

1-1 By: West S.B. No. 1448
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 23, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 23, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1448 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to reports on racial profiling in connection with motor
1-11 vehicle stops; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Article 2.132, Code of Criminal Procedure, is
1-14 amended by amending Subsections (a), (b), (d), and (e) and adding
1-15 Subsection (g) to read as follows:

1-16 (a) In this article:

1-17 (1) "Law enforcement agency" means an agency of the
1-18 state, or of a county, municipality, or other political subdivision
1-19 of the state, that employs peace officers who make motor vehicle
1-20 [~~traffic~~] stops in the routine performance of the officers'
1-21 official duties.

1-22 (2) "Motor vehicle stop" means an occasion in which a
1-23 peace officer stops a motor vehicle for an alleged violation of a
1-24 law or ordinance.

1-25 (3) "Race or ethnicity" means of a particular descent,
1-26 including Caucasian, African, Hispanic, Asian, [~~or~~] Native
1-27 American, or Middle Eastern descent.

1-28 (b) Each law enforcement agency in this state shall adopt a
1-29 detailed written policy on racial profiling. The policy must:

1-30 (1) clearly define acts constituting racial
1-31 profiling;

1-32 (2) strictly prohibit peace officers employed by the
1-33 agency from engaging in racial profiling;

1-34 (3) implement a process by which an individual may
1-35 file a complaint with the agency if the individual believes that a
1-36 peace officer employed by the agency has engaged in racial
1-37 profiling with respect to the individual;

1-38 (4) provide public education relating to the agency's
1-39 complaint process;

1-40 (5) require appropriate corrective action to be taken
1-41 against a peace officer employed by the agency who, after an
1-42 investigation, is shown to have engaged in racial profiling in
1-43 violation of the agency's policy adopted under this article;

1-44 (6) require collection of information relating to
1-45 motor vehicle [~~traffic~~] stops in which a citation is issued and to
1-46 arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops,
1-47 including information relating to:

1-48 (A) the race or ethnicity of the individual
1-49 detained; and

1-50 (B) whether a search was conducted and, if so,
1-51 whether the individual [~~person~~] detained consented to the search;
1-52 and

1-53 (7) require the chief administrator of the agency,
1-54 regardless of whether the administrator is elected, employed, or
1-55 appointed, to submit to the governing body of each county or
1-56 municipality served by the agency an annual report of the
1-57 information collected under Subdivision (6) if the agency is an
1-58 agency of a county, municipality, or other political subdivision of
1-59 the state.

1-60 (d) On adoption of a policy under Subsection (b), a law
1-61 enforcement agency shall examine the feasibility of installing
1-62 video camera and transmitter-activated equipment in each agency law
1-63 enforcement motor vehicle regularly used to make motor vehicle

2-1 [~~traffic~~] stops and transmitter-activated equipment in each agency
2-2 law enforcement motorcycle regularly used to make motor vehicle
2-3 [~~traffic~~] stops. If a law enforcement agency installs video or
2-4 audio equipment as provided by this subsection, the policy adopted
2-5 by the agency under Subsection (b) must include standards for
2-6 reviewing video and audio documentation.

2-7 (e) A report required under Subsection (b)(7) may not
2-8 include identifying information about a peace officer who makes a
2-9 motor vehicle [~~traffic~~] stop or about an individual who is stopped
2-10 or arrested by a peace officer. This subsection does not affect the
2-11 collection of information as required by a policy under Subsection
2-12 (b)(6).

2-13 (g) On notice that a law enforcement agency intentionally
2-14 failed to submit a report required under Subsection (b)(7), the
2-15 Commission on Law Enforcement Officer Standards and Education shall
2-16 begin disciplinary procedures against the chief administrator of
2-17 the agency.

2-18 SECTION 2. Article 2.133, Code of Criminal Procedure, is
2-19 amended to read as follows:

2-20 Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC AND~~
2-21 ~~PEDESTRIAN~~] STOPS. (a) In this article, "race [+

2-22 [~~(1) "Race~~] or ethnicity" has the meaning assigned by
2-23 Article 2.132(a).

