise that power by filing with the City Secretary a petition containing the same number of signatures and qualifications as required for an initiative petition* under this Charter. If the petition is certified by the City Secretary to be sufficient, the City Council shall call an election to determine whether the official named in the petition shall be recalled. The election shall be held no earlier than thirty (30) days after the City Council receives the petition, nor no later than the next special election as allowed in the Texas Election Code.*

**Section 11.01 (Initiative) of the City of Kennedale Home Rule Charter reads:**

> *Any initiated ordinance may be submitted to the City Council by a petition signed by qualified voters equal in number to *at least twenty-five (25) percent of the votes cast in the last regular municipal election, but not less than two hundred and fifty (250) signatures.*

According to Tarrant County Election Records, there were 1,216 voters in the most recent General Election, held May 6, 2017; therefore a minimum of 304 signatures is required. **There are a sufficient number of verified signatures.** I have determined that the petition has a proper, attached affidavit of the person who filed the petition and it otherwise meets the procedures of the Charter and other laws. Pursuant to Section 11.03 of the Charter, the City Council shall call a Special Election to determine whether the official named in the petition – JAN JOPLIN, PLACE 5– shall be recalled. The next Special Election date that meets the requirements of the Charter and state law is Saturday, May 5, 2018, and the deadline for calling such an election is Friday, February 16, 2018.

WITNESS MY HAND AND THE SEAL OF THE CITY OF KENNEDALE, TEXAS, THIS THE 9TH DAY OF JANUARY, 2018.

CITY OF KENNEDALE ★ TARRANT COUNTY, TEXAS ★

Leslie Galloway

LESLIE GALLOWAY, CITY SECRETARY
CITY OF KENNEDALE, TEXAS

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** DECISION ITEMS - B.

**I. Subject:**
Consider approval of Resolution 516, calling a Special Election for May 5, 2018, pursuant to Article XI of the City Charter

**II. Originated by:**

Leslie Galloway, City Secretary & Communications Coordinator

**III. Summary:**
At this time, Council will consider calling a Special Election, in response to the citizens petitions, regarding the recall of Councilmember Sandra Lee, Place 3 and Mayor Pro Tem Jan Joplin, Place 5.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**
Approve

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | R516 2018 Special Recall Election | R516 2018 Special Recall Election_FEB.pdf |

**RESOLUTION NO. 516**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, CALLING A SPECIAL ELECTION TO BE HELD ON MAY 5, 2018, TO DETERMINE WHETHER KENNEDALE VOTERS DESIRE TO REMOVE COUNCILMEMBERS SANDRA LEE, PLACE 3, AND JAN JOPLIN, PLACE 5 FROM THE CITY COUNCIL; APPROVING A JOINT ELECTION WITH TARRANT COUNTY AND ESTABLISHING PROCEDURES FOR THAT ELECTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kennedale, Texas, (the "City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, pursuant to Article XI of the City Charter recall petitions were received to call an election for the recall of Sandra Lee, City Council Place 3, and Jan Joplin, City Council Place 5; and

**WHEREAS** within twenty (20) days of the filing of the petitions the City Secretary completed an examination of the petitions and certified the results to the City Council on January 12, 2018; and

**WHEREAS**, the Charter and state law require that a recall election be held on the next state uniform election date in sufficient time to meet the requirements of law; and

**WHEREAS**, May 5, 2018 is the next uniform election date; and

**WHEREAS**, the special election shall be held in conjunction with the general election for City Council members which will be held on May 5, 2018; and

**WHEREAS**, the election will be held as a joint election, conducted by Tarrant County under the authority of Chapter 271 of the Texas Election Code (the "Code"); and

**WHEREAS**, by this Resolution, it is the intention of the City Council to designate a polling place for the election, to appoint the necessary election officers, to establish and set forth procedures for conducting the election, and to authorize the Mayor to execute a contract with Tarrant County for conducting the election.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:**

**SECTION 1. SPECIAL ELECTION CALLED.**

An election is hereby called to determine whether Kennedale voters desire to remove Councilmembers Sandra Lee, Place 3 and Jan Joplin, Place 5 from the City Council. The election shall be held on May 5, 2018, between the hours of 7:00 a.m. and 7:00 p.m. at the Kennedale Community Center, 316 W. 3rd Street, Kennedale, Texas 76060 in conjunction with the general election. The propositions shall read as follows:

## PROPOSITION NO. 1

Yes ☐ Shall Sandra Lee, Council Person Place 3, be recalled and removed from
No ☐ office?

## PROPOSITION NO. 2

Yes ☐ Shall Jan Joplin, Council Person Place 5, be recalled and removed from
No ☐ office?

