

MURPHY CITY COUNCIL AGENDA  
REGULAR CITY COUNCIL MEETING  
FEBRUARY 4, 2014 AT 6:00 P.M.  
206 NORTH MURPHY ROAD  
MURPHY, TEXAS 75094



Eric Barna  
Mayor

Owais Siddiqui  
Mayor Pro Tem

Ben St. Clair  
Deputy Mayor Pro Tem

Scott Bradley  
Councilmember

Betty Spraggins  
Councilmember

Bernard Grant  
Councilmember

Rob Thomas  
Councilmember

James Fisher  
City Manager

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on January 31, 2014 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

**1. CALL TO ORDER**

**2. INVOCATION & PLEDGE OF ALLEGIANCE**

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

**4. PUBLIC COMMENTS**

**5. PRESENTATION ITEMS**

**6. CONSENT AGENDA**

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

- A. Consider and/or act upon January 21, 2014 regular meeting minutes.
- B. Consider and/or act upon approval of an Ordinance ordering a General Election to be held on May 10, 2014, for the purpose of electing the Mayor and Council Members for Place 3, and Place 5 to a three (3) year term of office.
- C. Consider and/or act on authorizing the City Manager to execute the Contract for Election Services for the May 10, 2014 General Election between the City of Murphy and the Elections Administrator of Collin County, Texas.
- D. Acceptance of the Annual Traffic Contact Report for 2013 for the Murphy Police Department (also known as the Racial Profiling Report).

**7. INDIVIDUAL CONSIDERATION**

- A. Discussion regarding North Murphy Road and associated projects:
  - 1. Taking North Murphy Road off of the state highway system; and,
  - 2. Safe Routes to Schools (SRTS) sidewalk and enhanced crosswalk grant projects.
- B. Hold a public hearing and consider and/or act on the application of BV Murphy TFG, LLC to re-plat 150 West FM 544, currently platted as Lot 1R-A, Block A, Murphy Village Addition.
- C. Consider and/or act on revising the Alcohol Policy for the Murphy Community Center (MCC) and Murphy Activity Center (MAC).

- D. Consider and/or act on awarding the bid for Animal Shelter Project and authorizing the City Manager to execute contract documents.
- E. Consider and/or act upon authorizing the City Manager to execute the necessary Right of Way Lease Agreements with DART (Dallas Area Rapid Transit).

#### **8. CITY MANAGER/STAFF REPORTS**

North Murphy Road Construction Update  
Murphy Central Park Grand Opening – April 5<sup>th</sup>  
May Election

#### **9. EXECUTIVE SESSION**

The City Council will hold a closed Executive Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

#### **10. RECONVENE INTO REGULAR SESSION**

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- A. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
- B. Take Action on any Executive Session Item

#### **11. ADJOURNMENT**

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on January 31, 2014 by 5:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.



Kristi Gilbert, TRMC, CMC, CPM  
City Secretary

In compliance with the American with Disabilities Act, the City of Murphy will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 972.468.4011 or [kgilbert@murphytx.org](mailto:kgilbert@murphytx.org).

*Notice of Possible Quorum: There may be a quorum of the 4B Community Development Corporation, the Animal Shelter Advisory Committee, the Board of Adjustment, the Building and Fire Code Appeals Board, the Ethics Review Commission the Murphy Municipal Development District Board, the Park and Recreation Board and/or the Planning and Zoning Commission may be present at the meeting, but they will not deliberate on any city business.*

CITY COUNCIL MINUTES  
JANUARY 21, 2014 REGULAR CITY COUNCIL MEETING

**1. CALL TO ORDER**

Mayor Barna called the meeting to order at 6:00 p.m.

**2. INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Barna gave the invocation and led the recitation of the Pledge of Allegiance.

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

City Secretary, Kristi Gilbert, certified a quorum with the following Councilmembers present:

Mayor Eric Barna  
Mayor Pro Tem Owais Siddiqui  
Deputy Mayor Pro Tem Ben St. Clair  
Councilmember Scott Bradley  
Councilmember Betty Nichols Spraggins  
Councilmember Bernard Grant  
Councilmember Rob Thomas

Councilmembers absent: None

**4. PUBLIC COMMENTS –**

*Marv Williams, 1201 Cactus Back Drive* – Mr. Williams introduced himself as the new president of the Murphy Chamber of Commerce and thanked members of the Council for attending the Chamber's annual banquet. Mr. Williams invited the Council to attend the next Chamber Luncheon and the Spring Fever Event on March 29<sup>th</sup>.

