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:

(1) 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) the date of conviction; and

(9) the amount of the fine or forfeiture.

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

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

SECTION 9. Not later than January 1, 2002:

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

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

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

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

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

S.B. No. 1074

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