February 28, 2011

To: Dr. Howard Farrell  
Vice President of university Advancement and Student Affairs

Re: Annual Racial Profiling Report

In accordance with state and federal mandates attached is the 2011 MSU Police Department annual report on racial profiling. As in years past the report indicates that MSU Police department and its officer do not exhibit or show any signs of racial profiling. During the calendar year of 2010 there were no reported incidents of racial profiling from citizen and no internal investigation into any complaints of racial profiling.

The report includes the state law, department policy and complaint procedure as well as the raw data that was analyzed.

Should you have any questions or concerns with regard to this report please feel free to contact me.

Respectfully,

J. Dan Williams
Chief of Police
Midwestern State University
3410 Taft Blvd
Wichita Falls, Texas 76308
(940)397-4239 Phone
(940)397-4055 Fax
MSU’s Police Department is committed to unbiased policing and the prevention of racial profiling.
Foreword

This annual report is promulgated in accordance with Article 2.133 of the Texas Code of Criminal Procedures as required by Senate Bill 1074 and distributed to the Board of Regents of Midwestern State University. The objective of this report is to provide detailed information to the governing body of Midwestern State University with regards to police activities to ensure that the police department and its employees are in compliance with racial profiling statues.
February 28, 2011

Midwestern State University Board of Regents
3410 Taft Blvd
Wichita Falls, TX 76308

Dear Distinguished Board of Regents,

In recent years, the concept of racial profiling has received a great amount of attention throughout the United States. In 2001, the Texas legislature, in an attempt to address the issue of racial profiling in policing, passed the Texas Racial Profiling Law (S.B. 1074). Since becoming effective, the Midwestern State University Police Department, in accordance with S.B. 1074, has collected citation-based contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices among police officers.

In this particular report, you will find several sections that contain information on citation-based contact data along with documentation which aims at demonstrating the manner in which the Midwestern State University Police Department has complied with S.B. 1074. Section 1 contains the table of content in addition to the Texas Law on Racial Profiling. Also, in this section, you will find the list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education). In addition, sections 2 and 3 contain documentation which demonstrates compliance by the Midwestern State University Police Department with the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the implementation of a racial profiling complaint process (which has been disclosed to the public) and the training administered to all law enforcement personnel, are included.

The final components of this report provide statistical data relevant to public contacts, made during the course of traffic stops, between 1/1/10 and 12/31/10. This information has been analyzed and compared to 2008 and 2009 data. The final analysis and recommendations are also included in this report.

The findings presented in this report represent the willingness of the Midwestern State University Police Department to identify and resolve (if necessary) issues relevant to racial profiling.

Sincerely,

Dan Williams
Chief of Police
Midwestern State University Police Department
Police (Traffic-Related) Contact Data
Annual Report
January 1, 2010---December 31, 2010

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The Midwestern State University Police Department was established in 1968 by legislative action authorizing Institutions of Higher Education to employ Peace Officers (Article 51.203 Texas Education Code). The first Chief of Police was Truman Lewis – a former Lieutenant with the Wichita Falls City Police Department. At the time, the Midwestern State University police department was made up of a Chief, Sergeant and 6 patrol officers, as well as several security guards. In 1979, Midwestern State hired its second Chief of Police, Herman G. Evans, who was the sergeant in the Department and a former city police Sergeant. In June of 1999, Midwestern State University hired its third and current Chief of Police, Michael J. Hagy. In July of 2010, Midwestern State University hired its fourth Chief of Police, Dan Williams. Today, the Midwestern State University Police Department (MSUPD) is made up of 9 commissioned officers (1 Chief, 1 Sergeant and 7 patrol officers) 1 full time staff, 2 part-time staff, 2 part-time ticket writers, four dispatchers and one part time dispatcher. The MSUPD employees are committed to performing their duties in a professional manner while serving the community members of Midwestern State University and its surrounding areas.