**5. PRESENTATION ITEMS –**

A. Finance Director Linda Truitt presented the Council with the unaudited finance and investment report as of December 31, 2013. Ms. Truitt stated that the bank balances were near \$20 million and sales tax has increased by approximately 41% over this time last year.

B. Police Chief GM Cox presented the Council with a proposed volunteer program for the Murphy Animal Shelter.

**6. CONSENT AGENDA**

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

A. Consider and/or act upon January 7, 2014 regular meeting minutes.

B. Consider and/or act on the Final Plat Application of **Wendy's Corporation** on property zoned PD (Planned Development) District No. 12-02-905. This property is located at 117 West FM 544, Lot 2R, Block A, Wal Mart Addition.

- C. Consider and/or act on the Final Plat Application for **O'Reillys Automotive Store**, located at 607 E. FM 544.

**COUNCIL ACTION (6.A.-6.C.):****APPROVED**

Mayor Pro Tem Siddiqui moved to approve the consent agenda, as presented. Deputy Mayor Pro Tem St. Clair seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

**7. INDIVIDUAL CONSIDERATION**

- A. Consider and/or act on the application of **Murphy Equity Management, Ltd.** requesting approval of a site plan, landscape plan and building elevations for Maxwell Creek Pavilion on property zoned PD (Planned Development) District No. 09-12-825 and amended in PD District No. 11-01-871 for Retail and Office Uses on property located Lot 1, Block A, on the 600 block of East FM 544, west of McCreary Road.

Director of Community and Economic Development Kristen Roberts stated that the item had been reviewed at the January 7, 2014 Council meeting. Ms. Roberts stated that a tree survey had been prepared in response to Council questions. Ms. Roberts reviewed the trees to be removed, as well as the trees that are planned to be planted. Ms. Roberts reviewed the planned development requirements that provide that tree mitigation is not required for the property.

Council held discussions with regard to the trees, access to the property and future development surrounding the property.

Terry Gorman, lawyer for the entities under the developer, addressed Council. Mr. Gorman stated that the developer was still looking at medical offices for the rear of the property. Mr. Gorman stated that there were three access points to the rear of the development. Mr. Gorman stated the developer was installing utilities that would be an appropriate size to accommodate development in the back.

**COUNCIL ACTION (7.A.):****APPROVED**

Mayor Pro Tem Siddiqui moved to approve the site plan, landscape plan and building elevations for Maxwell Creek Pavilion. Councilmember Nichols Spraggins seconded the motion. For: Barna, Siddiqui, St. Clair, Bradley, Nichols Spraggins and Thomas. Opposed: Grant. The motion carried by a vote of 6 to 1.

- B. Consider and/or act on the application of **Murphy Equity Management, Ltd.** Requesting approval of a construction plat for Maxwell Creek Pavilion on property zoned PD (Planned Development) District No. 09-12-825 and amended in PD District No. 11-01-871 for Retail and Office Uses on property located Lot 1, Block A, on the 600 block of East FM 544, west of McCreary Road.

**COUNCIL ACTION (7.B.):****APPROVED**

Mayor Pro Tem Siddiqui moved to approve the construction plat for Maxwell Creek Pavilion. Deputy Mayor Pro Tem St. Clair seconded the motion. For: Barna, Siddiqui, St. Clair, Bradley, Nichols Spraggins and Thomas. Opposed: Grant. The motion carried by a vote of 6 to 1.

MURPHY CITY COUNCIL MINUTES  
January 21, 2014

- C. Consider and/or act upon Murphy Central Park:
1. Operations policy, rentals and application for the amphitheater; and,
  2. Amended fee schedule for deposits and miscellaneous fees.

City Manager James Fisher stated that staff had researched other cities policies. Mr. Fisher stated that the policy calls for the park to be open while the amphitheater is being rented.

Council held discussions with regard to usage, events and fees. Council discussed the need to make modifications to the documents as necessary for future needs.

**COUNCIL ACTION (7.C.):**

**APPROVED**

Councilmember Bradley moved to approve the Murphy Central Park operations policy, rentals and application for the amphitheater; and the amended fee schedule, as presented. Councilmember Nichols Spraggins seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0. (*Ordinance 14-01-968*)

- D. Consider and/or act on revising the Alcohol Policy for the Murphy Community Center (MCC) and Murphy Activity Center (MAC).