2-24 [~~(2) "Pedestrian stop" means an interaction between a~~
2-25 ~~peace officer and an individual who is being detained for the~~
2-26 ~~purpose of a criminal investigation in which the individual is not~~
2-27 ~~under arrest.~~]

2-28 (b) A peace officer who stops a motor vehicle for an alleged
2-29 violation of a law or ordinance [~~regulating traffic or who stops a~~
2-30 ~~pedestrian for any suspected offense~~] shall report to the law
2-31 enforcement agency that employs the officer information relating to
2-32 the stop, including:

2-33 (1) a physical description of any [each] person
2-34 operating the motor vehicle who is detained as a result of the stop,
2-35 including:

2-36 (A) the person's gender; and

2-37 (B) the person's race or ethnicity, as stated by
2-38 the person or, if the person does not state the person's race or
2-39 ethnicity, as determined by the officer to the best of the officer's
2-40 ability;

2-41 (2) the initial reason for the stop [~~traffic law or~~
2-42 ~~ordinance alleged to have been violated or the suspected offense~~];

2-43 (3) whether the officer conducted a search as a result
2-44 of the stop and, if so, whether the person detained consented to the
2-45 search;

2-46 (4) whether any contraband or other evidence was
2-47 discovered in the course of the search and a description [~~the type~~]
2-48 of the contraband or evidence [~~discovered~~];

2-49 (5) the reason for the search, including whether:

2-50 (A) any contraband or other evidence was in plain
2-51 view;

2-52 (B) any probable cause or reasonable suspicion
2-53 existed to perform the search; or

2-54 (C) the search was performed as a result of the
2-55 towing of the motor vehicle or the arrest of any person in the motor
2-56 vehicle [~~existed and the facts supporting the existence of that~~
2-57 ~~probable cause~~];

2-58 (6) whether the officer made an arrest as a result of
2-59 the stop or the search, including a statement of whether the arrest
2-60 was based on a violation of the Penal Code, a violation of a traffic
2-61 law or ordinance, or an outstanding warrant and a statement of the
2-62 offense charged;

2-63 (7) the street address or approximate location of the
2-64 stop; and

2-65 (8) whether the officer issued a verbal or written
2-66 warning or a citation as a result of the stop [~~, including a~~
2-67 ~~description of the warning or a statement of the violation~~
2-68 ~~charged~~].

2-69 SECTION 3. Article 2.134, Code of Criminal Procedure, is

3-1 amended by amending Subsections (a) through (e) and adding
3-2 Subsection (g) to read as follows:

3-3 (a) In this article, "motor vehicle [pedestrian] stop" has
3-4 the meaning assigned by Article 2.132 [~~means an interaction between~~
3-5 ~~a peace officer and an individual who is being detained for the~~
3-6 ~~purpose of a criminal investigation in which the individual is not~~
3-7 ~~under arrest~~].

3-8 (b) A law enforcement agency shall compile and analyze the
3-9 information contained in each report received by the agency under
3-10 Article 2.133. Not later than March 1 of each year, each [~~local~~]
3-11 law enforcement agency shall submit a report containing the
3-12 incident-based data [information] compiled during the previous
3-13 calendar year to the Commission on Law Enforcement Officer
3-14 Standards and Education and, if the law enforcement agency is a
3-15 local law enforcement agency, to the governing body of each county
3-16 or municipality served by the agency [~~in a manner approved by the~~
3-17 ~~agency~~].

3-18 (c) A report required under Subsection (b) must be submitted
3-19 by the chief administrator of the law enforcement agency,
3-20 regardless of whether the administrator is elected, employed, or
3-21 appointed, and must include:

3-22 (1) a comparative analysis of the information compiled
3-23 under Article 2.133 to:

3-24 (A) determine the prevalence of racial profiling
3-25 by peace officers employed by the agency; and

3-26 (B) examine the disposition of motor vehicle
3-27 [~~traffic and pedestrian~~] stops made by officers employed by the
3-28 agency, including searches resulting from the stops; and

3-29 (2) information relating to each complaint filed with
3-30 the agency alleging that a peace officer employed by the agency has
3-31 engaged in racial profiling.

3-32 (d) A report required under Subsection (b) may not include
3-33 identifying information about a peace officer who makes a motor
3-34 vehicle [traffic or pedestrian] stop or about an individual who is
3-35 stopped or arrested by a peace officer. This subsection does not
3-36 affect the reporting of information required under Article
3-37 2.133(b)(1).

3-38 (e) The Commission on Law Enforcement Officer Standards and
3-39 Education, in accordance with Section 1701.162, Occupations Code,
3-40 shall develop guidelines for compiling and reporting information as
3-41 required by this article.

