

TEXAS DEPARTMENT OF PUBLIC SAFETY

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May 1, 2023

The Honorable Kirk Watson
Mayor
City of Austin
301 West 2nd Street
Austin, Texas 78701

Dear Mayor Watson,

This letter is in response to your request for information regarding the Texas Department of Public Safety's assistance to the Austin Police Department to include demographic data on traffic stops, enforcement actions, and DPS policies and procedures with regard to traffic enforcement and racial profiling.

The strategy employed by the Austin Police Department in this initiative has proven to work in other urban areas experiencing large increases in violent crime and is most often referred to as "evidence-based policing" or "hot spot policing." As I stated at your press conference, it is the absence of crime and disorder that best illustrates success in our profession and not the number of enforcement actions. However, we do have a system in place to track enforcement action data directly related to the Austin Violent Crime Task Force which is listed in the below table:

APD Assists	1,159	Cocaine Seized	1.51 lbs	Guns	16 Rifles 65 Handguns
Total Arrests	780	Heroin Seized	1.31 lbs	Currency	\$4,605
Misdemeanor Arrests	320	Methamphetamine Seized	355.16 lbs	Crash Investigations	90
Felony Arrests	460	Marijuana Seized	21.91 lbs	Welfare Checks	54
Stolen Vehicles	44	Fentanyl Seized	2.1 lbs Powder (507,000 Lethal Doses) 1,059 Pills		

DPS Troopers are required to enforce state laws including those in the Texas Transportation Code, and they do not have the discretion to pick and choose which traffic laws to enforce. They do; however, have the discretion to issue either a warning or citation based upon the violation and circumstances. DPS captures traffic stop data at the county and state level for reporting purposes and the below charts contain DPS traffic stop data for Travis County for calendar years 2021, 2022, 2023 (YTD) and since the Austin VCTF began on March 30, 2023. We averaged over 10,000 traffic stops in Travis County in the first month of operation, which is a substantial increase from previous months. Traffic stops of black motorists remained consistent in 2021, 2022 and 2023. However, the percentage of Latino/Hispanic stops increased from 38% of the traffic stops in Travis County in 2022 to over 54% since the operation began on March 30, 2023. Consistent with best practices, DPS was deployed to high crime/high call hot spots within the city, and the percentage of stops in these two areas are consistent with the population demographics in these areas. The demographic data provided by the Austin Police Department of the two major areas DPS is conducting patrol operations is reflected in the below table. Using city-wide demographic data to access DPS patrol operations is misleading and we recommend against it.

DPS was deployed to high crime/high call hot spots within the city, and the percentage of DPS traffic stops during the first month of the operation are consistent with the population demographics in the area of operation as illustrated in the below table provided by APD. Using city-wide demographic data to assess DPS patrol operations is misleading and we recommend against it.

DPS	APD	% White	% Black	% Hispanic	% Asian
DPS North	Rundberg	28.2	8.5	69.2	3.5
DPS North	Cameron	31.9	12.0	61.0	2.7
DPS South	Riverside	47.0	11.7	41.5	5.6

TOTAL STOPS 2021 TRAVIS COUNTY		
Race/Ethnicity	Total Motor Vehicle Stops	% of Total Stops
Alaska Native or American Indian	57	0.32%
Asian or Pacific Islander	757	4.22%
Black	2,837	15.80%
White	8,084	45.01%
Hispanic or Latino	6,224	34.66%
Total	17,959	100.00%

TOTAL STOPS 2022 TRAVIS COUNTY		
Race/Ethnicity	Total Motor Vehicle Stops	% of Total Stops
Alaska Native or American Indian	48	0.26%
Asian or Pacific Islander	788	4.20%
Black	3,092	16.50%
White	7,661	40.87%
Hispanic or Latino	7,154	38.17%
Total	18,743	100.00%

TOTAL STOPS 2023 YTD* TRAVIS COUNTY		
Race/Ethnicity	Total Motor Vehicle Stops	% of Total Stops
Alaska Native or American Indian	66	0.40%
Asian or Pacific Islander	748	4.53%
Black	2,629	15.91%
White	4,824	29.19%
Hispanic or Latino	8,261	49.98%
Total	16,528	100.00%

*YTD 1/1/2023 – 4/27/2023

TOTAL STOPS 3/30 - 4/27/23 TRAVIS COUNTY		
Race/Ethnicity	Total Motor Vehicle Stops	% of Total Stops
Alaska Native or American Indian	42	0.35%
Asian or Pacific Islander	548	4.63%
Black	1,777	15.01%
White	3,055	25.80%
Hispanic or Latino	6,419	54.21%
Total	11,841	100.00%

DPS expects its Officers to be professional and courteous at all times in dealing with public and we encourage citizens to report any questionable conduct by a DPS Officer. The DPS Inspector General's telephone number is printed on every DPS issued citation and warning and each stop is recorded by a dash camera and a body worn recorder. The public can also report officer misconduct by sending an email to <https://www.dps.texas.gov/section/about-dps/complaints-compliments>.

The DPS video and audio recordings are available to the County Attorney, District Attorney and the United State Attorney for their review and any concerns that they may have regarding the conduct of a DPS Officer is referred to the Inspector General for investigation. If the conduct could be a violation of the law, the Texas Rangers conduct the criminal investigation and the Inspector General conducts the internal investigation.