Mr. Fisher stated that the current policy only allowed for alcohol at events scheduled for Saturdays. Mr. Fisher stated that the item was brought before Council in response to discussions held when staff requested a variance for the Board and Commission dinner.

Council held discussions with regard to limitations on days, times, other activities and current reservations.

Mr. Fisher stated that staff would incorporate Council comments, including allowing alcohol at the MAC on any day of the week and allowing the request for a variance from Council to use the MCC on days other than Saturday. Mr. Fisher stated that staff would bring the changes back for the February 4, 2014 meeting.

*Keith Patton, 451 Poindexter* – Mr. Patton stated that the Council should require the rental of the entire facility if alcohol is to be served.

**COUNCIL ACTION (7.D.):**

**POSTPONED**

Item 7.D. was postponed until the February 4, 2014 meeting.

- E. Consider and/or act upon designating Council liaisons to boards, commissions and committees of the City of Murphy.

Council held discussions with regard to holding joint work sessions with certain boards on a quarterly or semiannual basis rather than designating liaisons.

**COUNCIL ACTION (7.E.):**

**NO ACTION**

No action was taken on Item 7.E.

- F. Consider and/or act upon the adoption of an ordinance requiring a maintenance bond for all public improvement on commercial properties.

**COUNCIL ACTION (7.F.):****APPROVED**

Councilmember Bradley moved to approve an ordinance requiring a maintenance bond for all public improvement on commercial properties. Deputy Mayor Pro Tem St. Clair seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0. (*Ordinance 14-01-969*)

- G. Consider and or act upon authorizing the City Manager to execute a contract for Freese and Nichols, Inc. to provide professional services for the TxDOT Safe Routes to Schools (SRTS) sidewalk and enhanced crosswalk grant projects, Task Authorization #2.

Mr. Fisher stated that Task Authorization #1 was approved during the summer. Task #2 will move forward with construction drawings. Mr. Fisher stated the preliminary engineering was approximately \$67,000 and the total cost is estimated to be approximately \$137,000. Mr. Fisher stated dollars were available in the Murphy Road Fund and TxDOT was going to be asked to release contingency funds for the project to cover the cost.

Mr. Fisher stated the crosswalks would be at Glen Ridge, Shirehurst, Spring Ridge, Windsor and Betsy, including the sidewalks.

Councilmember Bradley inquired as to whether the SRTS project was approved by TxDOT as is indicated on Page 2 of 6, Item 7 of Form 2355. Mr. Fisher stated that it has been approved and funding has been allocated.

Councilmember Thomas referenced the same form as Councilmember Bradley and inquired about the box checked that read "traffic calming, off system only" and what the committed the city to. Mr. Fisher stated if the city wanted to implement the traffic calming it would have to take the road off-system.

Mr. Fisher stated that if North Murphy Road was not taken off-system, there would still be sidewalks and painted crosswalks, but no mechanism to slow traffic.

Council discussed moving to Item 7.H. before addressing the item on the floor.

**COUNCIL ACTION (7.G.):****TABLED**

Councilmember Bradley moved to table the item until later in the meeting. Councilmember Deputy Mayor Pro Tem St. Clair seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- H. Discussion concerning taking North Murphy Road off of the state highway system.

Mr. Fisher stated Council was briefed in October about the idea to take North Murphy Road off the state highway system. Mr. Fisher that he sent a non-committal letter to TxDOT stating the Council had the final say on the matter. Mr. Fisher stated that the cities of Plano and Wylie were contacted regarding future Interlocal agreements for maintenance. Mr. Fisher stated that the road should last 30 to 40 years.

Council held discussions with regard to future maintenance of the road. Councilmember Thomas inquired as to the cost of the maintenance. Councilmember Bradley stated he wanted

MURPHY CITY COUNCIL MINUTES  
January 21, 2014

to see specifics as to what the city was going to be allowed to do and what they were not going to be allowed to do if the road is not taken off system.

Mayor Pro Tem Siddiqui stated he wanted to see the pros and cons of not taking the road off system, as well as the financial impact. Deputy Mayor Pro Tem St. Clair inquired as to if a TxDOT representative could attend a council meeting to offer their input.