Since 1999, the Midwestern State University Police Department has been a proactive police agency. The police department promotes, to all its members, to engage in community-policing practices in order to provide quality service to all residents of the community in an attempt to improve quality of life issues. In 2002, the Midwestern State University Police Department adopted a policy, in accordance to the Texas Law on Racial Profiling, banishing racial profiling practices among all MSUPD officers.
Mission Statement

The mission of the Midwestern State University Police department is to support the mission of the University by providing a safe academic environment for persons and property of Midwestern State University. This will be accomplished through the detection and apprehension of criminals, the utilization of community oriented policing and crime prevention based programs in an attempt to improve the quality of life on campus and to reduce the fear of crime.

Value Statement

The members of the Midwestern State University Police Department adopt the virtues of a CHAMPION and understand that these virtues are important to all department members and the community we serve. We believe these virtues are important to establish individual and organizational Ethics.

- **Courteous** To be respectful and considerate of others at all times.
- **Honesty** To be free of fraud and deception. To be truthful at all times.
- **Adaptable** To possess the ability to be flexible in all situations.
- **Mature** To possess the insight and ability to base decisions on slow and careful considerations.
- **Prudence** To apply skill and good judgment in the use of resources.
- **Incorruptible** To remain invulnerable to bribery and moral corruption.
- **Open-Minded** To be respective to ideas and resist prejudice.
- **Noble** Strive to maintain the highest level of integrity.
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 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, 2008.  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.

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).
"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) 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

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 ___________________________
I. **OBJECTIVE:**

To establish a policy supporting the Police department commitment to unbiased policing and preventing racial profiling during traffic and investigative stops made by commissioned police officers employed by Midwestern State University Police Department.

II. **POLICY:**

It is the policy of this department to be professional while conducting traffic and investigative stops. Officers should utilize tact, diplomacy and be respectful at all times when dealing with the public. The University Police Department will not condone actions by peace officers employed by the university who make traffic or investigative stops in violation of racial profiling statues.

III. **DEFINITION:**

Racial Profiling: A law enforcement initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or information identifying the individual as having engaged in criminal activity.

A. Acts Constituting Racial Profiling

1. Initiating traffic stops based on the individual's race, ethnicity, or national origin rather than on the individual's behavior or information identifying the individual as having engaged in criminal activity.

2. Initiating pedestrian stops based on the individual's race, ethnicity, or national origin rather than on the individual's behavior or information identifying the individual as having engaged in criminal activity.

3. Peace Officers employed by this department are strictly prohibited from engaging in racial profiling.

IV. **COMPLAINT PROCEDURE:**

Individuals may file a complaint with the department if they believe that a peace officer employed by this agency has engaged in racial profiling with respect to the individual.

A. Complaint Processing

1. All complaints should be made to the shift supervisor, who will conduct an interview with the complainant regarding the circumstances surrounding the complaint. The supervisor will then reduce the complaint to writing and have complainant sign the statement form. The complainant will be assured an investigation will be conducted and they will be notified of the results.
2. The signed complaint form and all attachments will be placed in a sealed CONFIDENTIAL envelope and forwarded to the Chief of Police immediately.

B. Investigation

1. The Supervisor and the Chief of Police will meet to discuss the complaint and the appropriate matter in which to investigate it.

2. The Chief of Police will notify the accused employee that a complaint has been filed against them and advise the accused employee of the complaint procedure.

3. In most situations the supervisor will conduct the investigation within 14 days of receiving the complaint. A copy of the investigation will be provided to the Chief of Police.

4. In a rare situation the Chief of Police may ask an outside agency to conduct the investigation.

5. The Chief of Police will notify the complainant as to the status of the complaint to include at a minimum:
   a. Verification that the complaint has been received for processing.
   b. Periodic status reports.
   c. Notification of the results of the investigation upon conclusion.

6. The status of investigations should be communicated to the complainant, although, the degree of specificity of the notice is left to the discretion of the department.

C. Complaint Withdrawal Procedures

Complainants wishing to withdraw their complaint will sign a Complaint Waiver Request Form (copy attached). The signed form will be forwarded to the Chief of Police for determination regarding any further action to be taken by the investigator. The Chief of Police may deem it necessary to conduct a fact-finding inquiry and/or to have the situation investigated even if the complaint has been withdrawn.