### SECTION 2. JOINT ELECTION AGREEMENT APPROVED.

A Joint Election Agreement between Tarrant County and the City of Kennedale (the "Agreement"), incorporated herein for all purposes, is hereby approved and the Mayor is authorized to execute the Agreement. In the event of conflict between this resolution and the Agreement, the Agreement shall control.

### SECTION 3. EARLY VOTING.

a. **Early voting by personal appearance.** Early voting by personal appearance shall be conducted beginning April 23, 2018, and continue through May 1, 2018, at the Kennedale Community Center, 316 W. 3rd Street, Kennedale, Texas 76060 at the following times:

| | |
|---|---|
| MONDAY, APRIL 23, 2018 | 8:00 A.M. – 5:00 P.M. |
| TUESDAY, APRIL 24, 2018 | 8:00 A.M. – 5:00 P.M. |
| WEDNESDAY, APRIL 25, 2018 | 8:00 A.M. – 5:00 P.M. |
| THURSDAY, APRIL 26, 2018 | 8:00 A.M. – 5:00 P.M. |
| FRIDAY, APRIL 27, 2018 | 8:00 A.M. – 5:00 P.M. |
| SATURDAY, APRIL 28, 2018 | 7:00 A.M. – 7:00 P.M. |
| SUNDAY, APRIL 29, 2018 | 11:00 A.M. – 4:00 P.M. |
| MONDAY, APRIL 30, 2018 | 7:00 A.M. – 7:00 P.M. |
| TUESDAY, MAY 1, 2018 | 7:00 A.M. – 7:00 P.M. |

Branch offices for early voting by personal appearance shall also be established as outlined in the Joint Election Agreement with Tarrant County.

b. **Early Voting by Mail.** Nathan Neblett, the Tarrant County Elections Administrator, or his successor, acting pursuant to Texas Government Code § 601.002 ("Election Administrator"), is hereby designated as Early Voting Clerk for the special election. Applications for early voting by mail may be delivered not later than the close of business on April 24, 2018 to the Election Administrator in any of the following ways: via mail to Early Voting Clerk, P.O. Box 961011, Fort Worth, Texas 76161-0011; via courier or hand delivery to Tarrant County Elections, 2700 Premier St., Fort Worth, Texas 76111-3011; via fax to 817-831-6118; or via email to votebymail@tarrantcounty.com.

c. **Early Voting Ballot Board.** Early voting, both by personal appearance and by mail, shall be canvassed by the Early Voting Ballot Board established by Tarrant County under the terms of the Agreement.

**SECTION 4. APPOINTMENT OF ELECTION JUDGE AND ALTERNATE ELECTION JUDGE.**

The Presiding Election Judge and Alternate Presiding Judge shall be appointed by Tarrant County as authorized by Chapter 271 of the Code.

**SECTION 5. METHOD OF VOTING.**

The Agreement shall provide (a) the type of electronic voting equipment to be used for early voting by personal appearance and on election day, (b) notification and training for election judges and clerks, (c) an estimate and final payment terms for the election services provided, (d) agreements for early voting equipment and voting machine rental, and (e) other procedures to conduct the election.

**SECTION 6. GOVERNING LAW AND QUALIFIED VOTERS.**

The election shall be held in accordance with the Constitution of the State of Texas and the Code, and all resident qualified voters of the City shall be eligible to vote at the election.

**SECTION 7. PUBLICATION AND POSTING OF NOTICE OF ELECTION.**

Notice of the election shall be given as required by Chapter 4 of the Code.

**SECTION 8. NECESSARY ACTIONS.**

The Mayor and the City Secretary, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of federal and state law in carrying out and conducting the election, whether or not expressly authorized herein.

**SECTION 9. EFFECTIVE DATE.**

This resolution shall be effective upon its adoption.

**PASSED AND APPROVED THIS 15th DAY OF FEBRUARY, 2018.**

**APPROVED:**

_____

**MAYOR, BRIAN JOHNSON**

[CITY SEAL]

**ATTEST:**

_____
**CITY SECRETARY, LESLIE GALLOWAY**

**APPROVED AS TO FORM AND LEGALITY:**

_____
**CITY ATTORNEY, WAYNE OLSON**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** DECISION ITEMS - C.

**I. Subject:**
Consider approval of Resolution 517, calling the General Election for May 5, 2018

**II. Originated by:**
Leslie Galloway, City Secretary & Communications Coordinator

**III. Summary:**
The City of Kennedale contracts with Tarrant County for general election purposes. There have been no changes to the contract with Tarrant County since it was made in 2010.