Mayor Pro Tem Siddiqui inquired as to what portion of the road was being considered to be taken off system. Mr. Fisher stated it was North Murphy Road from FM 544 to the bridge because there would be a separate contract need for annual bridge maintenance.

Council held discussions with regard to holding a meeting with a TxDOT representative and a Plano ISD representative.

*Don Kiertscher, 416 Skyline* – Mr. Kiertscher stated that taking North Murphy Road over is a big decision and cautioned the Council on long term issues.

Council asked Mr. Fisher to bring back a cost estimate to maintain North Murphy Road, as well as a specific listing of what would be and what would not be allowed if the road was not taken offline.

Councilmember Bradley stated that he would like to see a cost estimate to maintain the road and a specific listing of what would be and would not be allowed for SRTS if it was not taken offline with documentation from TxDOT. Mayor Pro Tem Siddiqui stated he wanted to see anything else that City might be losing by not taking it offline.

Mr. Fisher stated that there were a lot of things moving because the paving has started. Mr. Fisher stated he would see if TxDOT was available to attend a meeting.

**COUNCIL ACTION (7.H.):**

Council provided direction to the City Manager.

**NO ACTION**

**REVISIT ITEM 7.G.**

Mayor Barna removed Item 7.G. from the table.

Mr. Fisher stated that approval was necessary in order to keep the engineer moving on designing the Safe Routes to School project.

**COUNCIL ACTION (7.G.):**

Councilmember Bradley moved to authorize the City Manager to execute the contract for SRTS Task Authorization # 2 with Freese and Nichols, Inc. to coordinate with TxDOT, prepared construction documents, design and bid documents, and construction administration for the SRTS Projects. Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

**APPROVED**

- I. Consider and/or act upon authorizing the City Manager to develop plans for the permanent closure of Grant Drive.

Mr. Fisher stated that staff had researched ways to provide for the permanent closure of Grant Drive including different bollards, a sliding gate or landscape buffer.

*Don Kiertscher, 416 Skyline* – Mr. Kiertscher stated that he preferred lots of large, low bollards and suggested signage stating “No motorized vehicles”. Mr. K asked Council to move forward this evening so that it is clear that Grant Drive is permanently closed.

Council held discussions with regards to a fourth option of combining the bollards and the landscaping that allowed for bicycle access between the barrier and the curb. Council inquired as to the use of the irrigation of the trees.

Councilmember Grant stated that he wanted the road jack hammered and pulled up so it was very clear that the road was closed.

Mayor Barna asked that the bollard and landscaping options be brought to the immediate neighbors for their opinion.

Mr. Fisher stated that he would get with the City’s contractor to get a better drawing and then meet with the residents. Mr. Fisher stated that he would bring the item back to Council for the second meeting in February.

*Jeff Kerr, 437 Love Bird Lane* – Mr. Kerr inquired as to whether the closure was a matter of official record. Mr. Kerr also inquired as to whether the residents of the surrounding roads were contacted regarding the use of self-funded gates for the use of the residents.

**COUNCIL ACTION (7.I.):**

**NO ACTION**

No action was taken on Item 7.I.

- J. Consider and/or act upon moving the March 4, 2014 Council meeting.

Mr. Fisher stated that March 4<sup>th</sup> is a primary election day and both parties would be voting at City Hall.

**COUNCIL ACTION (7.J.):**

**NO ACTION**

No action was taken on Item 7.J.

**8. CITY MANAGER/STAFF REPORTS**

Mr. Fisher provided the Council with an update on the following items:

- Baylor Emerus preview on January 29<sup>th</sup> at 5:30pm
- Murphy’s First Rainbow Trout Round-Up for February 22<sup>nd</sup>
- North Murphy Road Construction Update
- Board and Commission Training – February 1<sup>st</sup>, 9am to 1pm
- Report on January 16<sup>th</sup> CLC Meeting
- Murphy Central Park Grand Opening – April 5<sup>th</sup>

**9. EXECUTIVE SESSION**

The City Council convened into closed Executive Session at 8:19 pm pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 551.072. Deliberation regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.
- B. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

**10. RECONVENE INTO REGULAR SESSION**

The City Council reconvened into Regular Session at 8:45 pm pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- A. § 551.072. Deliberation regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.
- B. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
- C. Take Action on any Executive Session Item  
No action was taken as a result of executive session items.

**11. ADJOURNMENT**

With no further business, the meeting was adjourned at 8:45 p.m.