D. Conclusion of Investigation

1. All completed investigations will be forwarded to the Chief of Police with one of the following findings.

   a. Unfounded – The complaint is false, not factual.
   b. Exonerated – The incident occurred, but the actions of the accused employee were lawful or justified.
   c. Not Sustained – There is insufficient evidence to prove or disprove the complaint.
d. Sustained – The complaint is supported by sufficient evidence.

2. If sufficient cause is established as to indicate an officer of Midwestern State University is consciously profiling individuals the officers will be counsel as to the policy and laws governing the incident. The results of the counseling will be made part of the officers personnel file. Any subsequent violations will result in additional training, and review of the officer’s conduct in regards to suspension of employment without pay and up to termination, dependent upon the severity of the conclusion of investigation.

3. The Chief of Police will meet with the Vice President and the Director of Personnel to discuss all the issues.

4. If disciplinary action results, a copy of the discipline results will be placed in the accused employee’s personnel file.

5. All investigations concerning allegations of racial profiling requires a "conclusion of fact." The conclusion of the disciplinary process will be structured and provide pertinent information to all participants in the process.

V. Information Collection Procedure

1. Officers initiating traffic or investigative stops in which a citation is issued, arrests made, or stops resulting from suspicious activities, will collect the following information:
   a. The race or ethnicity of the individual detained
   b. Gender
   c. Age
   d. Whether a search was conducted and if so, whether the person detained consented to the search
   e. Probable Cause for the search
   f. Whether contraband was discovered
   g. Arrest was made for cited violation or other violation

1. The police supervisor will compile this information for review by the Chief of Police.

2. The Chief of Police will compile an annual report for submission to the University President’s Office, through the Office of the Vice-President for Student Affairs, by March of each year for the preceding year. The report will include:
   a. A breakdown of stops by race or ethnicity
b. Number of stops that resulted in searches

c. Number of searches that were consensual; and

d. Number of arrests resulting from the stops.

VI. Racial Profiling Training

1. Officer’s will receive training on racial profiling as established by the Texas Commission on Law Enforcement Officer Standards and Education, prior to September 1, 2003.

VII. Video and Audio Recording (not currently available)

1. Each law enforcement motor vehicle regularly used by an officer to make traffic and pedestrian stops is equipped with video and audio recording capability.

2. All traffic and pedestrian stops (when applicable) will be recorded.

3. Video tapes will only be replaced as necessary by the supervisor.

4. The sergeant shall retain the video and audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop.

3. If a complaint is filed with the department alleging that a peace officer employed by this department has engaged in racial profiling with respect to a traffic or pedestrian stop, the video and audio record of the stop will be retained until final disposition of the complaint.

VIII. Public Education

This policy will be placed on the Midwestern State University web page and will be available upon request to any person requesting a copy.
Midwestern State University Police Department

Complaint Waiver Request

Date: ______________________

To: Chief Dan Williams

I, ________________________________ a resident of _____________________________

Texas, __________________ County, respectfully request that the allegations of racial
profiling directed by me toward Police Officer

_____________________________________________

be withdrawn. I do not desire to further pursue the matter. -

_____________________________________________

Signature of Complainant

Reasons (if any) for this complaint waiver:
Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/10—12/31/10, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the Midwestern State University 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 1/1/10 ---- 12/31/10.

<table>
<thead>
<tr>
<th>Complaint No.</th>
<th>Alleged Violation</th>
<th>Disposition of the Case</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Additional Comments:

_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
Informing the Public on the Process of Filing a Complaint with the Midwestern State University Police Department

Educational Campaign:

Since 2002, the Midwestern State University Police Department, in accordance to Senate Bill 1074, has launched an educational campaign aimed at informing the public on issues relevant to the complaint process. The police department made available, by posting, in the lobby area and its web site information (included) on filing a complaint on a racial profiling violation by a Midwestern State University police officer.

The Midwestern State University Police Department included language, in its current complaint process, pertaining to the manner in which citizens can file a complaint as a consequence of a racial profiling incident. 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.
Since 2002, all Midwestern State University police officers were instructed, as specified by S.B. 1074, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Midwestern State University Police Department have completed the TCLEOSE basic training and education program on racial profiling. The main outline used to train the officers of Midwestern State University has been included in this report.