## DATES OF IMPORTANCE FOR THE 2018 GENERAL ELECTION INCLUDE:

• January 17, 2018: First day to file an application for a place on the general election ballot

• February 16, 2018: Deadline to file an application for place on the ballot (must be received by 5:00 pm); Deadline for ordering a general election or a special measure election

• February 20, 2018: Deadline for write-in candidates to file "Declarations of Write-In Candidacy"

• February 22, 2018: Drawing to determine the order of names on the ballot at 4:30 p.m. in City Secretary's office; candidates are encouraged to attend, but it is not required

• February 23, 2018: Deadline to withdraw and have your name removed from the ballot (must be received in writing by 5:00 pm)

• March 9, 2018: Ballot language due to Tarrant County

• March 16, 2018: Ballot proof approval due to Tarrant County by 12:00 noon

• April 5, 2018: Last day to register to vote in the May 5, 2018 General Election

• April 23, 2018: First day of early voting by personal appearance

*Early Voting will be conducted Monday, April 23 through Tuesday, May 1, 2018, in the Kennedale Community Center (in the Library at 316 W 3rd Street, Kennedale, Texas).*

| **EARLY VOTING** | |
|---|---|
| MONDAY, APRIL 23, 2018 | 8:00 A.M. – 5:00 P.M. |
| TUESDAY, APRIL 24, 2018 | 8:00 A.M. – 5:00 P.M. |
| WEDNESDAY, APRIL 25, 2018 | 8:00 A.M. – 5:00 P.M. |
| THURSDAY, APRIL 26, 2018 | 8:00 A.M. – 5:00 P.M. |
| FRIDAY, APRIL 27, 2018 | 8:00 A.M. – 5:00 P.M. |
| SATURDAY, APRIL 28, 2018 | 7:00 A.M. – 7:00 P.M. |
| SUNDAY, APRIL 29, 2018 | 11:00 A.M. – 4:00 P.M. |
| MONDAY, APRIL 30, 2018 | 7:00 A.M. – 7:00 P.M. |
| TUESDAY, MAY 1, 2018 | 7:00 A.M. – 7:00 P.M. |
| **ELECTION DAY** | |
| SATURDAY, MAY 5, 2018 | 7:00 A.M. – 7:00 P.M. |

*(continued on following page)*

• April 24, 2018: Last day to receive an application for a ballot by mail

• May 1, 2018: Last day for early voting by personal appearance.

• **May 5, 2018: ELECTION DAY 7:00 a.m. to 7:00 p.m.**
at the Kennedale Community Center (in the Library at 316 W 3rd Street, Kennedale, Texas).

May 8-16, 2018: Period for official canvass of returns and oaths of office of newly elected officers, unless runoff is necessary
**[NOTE: A Council meeting must be held during this period to canvass the returns; Council's Regular Meeting would fall after the deadline, on Monday, May 21, 2018.] (PER TARRANT COUNTY ELECTIONS: "Please do not plan to canvass until May 15th or 16th.")**

• May 13-21: Period for ordering a runoff election, if necessary (not later than the 5th day after official canvass)

• June 16, 2018: Runoff Election, if necessary

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**
Approve

**VII. Alternative Actions:**

**VIII. Attachments:**

| | | |
|---|---|---|
| 1. | R517 2018 General Election | R517 2018 General Election.pdf |

**RESOLUTION NO. 517**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, CALLING FOR A GENERAL ELECTION TO BE HELD ON MAY 5, 2018; APPROVING A JOINT ELECTION WITH TARRANT COUNTY; AND ESTABLISHING PROCEDURES FOR THAT ELECTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kennedale, Texas, (the "City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the regular election for City Council of the City of Kennedale is required to be held on May 5, 2018, at which time the voters will elect persons to fill the office of Mayor and City Council Places 2 and 4; and

**WHEREAS**, the election will be held as a joint election, conducted under the authority of Chapter 271 of the Texas Election Code (the "Code"); and

**WHEREAS**, by this Resolution, it is the intention of the City Council to designate a polling place for the election, to appoint the necessary election officers, to establish and set forth procedures for conducting the election, and to authorize the Mayor to execute a contract with Tarrant County for conducting the election.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:**

**SECTION 1. GENERAL ELECTION CALLED.**

An election is hereby called to elect the office of Mayor and City Council Places 2 and 4 to serve from May of 2018 until May of 2020, or until their successors are duly elected and qualified. The election shall be held on May 5, 2018, between the hours of 7:00 a.m. and 7:00 p.m. at Kennedale Community Center, 316 W. 3rd Street, Kennedale, Texas 76060.