APPROVED BY:

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Eric Barna, Mayor

MURPHY CITY COUNCIL MINUTES  
January 21, 2014

ATTEST:

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Kristi Gilbert, City Secretary

**City Council Meeting**  
**February 4, 2014**

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**Issue**

Consider and/or act upon approval of an Ordinance ordering a General Election to be held on May 10, 2014, for the purpose of electing the Mayor and Council Members for Place 3, and Place 5 to a three (3) year term of office.

**Background**

Pursuant to the City of Murphy Charter, Section 3.01, the City Council shall be composed of a Mayor and six Council Members elected under the place system, with there being Places 1, 2, 3, 4, 5 and 6. The Mayor and each Council Member shall be elected at large, and unless sooner removed under the provisions of this Charter, shall serve for a term of three (3) years, and until their successor has been elected and duly qualified.

Texas Election Law prescribes the uniform election date as the second Saturday in May which will be May 10, 2014.

The Collin County Elections Administrator has decided to use Vote Centers for the May General Election. This will be the same as is set forth for the November election and primary election. There will be one polling location within the City at Murphy City Hall. Additionally, Murphy voters can vote at any Collin County voting location during early voting AND on Election Day. These voting locations will be determined after the deadline to file has passed and the County knows which municipalities will be conducting elections.

For reference, the City of Plano and Plano ISD, as well as a number of other school districts and municipalities will not be conducting an election this year. As a result, the number of early voting and Election Day polling locations may be reduced.

**Financial Considerations**

The City Secretary's Office has budgeted \$25,000 for election expenses in the FY 2014 Budget.

**Board/Staff Recommendation**

Staff recommends approval.

**Attachments**

Proposed Ordinance

Proposed Election Notice

**ORDINANCE NO. 14-02-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, ORDERING A GENERAL ELECTION TO BE HELD ON THE TENTH OF MAY, 2014 FOR THE PURPOSE OF ELECTING A MAYOR AND COUNCIL MEMBERS FOR PLACE 3 AND PLACE 5 TO A THREE (3) YEAR TERM OF OFFICE; PROVIDING FOR ELECTION OFFICERS; DESIGNATING THE PLACE AND MANNER OF HOLDING SAID ELECTION; DESIGNATING THE EARLY VOTING POLLING PLACE; DESIGNATING THE EARLY VOTING CLERK; PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, the Texas Election Code establishes May 10, 2014, as the uniform election date for the City of Murphy general election; and

**WHEREAS**, the Section 3.01(2) of the Home-Rule Charter provides that a general municipal election for the position of Mayor and Council Member Places 3 and 5 shall be elected at large on the May 10, 2014 uniform election date and that Council Members elected shall serve for three (3) year terms of office; and

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Section 551.043 of the Texas Government Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS:**

**Section 1. Election Order; Election Date.** That a General Election of the City of Murphy, prescribed by City of Murphy Home-Rule Charter shall be held between the hours of seven o'clock a.m. (7:00 a.m.) and seven o'clock p.m. (7:00 p.m.) on the 10<sup>th</sup> day of May, 2014.

**Section 2. Purpose of Election.** For the purpose of a General Election for Mayor and Council Member Places 3 and 5 with the elected Mayor and Council Members serving a three (3) year term of office. The candidate for each such office receiving a majority of all votes cast for the office shall be elected to serve such term.

**Section 3. Candidate Filing Deadline.** Candidates may file for one of the three (3) places beginning on January 29, 2014 through February 28, 2014 between the hours of 8 a.m. to 5 p.m., Monday through Friday. The deadline for a write-in candidate shall be 5:00 p.m. on February 28, 2014.

**Section 4. Voting System.** That voting on the date of the Election, and early voting therefore, shall be by the use of a lawfully approved voting system. The preparation of the voting

equipment to be used in connection with such voting system and the official ballots for the Election shall conform to the Texas Election Code, as amended, so as to permit the electors to vote for the Mayor and two (2) City Council Members. Said ballots shall have printed therein such provisions, markings, and language as may be required by law and the Candidates shall be set forth on said ballots in substantially the following form and language:

**GENERAL ELECTION**  
**City of Murphy, Texas**  
**May 10, 2014**

**OFFICIAL BALLOT**

**Mayor**

**Council Member, Place 3**

**Council Member, Place 5**

**Section 5. Election Precincts; Polling Places.** That the City hereby designates the Election Day polling location for the voters in four (4) Collin County Election Precincts located wholly or partially within the City of Murphy (Precinct Numbers 25, 144, 153 and 166). The Election Day polling place for Precinct Numbers 25, 144, 153 and 166 shall be the Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094 and any other Election Day Vote Center location designated in the contract for services with the Collin County Elections Administration. The Election Day election officials shall be named by the Collin County Elections Administrator.