3-42 (g) On notice that a law enforcement agency intentionally
3-43 failed to submit a report required under Subsection (b), the
3-44 Commission on Law Enforcement Officer Standards and Education shall
3-45 begin disciplinary procedures against the chief administrator of
3-46 the agency.

3-47 SECTION 4. Article 2.135, Code of Criminal Procedure, is
3-48 amended to read as follows:

3-49 Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND
3-50 AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting
3-51 requirement under Article 2.133 and the chief administrator of a
3-52 law enforcement agency, regardless of whether the administrator is
3-53 elected, employed, or appointed, is exempt from the compilation,
3-54 analysis, and reporting requirements under Article 2.134 if:

3-55 (1) during the calendar year preceding the date that a
3-56 report under Article 2.134 is required to be submitted:

3-57 (A) each law enforcement motor vehicle regularly
3-58 used by an officer employed by the agency to make motor vehicle
3-59 [~~traffic and pedestrian~~] stops is equipped with video camera and
3-60 transmitter-activated equipment and each law enforcement
3-61 motorcycle regularly used to make motor vehicle [traffic and
3-62 pedestrian] stops is equipped with transmitter-activated
3-63 equipment; and

3-64 (B) each motor vehicle [traffic and pedestrian]
3-65 stop made by an officer employed by the agency that is capable of
3-66 being recorded by video and audio or audio equipment, as
3-67 appropriate, is recorded by using the equipment; or

3-68 (2) the governing body of the county or municipality
3-69 served by the law enforcement agency, in conjunction with the law

4-1 enforcement agency, certifies to the Department of Public Safety,
4-2 not later than the date specified by rule by the department, that
4-3 the law enforcement agency needs funds or video and audio equipment
4-4 for the purpose of installing video and audio equipment as
4-5 described by Subsection (a)(1)(A) and the agency does not receive
4-6 from the state funds or video and audio equipment sufficient, as
4-7 determined by the department, for the agency to accomplish that
4-8 purpose.

4-9 (b) Except as otherwise provided by this subsection, a law
4-10 enforcement agency that is exempt from the requirements under
4-11 Article 2.134 shall retain the video and audio or audio
4-12 documentation of each motor vehicle [~~traffic and pedestrian~~] stop
4-13 for at least 90 days after the date of the stop. If a complaint is
4-14 filed with the law enforcement agency alleging that a peace officer
4-15 employed by the agency has engaged in racial profiling with respect
4-16 to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall
4-17 retain the video and audio or audio record of the stop until final
4-18 disposition of the complaint.

4-19 (c) This article does not affect the collection or reporting
4-20 requirements under Article 2.132.

4-21 (d) In this article, "motor vehicle stop" has the meaning
4-22 assigned by Article 2.132.

4-23 SECTION 5. Chapter 2, Code of Criminal Procedure, is
4-24 amended by adding Article 2.1385 to read as follows:

4-25 Art. 2.1385. CIVIL PENALTY. (a) If the chief
4-26 administrator of a local law enforcement agency intentionally fails
4-27 to submit the incident-based data as required by Article 2.134, the
4-28 agency is liable to the state for a civil penalty in the amount of
4-29 \$1,000 for each violation. The attorney general may sue to collect
4-30 a civil penalty under this subsection.

4-31 (b) From money appropriated to the agency for the
4-32 administration of the agency, the executive director of a state law
4-33 enforcement agency that intentionally fails to submit the
4-34 incident-based data as required by Article 2.134 shall remit to the
4-35 comptroller the amount of \$1,000 for each violation.

4-36 (c) Money collected under this article shall be deposited in
4-37 the state treasury to the credit of the general revenue fund.

4-38 SECTION 6. Subchapter A, Chapter 102, Code of Criminal
4-39 Procedure, is amended by adding Article 102.022 to read as follows:

4-40 Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE
4-41 REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this
4-42 article, "moving violation" means an offense that:

- 4-43 (1) involves the operation of a motor vehicle; and
- 4-44 (2) is classified as a moving violation by the
4-45 Department of Public Safety under Section 708.052, Transportation
4-46 Code.

4-47 (b) A defendant convicted of a moving violation in a justice
4-48 court, county court, county court at law, or municipal court shall
4-49 pay a fee of 15 cents as a cost of court.