**SECTION 2. JOINT ELECTION AGREEMENT APPROVED.**

The Joint Election Agreement for Tarrant County and the City of Kennedale (the "Agreement") and incorporated herein for all purposes is hereby approved and the Mayor is authorized to execute the Agreement. In the event of conflict between this resolution and the Agreement, the Agreement shall control.

**SECTION 3. APPLICATION FOR PLACE ON BALLOT.**

Qualified persons may file as candidates by filing applications in the office of the City Secretary from 8:00 a.m. to 5:00 p.m., Monday through Friday, from January 17, 2018 through February 16, 2018.

**SECTION 4. EARLY VOTING.**

a. **Early voting by personal appearance.** Early voting by personal appearance shall be conducted beginning April 23, 2018, and continue through May 1,

2018, at the Kennedale Community Center, 316 W. 3rd Street, Kennedale, Texas 76060 at the following times:

| | |
|---|---|
| MONDAY, APRIL 23, 2018 | 8:00 A.M. – 5:00 P.M. |
| TUESDAY, APRIL 24, 2018 | 8:00 A.M. – 5:00 P.M. |
| WEDNESDAY, APRIL 25, 2018 | 8:00 A.M. – 5:00 P.M. |
| THURSDAY, APRIL 26, 2018 | 8:00 A.M. – 5:00 P.M. |
| FRIDAY, APRIL 27, 2018 | 8:00 A.M. – 5:00 P.M. |
| SATURDAY, APRIL 28, 2018 | 7:00 A.M. – 7:00 P.M. |
| SUNDAY, APRIL 29, 2018 | 11:00 A.M. – 4:00 P.M. |
| MONDAY, APRIL 30, 2018 | 7:00 A.M. – 7:00 P.M. |
| TUESDAY, MAY 1, 2018 | 7:00 A.M. – 7:00 P.M. |

Branch offices for early voting by personal appearance shall also be established as outlined in the Joint Election Agreement with Tarrant County.

b. **Early Voting by Mail.** Nathan Neblett, the Tarrant County Elections Administrator, or his successor, acting pursuant to Texas Government Code § 601.002 ("Election Administrator"), is hereby designated as Early Voting Clerk for the special election. Applications for early voting by mail may be delivered not later than the close of business on April 24, 2018 to the Election Administrator in any of the following ways: via mail to Early Voting Clerk, P.O. Box 961011, Fort Worth, Texas 76161-0011; via courier or hand delivery to Tarrant County Elections, 2700 Premier St., Fort Worth, Texas 76111-3011; via fax to 817-831-6118; or via email to votebymail@tarrantcounty.com.

c. **Early Voting Ballot Board.** Early voting, both by personal appearance and by mail, shall be canvassed by the Early Voting Ballot Board established by Tarrant County under the terms of the Agreement.

**SECTION 5. APPOINTMENT OF ELECTION JUDGE AND ALTERNATE ELECTION JUDGE.**
The Presiding Election Judge and Alternate Presiding Judge shall be appointed by Tarrant County as authorized by Chapter 271 of the Code.

**SECTION 6. METHOD OF VOTING.**
The Hart InterCivic eSlate Direct Recording Electronic Voting System (the "eSlate DRE") shall be used for early voting by personal appearance and on Election Day the the eSlate DRE and the Hart InterCivic eScan Optical Scan Voting System ("eScan") shall be used. The City Council hereby adopts the eSlate DRE for early voting and the eSlate DRE and eScan for Election Day. All expenditures necessary for the conduct of the election, the purchase of materials therefor, and the employment of all election officials are hereby authorized, and shall be conducted in accordance with the Code.

**SECTION 7. GOVERNING LAW AND QUALIFIED VOTERS.**
The election shall be held in accordance with the Constitution of the State of Texas and the Code, and all resident qualified voters of the City shall be eligible to vote at the election.

**SECTION 8. PUBLICATION AND POSTING OF NOTICE OF ELECTION.**

Notice of the election shall be given as required by Chapter 4 of the Code.

**SECTION 9. SUBMISSIONS TO THE UNITED STATES JUSTICE DEPARTMENT.**

Tarrant County is authorized to make such submissions as are necessary to the United States Justice Department to seek pre-clearance for any changes in voting practices as authorized by the Voting Rights Act of 1965, as amended.

**SECTION 10. NECESSARY ACTIONS.**

The Mayor and the City Secretary, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of federal and state law in carrying out and conducting the election, whether or not expressly authorized herein.

**SECTION 11. RUNOFF ELECTION.**

Should a runoff election be required following the canvass of the May 5, 2018 election, the Council hereby orders that a runoff election be held on June 16, 2018. The polling place on Election Day for the runoff election shall be at the same polling place as the original election and the hours of voting shall be between 7:00 a.m. and 7:00 p.m.