**Section 6. Early Voting; Early Voting Polling Place.** The election shall be conducted by Collin County pursuant to a contract for election services between the City of Murphy and Collin County, and Collin County election officials shall serve as officials for said election.

Collin County Election Administrator Sharon Rowe, Collin County Elections Administration Office, 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069, is hereby appointed as the Early Voting Clerk, and Kristi Gilbert, City Secretary for the City of Murphy, is hereby appointed as Deputy Early Voting Clerk.

The early voting locations by personal appearance for the election are attached as *Exhibit "A"*. Early voting shall take place during the following dates and times:

April 28 – April 30	8:00 a.m. – 5:00 p.m.;
May 1	8:00 a.m. – 7:00 p.m.;
May 2 and May 3 (Saturday)	8:00 a.m. – 5:00 p.m.; and
May 5 and May 6	7:00 a.m. – 7:00 p.m.

**Section 7. Election Compliance.** This election shall be held in accordance with, and shall be governed by, the election laws of the State of Texas. In all City elections, the Mayor, City Secretary or City Council shall perform each act as is required to be performed, in connection with the holding and consummation of such election, and to give effect to the intent of this Ordinance.

**Section 8. Voting Qualification; Voting Materials.** All registered, qualified voters of the City shall be permitted to vote at the election. In addition, the election materials enumerated in the Texas Election Code, as amended, shall be printed in English and Spanish for use at the polling places and for early voting for the Election.

**Section 9. Compensation for Services.** The Presiding Judge of the regular election shall be paid the sum of \$12.00 per hour, or in an amount specified in the Contract for Election Services with the Collin County Election Administrator, for services provided in conducting the election. The Alternate Judge and each election clerk of the regular election shall be paid the sum of \$10.00 per hour, or in an amount specified in the Contract for Election Services with the Collin County Election Administrator, for services provided in conducting the election. Additionally, the Presiding Judge shall be paid \$25.00 for the delivery of the election supplies and results after the polls close.

**Section 10. Election Returns.** The Collin County Election Administrator shall deliver election returns to the City Secretary. The ballot boxes will be retained by the Collin County Election Administrator and will be available for inspection by the City Council in compliance with the applicable laws of the State of Texas; and the ballots that are properly marked in conformance with the provisions of the Texas Election Code, as amended, for votes cast both during the period of early voting and on the day of the Election shall be counted in the manner required by law.

**Section 11. Notice.** The Mayor and City Secretary are hereby directed to give notice of the election by:

- (a) Publishing the notice of the election at least once, not more than thirty (30) days nor less than ten (10) days before the election in at least the official newspaper and the official City website;
- (b) Filing with the City Secretary, a copy of the notice of the election; and
- (c) Posting a copy of the notice on the bulletin board used for posting notices of the meetings of the City Council at least twenty-one (21) days before the Election.

The Mayor or City Secretary shall file with the City Secretary a copy of the Publisher's Affidavit, which complies with the Texas Election Code, as amended, that the notice was published, with the name of the newspaper and the dates of publication.

**Section 12. Run-Off Election.** If a run-off election becomes necessary, the Collin County Election Administrator's office will conduct the run-off election. In the event any

candidate for any one of said offices fails to receive a majority of all votes cast for such office, a run-off election is hereby ordered to be held on June 28, 2014, as provided for by the Charter of the City and the Texas Election Code.

**Section 13. Severability Clause.** If any word, section, article, phrase, paragraph, sentence, clause, or portion of this ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity which remaining portions shall remain in full force and effect.

**Section 14. Effective Date.** This Ordinance shall take effect from and after its passage.

**DULY PASSED AND APPROVED** by the City Council of the City of Murphy, Texas on this the 4<sup>th</sup> day of February, 2014.