It is important to recognize that the Chief of the Midwestern State University Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, as he successfully completed the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Midwestern State University Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.
<table>
<thead>
<tr>
<th>Description</th>
<th>MSU Students</th>
<th>Residence Halls</th>
<th>Excluding Student Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
</tr>
<tr>
<td>White</td>
<td>4801</td>
<td>66%</td>
<td>806</td>
</tr>
<tr>
<td>Black</td>
<td>907</td>
<td>12%</td>
<td>314</td>
</tr>
<tr>
<td>Hispanic</td>
<td>739</td>
<td>10%</td>
<td>149</td>
</tr>
<tr>
<td>Native Hawaiian /Pacific Islander</td>
<td>5</td>
<td>0%</td>
<td>1</td>
</tr>
<tr>
<td>Asian</td>
<td>260</td>
<td>2%</td>
<td>28</td>
</tr>
<tr>
<td>Native American</td>
<td>68</td>
<td>1%</td>
<td>12</td>
</tr>
<tr>
<td>Non-Resident Alien</td>
<td>588</td>
<td>8%</td>
<td>51</td>
</tr>
<tr>
<td>Not Reported</td>
<td>126</td>
<td>2%</td>
<td>15</td>
</tr>
<tr>
<td>Total</td>
<td>7494</td>
<td>100%</td>
<td>1376</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Total Contacts</th>
<th>Cited Contacts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>White</td>
<td>38</td>
<td>76%</td>
</tr>
<tr>
<td>Black</td>
<td>8</td>
<td>16%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>3</td>
<td>6%</td>
</tr>
<tr>
<td>Asian/Pacific Islander</td>
<td>1</td>
<td>2%</td>
</tr>
<tr>
<td>Native American</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
<td>100%</td>
</tr>
</tbody>
</table>
## (I) Tier II Data

### Traffic-Related Contact Information (1/1/10—12/31/10)

<table>
<thead>
<tr>
<th>Race/Ethnicity*</th>
<th>Contacts</th>
<th>Searches</th>
<th>Consensual Searches</th>
<th>PC Searches</th>
<th>Custody Arrests</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
<td>N</td>
</tr>
<tr>
<td>Caucasian</td>
<td>38</td>
<td>76</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>African</td>
<td>8</td>
<td>16</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Hispanic</td>
<td>3</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Asian</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Native American</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>50</td>
<td>100.00</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

* "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, or Native American”.

** Figure has been rounded.
(II) Three-Year Tier II Data Comparison

Comparison of Three Year Traffic-Related Contact Information (1/1/10---12/31/10)

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

** Figure has been rounded.

*** Specified data was not required for year indicated.

<table>
<thead>
<tr>
<th>Race/Ethnicity*</th>
<th>Traffic-Related Contacts</th>
<th>Searches</th>
<th>Arrests</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(08)</td>
<td>(09)</td>
<td>(10)</td>
</tr>
<tr>
<td>Caucasian</td>
<td>64.00</td>
<td>64.00</td>
<td>76.00</td>
</tr>
<tr>
<td>African</td>
<td>26.67</td>
<td>21.00</td>
<td>16.00</td>
</tr>
<tr>
<td>Hispanic</td>
<td>2.67</td>
<td>8.00</td>
<td>6.00</td>
</tr>
<tr>
<td>Asian</td>
<td>1.33</td>
<td>5.00</td>
<td>2.00</td>
</tr>
<tr>
<td>Native American</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Other</td>
<td>5.33</td>
<td>3.00</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100.00</td>
<td>100.00</td>
<td>100.00</td>
</tr>
</tbody>
</table>
School Year 2009-2010 (upduplicated headcount)
Student counted as living in residence hall if lived in campus housing at least one semester during the year