**SECTION 12. EFFECTIVE DATE.**

This resolution shall be effective upon its adoption.

**PASSED AND APPROVED THIS 15th DAY OF FEBRUARY, 2018.**

**APPROVED:**

_____

**MAYOR, BRIAN JOHNSON**

[CITY SEAL

**ATTEST:**

_____

**CITY SECRETARY, LESLIE GALLOWAY**

**APPROVED AS TO FORM AND LEGALITY:**

_____

**CITY ATTORNEY, WAYNE OLSON**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** DECISION ITEMS - D.

**I. Subject:**
Discuss and consider scheduling a Special Session of the City Council

**II. Originated by:**

**III. Summary:**
This item is placed on the agenda for discussion at the request of Mayor Pro Tem Jan Joplin.

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** DECISION ITEMS - E.

**I. Subject:**
Consider making appointments to various Advisory Boards and Commissions including: the Economic Development Corporation Board, Parks and Recreation Board, Board of Adjustment/Building Board of Appeals, and Planning and Zoning Commission

**II. Originated by:**

**III. Summary:**
This item is to provide an opportunity to appoint members to Boards and Commissions, as were discussed at the last meeting including: the Economic Development Corporation Board, Parks Board, Board of Adjustment/Building Board of Appeals, and Planning and Zoning Commission.

**EDC Board**
- VACANT, Place 1
- Pat Turner, Vice President, Place 2
- Ronald Whitley, Place 3
- Robert Mundy, President, Place 4
- VACANT, Place 5
- Mark Yeary, Place 6
- VACANT, Place 7

**Parks Board**
- David Deaver, Chair, Place 1
- Jeff Nevarez, Place 2
- Michael Chandler, Place 3
- Gary Swan, Place 4
- Phil Wallace, Place 5
- VACANT, Place 6
- Carlos Chargoy, Place 7

**BOA/BBA**
- Eric Elam, Place 1
- VACANT, Place 2
- Perry Clementi, Place 3
- Martin Young, Place 4
- Lana Sather, Place 5
- Jeff Nevarez, Place 6 (Alternate)
- Josh Virnoche, Place 7 (Alternate)
- Josh Altom, Place 8 (Alternate)
- Azam Shaikh, Place 9 (Alternate)

**P&Z Commission**
- Lary Adkins, Place 1
- Chris Pugh, Place 2
- Daniel Medina, Place 3
- Tom Pirtle, Place 4 (current Vice Chair)
- Sheldon Gerron, Place 5
- VACANT, Place 6
- John Hivale, Place 7
- Horace Young, Place 8 (Alternate)
- Kayla Hughes, Place 9 (Alternate)

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** DECISION ITEMS - F.

---

**I. Subject:**
Consider appointment of Chair and Vice Chair of the Planning and Zoning Commission

**II. Originated by:**

**III. Summary:**
Pursuant to the City Code, the City Council appoints both the Chair and Vice Chair of the Planning and Zoning Commission. This item is placed on the agenda for Council consideration to make such appointments.

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**Board Members**
- Lary Adkins, Place 1
- Chris Pugh, Place 2
- Daniel Medina, Place 3
- Tom Pirtle, Place 4 (current Vice Chair)
- Sheldon Gerron, Place 5
- VACANT, Place 6
- John Hivale, Place 7
- Horace Young, Place 8 (Alternate)
- Kayla Hughes, Place 9 (Alternate)

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**

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# Staff Report to the Honorable Mayor and City Council

**Date:** February 15, 2018

**Agenda Item No:** DECISION ITEMS - G.

---

**I. Subject:**
Consider appointment of Chair and Vice Chair of the Board of Adjustment/Building Board of Appeals

**II. Originated by:**

**III. Summary:**
Pursuant to the City Code, the City Council appoints both the Chair and Vice Chair of the Board of Adjustment/Building Board of Appeals. This item is placed on the agenda for Council consideration to make such appointments.

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**Board Members**
- Eric Elam, Place 1
- VACANT, Place 2
- Perry Clementi, Place 3
- Martin Young, Place 4
- Lana Sather, Place 5
- Jeff Nevarez, Place 6 (Alternate)
- Josh Virnoche, Place 7 (Alternate)
- Josh Altom, Place 8 (Alternate)
- Azam Shaikh, Place 9 (Alternate)

**IV. Fiscal Impact Summary:**

**V. Legal Impact:**

**VI. Recommendation:**

**VII. Alternative Actions:**

**VIII. Attachments:**