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Eric Barna, Mayor  
City of Murphy

ATTEST:

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Kristi Gilbert, City Secretary  
City of Murphy

**Exhibit A**  
**Early Voting Locations**

Murphy City Hall  
206 N. Murphy Road  
Murphy, Texas 75094

Collin County Elections Administration Office  
2010 Redbud Blvd., Suite 102  
McKinney, Texas 75069

Any other location designated by the Collin County Elections Administration Office through an Interlocal Agreement for Election Services.

**NOTICE OF GENERAL ELECTION  
(AVISO DE ELECCION GENERAL)**

To the Registered Voters of the City of Murphy, Texas:  
(a los votantes registrados del Ciudad de Murphy, Texas:)

Notice is hereby given that the polling places listed below will be open from 7:00 a.m. to 7:00 p.m., on Saturday, May 10, 2014, for voting in a general election to elect the Mayor; and two (2) council members: Council Member Place 3, and Council Member Place 5.

(Notifíquese, por las presente, que las casillas electorales sitados abajo se abrirán desde las 7:00 a.m. hasta las 7:00 p.m. sábado, el 10 de mayo 2014 para votar en la elección general para elegir al alcalde; y dos (2) miembros del Consejo: Consejo miembros lugar 3 y 5 de lugar de miembros de Consejo.)

LOCATION OF THE ELECTION DAY POLLING PLACE:  
(DIRECCION(ES) DE LAS CASILLAS ELECTORALES)

Precinct 25, 144, 153 and 166

(Numeros de los Recintos 25, 144, 153 y 166)

Murphy Municipal Complex, 206 North Murphy Road, Murphy, Texas 75094;  
Complejo Municipal de Murphy, 206 North Murphy Road, Murphy, Texas 75094

Collin County Elections Office, 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069 (Main Early Voting location); and  
Oficina de elecciones del condado de Collin, 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069 (Principal lugar de votación temprana); y

Any of the additional locations open under full contract services with the Collin County Elections Administration. (See Exhibit A)  
Cualquiera de los otros lugares en los servicios abiertos total del contrato con la Administración de Elecciones del Condado de Collin. (Vea la prueba instrumental A)

EARLY VOTING BY PERSONAL APPEARANCE WILL BE CONDUCTED EACH WEEKDAY AT:  
(LA VOTACION ADELANTADA EN PERSONA SE LLEVARA A CABO DE LUNES A VIERNES EN)

- Murphy Municipal Complex, 206 North Murphy Road, Murphy, Texas 75094;  
Complejo Municipal de Murphy, 206 North Murphy Road, Murphy, Texas 75094
- Collin County Elections Office, 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069 (Main Early Voting location); and  
Oficina de elecciones del condado de Collin, 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069 (Principal lugar de votación temprana); y
- Any of the additional Early Voting locations open under full contract services with the Collin County Elections Administration. (See Exhibit A)  
Cualquiera de los otros lugares de votación temprana en los servicios abiertos total del contrato con la Administración de Elecciones del Condado de Collin. (Vea la prueba instrumental A)

April 28 – April 30	8:00 a.m. – 5:00 p.m.	(el 28 de abril, hasta el 30 de abril, 8:00 de la mañana hasta las 5:00 de la tarde;)
May 1	8:00 a.m. – 7:00 p.m.	(el 1 de mayo, 8:00 de la mañana hasta las 7:00 de la tarde;)
May 2 -3	8:00 a.m. – 5:00 p.m.	(el 2 de mayo y 3 de mayo, 8:00 de la mañana hasta las 5:00 de la tarde; y)
May 5 -6	7:00 a.m. – 7:00 p.m.	(el 5 y 6 de mayo, 7:00 de la mañana hasta las 7:00 de la tarde)

Applications for ballot by mail shall be mailed to:  
(Las solicitudes para boletas que se votaran en ausencia por correo deberan enviarse a :)

Sharon Rowe, Elections' Administrator (Early Voting Clerk)  
2010 Redbud Blvd., Suite 102, McKinney, Texas 75069.  
(Nombre del Secretario(a) de la Votacion Adelantada)

Applications for ballots by mail must be received no later than the close of business on Friday, April 25, 2014.

(Las solicitudes para boletas que se votaran en ausencia por correo deberan recibirse para el fin de las horas de negocio el 25 de abril, 2014)

Issued this the 4<sup>th</sup> day of February, 2014.  
(Emitada este dia 4 de febrero, 2014.)