Enforcing traffic laws in high crime and high crash areas is effective, and traffic stops made by DPS Troopers deployed to Austin have resulted in felony arrests, drug seizures, weapon seizures and the recovery of stolen vehicles. For example, a Trooper conducted a traffic stop on a Mercedes passenger vehicle for no front license plate and illegally tinted windows that resulted in a felony arrest of the driver for possession of cocaine and unlawfully carrying a handgun and the seizure of a pistol and AR .223 caliber rifle. A Chevrolet passenger vehicle was stopped, and the driver was arrested on an active warrant for terrorist threat and possession of cocaine and methamphetamine. A pistol was recovered from the vehicle. A Nissan passenger vehicle was stopped for no front license plate and the driver was arrested for possession of a stolen handgun and possession of marijuana. A passenger car was stopped, and the driver fled on foot. He was captured and had two outstanding felony warrants. He was also charged with possession of methamphetamine and stealing a vehicle. A Toyota passenger vehicle was stopped for a traffic violation and resulted in the arrest of the driver for sexually assaulting the passenger, who was a 14-year-old girl. A Trooper attempted to stop a Dodge Charger for registration on the vehicle which resulted in a pursuit and arrest of the driver on a felony probation warrant for Aggravated Assault. Troopers stopped a Chrysler 300 for a defective headlamp and arrested the driver on an active warrant and the unlawful carrying of a handgun and seized a handgun and rifle. A Trooper attempted to stop a Dodge Durango SRT Hellcat for vehicle registration, and the subject fled and eventually crashed and was arrested for stealing the vehicle, evading and resisting arrest.

DPS has also deployed Special Agents to the area of operation to work in tandem with Troopers to detect and interdict criminal activity. For example, last week, DPS Special Agents and Troopers executed a DPS search warrant after a series of enforcement actions throughout the night that resulted in the arrest of two subjects and the seizure of cocaine, heroin, methamphetamine, 507,000 lethal doses of fentanyl, six handguns, ten rifles (some fully automatic), two shotguns, two stolen motorcycles, three ballistic vests, a suppressor, thousands of rounds of ammunition and other contraband.

You also requested information about the DPS complaint process which was discussed above and DPS policies and procedures to mitigate racial profiling. The Department of Public Safety reports to the Public Safety Commission which is comprised of five citizen members nominated by the Governor and confirmed by the Senate to serve 6-year terms. As previously noted, the department has an Office of Inspector General to investigate allegations of misconduct by DPS personnel including racial profiling, and he reports directly to the Public Safety Commission.

Racial profiling (explicit or implicit) is antithetical to professional policing and a violation of the state and federal laws. DPS has established robust policies and operating procedures to mitigate the risk of racial profiling by its commissioned personnel to include:

- Troopers are required to record audio and video for the entirety of a traffic stop.
- All mobile video and body-worn camera (BWC) recordings are retained for a minimum of 90 days. Recordings involving custody arrests, Class B or above, are retained until the case is adjudicated or closed, plus two years. Any recorded media that led to a formal complaint, which includes allegations of racial profiling, is submitted to the Office of Inspector General for review and indefinite retention.
- In-car mobile video cameras are programmed to capture the previous two minutes of video prior to activation, and BWCs are programmed to capture the previous 30 seconds prior to activation. Audio recordings on both platforms begin at the moment of activation.
- Sergeants are required to perform a minimum of 20 hours of video performance observations on troopers within their area during each six-month bi-annual reporting period.
- Information and instructions for submitting compliments on or filing complaints against troopers are provided on each printed copy of written citations, warnings, and commercial motor vehicle inspections. Additionally, instructions regarding complaints and compliments are provided to the public on the DPS website at <https://www.dps.texas.gov/section/about-dps/complaints-compliments>.
- As a matter of policy, Troopers are not provided the discretion to use verbal warnings as an enforcement action. DPS only recognizes three enforcement actions for use by its traffic law enforcement officers: written warnings, citations, and custody arrests. The purpose of collecting written documentation on each enforcement action is to ensure personnel accountability and public transparency.
- DPS limits troopers' ability to seek consent to search vehicles to only instances where the trooper has observed articulable reasonable suspicion that the vehicle occupant(s) may be engaged in criminal conduct prior to requesting the person(s) consent.
- DPS utilizes an internal, statistical process to identify Troopers who display possible disparities in whom they choose to stop while conducting traffic patrol. This early intervention system utilizes statistical methods to identify personnel who may demonstrate outlier tendencies for stopping one race/ethnicity over another when compared to their peers within a geographical area of the state. Once personnel are identified as possible outliers, an internal review of the officer(s) in-car and BWC recordings is conducted. (Being flagged as a statistical outlier does not indicate any proof of wrongdoing, only that the officer's activity should be reviewed for further consideration by leadership.) Once identified, commissioned supervisors are required to review a sampling of traffic stop recordings to document the officer's adherence to policy and procedure. While reviewing the pre-determined number of videos, the supervisor will document the race of each driver and notate any deviations from policy for the following objective metrics:

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- Probable Cause or Reasonable Suspicion for the stop is stated to the driver
- Probable Cause or Reasonable Suspicion stated was valid for conducting a traffic stop
- If the Trooper adhered to the required Seven-Step Violator Contact protocol
- Whether or not proper enforcement action was taken
- Notate what type of enforcement action was taken (written warning, citation, custody arrest)
- Whether or not a search was conducted
- Whether or not the search was supported by Probable Cause or Reasonable Suspicion
- Whether the trooper displayed courtesy and professionalism during the entire traffic stop or not
- Supervisor's notations of any additional concerns otherwise not listed that may have been observed
- Additionally, with the use of a department-wide Early Intervention System (EIS), which the OIG oversees, alerts for supervisory review of personnel actions can be used to review possible concerning behaviors as they relate to the following:
 - Use of Force events
 - Citizen concerns
 - Repeated Coaching/Counseling records
 - Vehicle "fleet" crashes
 - Vehicle pursuits
 - Equal Employment Opportunity (EEO) complaints

Lastly, we are grateful for the outstanding relationship that we have with the brave men and women of the Austin Police Department.

Sincerely,



Steven C. McCraw
Colonel/Director