4-50 (c) In this article, a person is considered convicted if:

- 4-51 (1) a sentence is imposed on the person;
- 4-52 (2) the person receives community supervision,
4-53 including deferred adjudication; or
- 4-54 (3) the court defers final disposition of the person's
4-55 case.

4-56 (d) The clerks of the respective courts shall collect the
4-57 costs described by this article. The clerk shall keep separate
4-58 records of the funds collected as costs under this article and shall
4-59 deposit the funds in the county or municipal treasury, as
4-60 appropriate.

4-61 (e) The custodian of a county or municipal treasury shall:

- 4-62 (1) keep records of the amount of funds on deposit
4-63 collected under this article; and
- 4-64 (2) send to the comptroller before the last day of the
4-65 first month following each calendar quarter the funds collected
4-66 under this article during the preceding quarter.

4-67 (f) A county or municipality may retain 10 percent of the
4-68 funds collected under this article by an officer of the county or
4-69 municipality as a collection fee if the custodian of the county or

5-1 municipal treasury complies with Subsection (e).

5-2 (g) If no funds due as costs under this article are
5-3 deposited in a county or municipal treasury in a calendar quarter,
5-4 the custodian of the treasury shall file the report required for the
5-5 quarter in the regular manner and must state that no funds were
5-6 collected.

5-7 (h) The comptroller shall deposit the funds received under
5-8 this article to the credit of the Civil Justice Data Repository fund
5-9 in the general revenue fund, to be used only by the Commission on
5-10 Law Enforcement Officer Standards and Education to implement duties
5-11 under Section 1701.162, Occupations Code.

5-12 (i) Funds collected under this article are subject to audit
5-13 by the comptroller.

5-14 SECTION 7. Section 102.061, Government Code, is amended to
5-15 read as follows:

5-16 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
5-17 STATUTORY COUNTY COURT. The clerk of a statutory county court shall
5-18 collect fees and costs on conviction of a defendant as follows:

5-19 (1) a jury fee (Art. 102.004, Code of Criminal
5-20 Procedure) . . . \$20;

5-21 (2) a fee for services of the clerk of the court (Art.
5-22 102.005, Code of Criminal Procedure) . . . \$40;

5-23 (3) a records management and preservation services fee
5-24 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

5-25 (4) a security fee on a misdemeanor offense (Art.
5-26 102.017, Code of Criminal Procedure) . . . \$3;

5-27 (5) a graffiti eradication fee (Art. 102.0171, Code of
5-28 Criminal Procedure) . . . \$5;

5-29 (6) a court cost on conviction in Comal County (Sec.
5-30 152.0522, Human Resources Code) . . . \$4; ~~and~~

5-31 (7) a juvenile case manager fee (Art. 102.0174, Code
5-32 of Criminal Procedure) . . . \$5; and

5-33 (8) a civil justice fee (Art. 102.022, Code of
5-34 Criminal Procedure) . . . \$0.15.

5-35 SECTION 8. Section 102.081, Government Code, is amended to
5-36 read as follows:

5-37 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
5-38 COUNTY COURT. The clerk of a county court shall collect fees and
5-39 costs on conviction of a defendant as follows:

5-40 (1) a jury fee (Art. 102.004, Code of Criminal
5-41 Procedure) . . . \$20;

5-42 (2) a fee for clerk of the court services (Art.
5-43 102.005, Code of Criminal Procedure) . . . \$40;

5-44 (3) a records management and preservation services fee
5-45 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

5-46 (4) a security fee on a misdemeanor offense (Art.
5-47 102.017, Code of Criminal Procedure) . . . \$3;

5-48 (5) a graffiti eradication fee (Art. 102.0171, Code of
5-49 Criminal Procedure) . . . \$5; ~~and~~

5-50 (6) a juvenile case manager fee (Art. 102.0174, Code
5-51 of Criminal Procedure) . . . \$5; and

5-52 (7) a civil justice fee (Art. 102.022, Code of
5-53 Criminal Procedure) . . . \$0.15.