<table>
<thead>
<tr>
<th>Description</th>
<th>MSU Students</th>
<th>MSU Students Living in Residence Halls</th>
<th>MSU Employees Excluding Student Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
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<tr>
<td>Native Hawaiian/Pacific Islander</td>
<td>5</td>
<td>0%</td>
<td>1</td>
</tr>
<tr>
<td>Native American</td>
<td>68</td>
<td>1%</td>
<td>12</td>
</tr>
<tr>
<td>Non-Resident Alien</td>
<td>588</td>
<td>8%</td>
<td>51</td>
</tr>
<tr>
<td>Not Reported</td>
<td>126</td>
<td>2%</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7518</strong></td>
<td><strong>100%</strong></td>
<td><strong>1378</strong></td>
</tr>
</tbody>
</table>

Source: Office of Institutional Research, Planning, and Assessment
January 2011
MSU Students 2009-10

- White: 64%
- Black: 12%
- Hispanic: 10%
- Asian: 8%
- Native Hawaiian/Pacific Islander: 2%
- Native American: 1%
- Non-Resident Alien: 3%
- Not Reported: 1%

Source: Office of Institutional Research, Planning, and Assessment
January 2011
Page 2 of 4
Analysis

The Texas Racial Profiling Law (S.B. 1074) requires that all police departments in the state collect traffic-related data and report this information to their local governing authority. The purpose in collecting and presenting this information is to determine if a police officer is engaging in the practice of profiling minority motorists. Despite the fact most agree that it is a good idea for police departments to be accountable to their citizens and carry a transparent image before the community, it is very difficult to derive from aggregate figures indicators that suggest whether or not a particular officer is racially profiling. That is, it is very difficult to detect specific “individual” behavior with “aggregate-level” data.

In this report, three different types of analyses were conducted. The first of these involved an evaluation of the 2010 traffic stop data. This particular analysis measured, as required by S.B. 1074, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, and individuals belonging to the “other” category, that came in contact with the police and were issued a traffic-related citation in 2010. In addition, the analysis included information relevant to the number and percentage of searches (see table 1) while indicating the type of search (i.e., consensual or probable cause) conducted. Finally, it identified the number and percentage of individuals who, after they were issued a citation, were arrested.

The second type of analysis was based on a comparison of the 2010 traffic contact data with a particular baseline. Of all the baseline measures available, the Midwestern State University Police Department decided to adopt, as a baseline measure, the Fair Roads Standard. The Fair Roads Standard is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for race and ethnicity.

Finally, a third type of analysis was conducted while using the 2008 and 2009 traffic contact data. Specifically, all traffic-related contacts made in 2008 were compared to similar figures reported in 2008 and 2009. Despite the fact most researchers do not support the notion that in three years, a “trend” can be developed, when considering this analysis, it was determined that comparing the data from these three years may highlight possible areas of consistency with regards to traffic-related contacts. That is, the three year comparison has the potential of revealing early indicators that a possible trend of police-initiated contacts with members of a specific minority group, is developing.

Overall, the data suggests that the Midwestern State University Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received any complaints from the community members regarding officers misconduct associated with racial profiling practices.

The continuing effort to collect police contact data will assure an on-going evaluation of the Midwestern State University Police Department practices. Thus, allowing for the citizens of the Midwestern State University community to benefit from professional and courteous service from their police department.
Overall, the data suggests that the Midwestern State University Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received any complaints from the community members regarding officers misconduct associated with racial profiling practices. One interesting piece of data indicates that the MSU Police Department did not conduct a single search of a vehicle related to a traffic stop in 2010.

The continuing effort to collect police contact data will assure an on-going evaluation of the Midwestern State University Police Department practices. Thus, allowing for the citizens of the Midwestern State University community to benefit from professional and courteous service from their police department.
Checklist

(I) The following requirements were met by the Midwestern State University Police Department in accordance with Senate Bill 1074:

☑ Clearly defined act of actions that constitute racial profiling

☑ Statement indicating prohibition of any peace officer employed by the Midwestern State University 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 II) 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

☑ Produce an annual report on police contacts (Tier II) and present this to local governing body by March 1, 2011.

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

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

Dan Williams
Chief of Police
3410 Taft Blvd
Wichita Falls, TX 76308
940-397-4239