5-54 SECTION 9. Section 102.101, Government Code, as amended by
5-55 Chapters 240 and 949, Acts of the 79th Legislature, Regular
5-56 Session, 2005, is reenacted and amended to read as follows:

5-57 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN
5-58 JUSTICE COURT. A clerk of a justice court shall collect fees and
5-59 costs on conviction of a defendant as follows:

5-60 (1) a jury fee (Art. 102.004, Code of Criminal
5-61 Procedure) . . . \$3;

5-62 (2) a fee for withdrawing request for jury less than 24
5-63 hours before time of trial (Art. 102.004, Code of Criminal
5-64 Procedure) . . . \$3;

5-65 (3) a jury fee for two or more defendants tried jointly
5-66 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

5-67 (4) a security fee on a misdemeanor offense (Art.
5-68 102.017, Code of Criminal Procedure) . . . \$3;

5-69 (5) a fee for technology fund on a misdemeanor offense

6-1 (Art. 102.0173, Code of Criminal Procedure) . . . \$4; [~~and~~]
6-2 (6) a court cost on conviction in Comal County (Sec.
6-3 152.0522, Human Resources Code) . . . \$1.50; [~~and~~]
6-4 (7) a juvenile case manager fee (Art. 102.0174, Code
6-5 of Criminal Procedure) . . . \$5; and
6-6 (8) a civil justice fee (Art. 102.022, Code of
6-7 Criminal Procedure) . . . \$0.15.

6-8 SECTION 10. Section 102.121, Government Code, is amended to
6-9 read as follows:

6-10 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
6-11 MUNICIPAL COURT. The clerk of a municipal court shall collect fees
6-12 and costs on conviction of a defendant as follows:

6-13 (1) a jury fee (Art. 102.004, Code of Criminal
6-14 Procedure) . . . \$3;

6-15 (2) a fee for withdrawing request for jury less than 24
6-16 hours before time of trial (Art. 102.004, Code of Criminal
6-17 Procedure) . . . \$3;

6-18 (3) a jury fee for two or more defendants tried jointly
6-19 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

6-20 (4) a security fee on a misdemeanor offense (Art.
6-21 102.017, Code of Criminal Procedure) . . . \$3;

6-22 (5) a fee for technology fund on a misdemeanor offense
6-23 (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;
6-24 [~~and~~]

6-25 (6) a juvenile case manager fee (Art. 102.0174, Code
6-26 of Criminal Procedure) . . . \$5; and

6-27 (7) a civil justice fee (Art. 102.022, Code of
6-28 Criminal Procedure) . . . \$0.15.

6-29 SECTION 11. Subchapter D, Chapter 1701, Occupations Code,
6-30 is amended by adding Section 1701.162 to read as follows:

6-31 Sec. 1701.162. COLLECTION OF CERTAIN INCIDENT-BASED DATA
6-32 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall
6-33 collect and maintain incident-based data submitted to the
6-34 commission under Article 2.134, Code of Criminal Procedure,
6-35 including incident-based data compiled by a law enforcement agency
6-36 from reports received by the law enforcement agency under Article
6-37 2.133 of that code. The commission in consultation with the
6-38 Department of Public Safety, the Bill Blackwood Law Enforcement
6-39 Management Institute of Texas, and the University of North Texas
6-40 shall develop guidelines for submitting in a standard format the
6-41 report containing incident-based data as required by Article 2.134,
6-42 Code of Criminal Procedure.

6-43 SECTION 12. Subsection (a), Section 1701.501, Occupations
6-44 Code, is amended to read as follows:

6-45 (a) The commission shall revoke or suspend a license, place
6-46 on probation a person whose license has been suspended, or
6-47 reprimand a license holder for a violation of:

6-48 (1) this chapter;

6-49 (2) the reporting requirements provided by Articles
6-50 2.132 and 2.134, Code of Criminal Procedure; or

6-51 (3) a commission rule.

6-52 SECTION 13. (a) The requirements of Articles 2.132, 2.133,
6-53 and 2.134, Code of Criminal Procedure, as amended by this Act,
6-54 relating to the compilation, analysis, and submission of
6-55 incident-based data apply only to information based on a motor
6-56 vehicle stop occurring on or after January 1, 2008.

6-57 (b) The imposition of a cost of court under Article 102.022,
6-58 Code of Criminal Procedure, as added by this Act, applies only to an
6-59 offense committed on or after the effective date of this Act. An
6-60 offense committed before the effective date of this Act is covered
6-61 by the law in effect when the offense was committed, and the former
6-62 law is continued in effect for that purpose. For purposes of this
6-63 section, an offense was committed before the effective date of this
6-64 Act if any element of the offense was committed before that date.

6-65 SECTION 14. This Act takes effect September 1, 2007.

6-66 * * * * *