\_\_\_\_\_  
Eric Barna, Mayor  
(Firma del Alcalde)

**City Council Meeting**  
**February 4, 2014**

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**Issue**

Consider and/or act on authorizing the City Manager to execute the Contract for Election Services for the May 10, 2014 General Election between the City of Murphy and the Elections Administrator of Collin County, Texas.

**Background**

The City of Murphy has contracted with the Collin County Elections Administrator coordinate, supervise and conduct elections for several years. The attached contract is for election services for the May 10, 2014 General Election and, if necessary, the June 14, 2014 runoff election.

**Financial Considerations**

The City Secretary's Office has budgeted \$25,000 for election expenses in the FY 2014 Budget. The proposed contract price is \$9,249.34, but that will change depending on how many entities cancel their elections. This year the price is slightly higher because several entities that the City typically shares expenses with, including the City of Plano and Plano ISD, are not conducting elections this year. Provided there is no runoff election, Staff does not anticipate the election cost to exceed \$10,000. Should a runoff be necessary, the entire budget \$25,000 will most likely be spent.

**Board/Staff Recommendation**

Staff recommends approval.

**Attachments**

May 10, 2014 Contract for Election Services

**May 10, 2014**  
**General Election**  
**Contract for Election Services**  
**City of Murphy**

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# May 10, 2014 General Election

## Table of Contents

I.....Duties and Services of Contracting Officer  
 II.....Duties and Services of City  
 III.....Cost of Election  
 IV.....General Provisions

## Exhibits

Exhibit A.....Early Voting Schedule and Locations  
 Exhibit B.....Election Day Vote Centers  
 Exhibit C.....Cost of Services

**THE STATE OF TEXAS**  
**COUNTY OF COLLIN**  
**CITY OF MURPHY**

§

**CONTRACT FOR**  
**ELECTION SERVICES**

**BY THE TERMS OF THIS CONTRACT** made and entered into by and between the CITY OF MURPHY, hereinafter referred to as the "CITY," and SHARON ROWE, Elections Administrator of Collin County, Texas, hereinafter referred to as "Contracting Officer," pursuant to the authority in Subchapter D, Section 31.092, of Chapter 31, of the Texas Election Code, agree to the following particulars in regard to coordination, supervision and running of the City's May 10, 2014 General Election and a City Runoff Election, if necessary, on June 28, 2014. An additional cost estimate, early voting calendar, and Election Day polling place schedule will be prepared should a Runoff Election be necessary.

**THIS AGREEMENT** is entered into in consideration of the mutual covenants and promises hereinafter set out. IT IS AGREED AS FOLLOWS:

**I. DUTIES AND SERVICES OF CONTRACTING OFFICER.** The Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:

A. The Contracting Officer shall arrange for appointment, notification (including writ of election), training and compensation of all presiding judges, alternate judges, the judge of the Central Counting Station and judge of the Early Voting Ballot Board.

a. The Contracting Officer shall be responsible for notification of each Election Day and Early Voting presiding judge and alternate judge of his or her appointment. The recommendations of the City will be the accepted guidelines for the number of clerks secured to work in each polling place. The presiding election judge of each polling place, however, will use his/her discretion to determine when additional manpower is needed during peak voting hours. The Contracting Officer will determine the number of clerks to work in the Central Counting Station and the number of clerks to work on the Ballot Board. Election judges shall be secured by the Contracting Officer with the approval of the City.

b. Election judges shall attend the Contracting Officer's school of instruction (Elections Seminar); calendar will be provided.

c. Election judges shall be responsible for picking up from and returning election supplies to the county election warehouse located at 2010 Redbud Blvd., Suite 102, McKinney. Compensation for this pickup and delivery of supplies will be \$25.00.

d. The Contracting Officer shall compensate each election judge and worker. Each judge shall receive \$12.00 per hour for services rendered. Each alternate judge and clerk shall receive \$10.00 per hour for services rendered. Overtime will be paid to each person working over 40 hours per week.

B. The Contracting Officer shall procure, prepare, and distribute voting machines, election kits and election supplies.

a. The Contracting Officer shall secure election kits which include the legal documentation required to hold an election and all supplies including locks, pens, magic markers, etc.

b. The Contracting Officer shall secure all tables, chairs, and legal documentation required to run the Central Counting Station.

c. The Contracting Officer shall provide all lists of registered voters required for use on Election Day and for the early voting period required by law.

d. The Contracting Officer shall procure and arrange for the distribution of all election equipment and supplies required to hold an election.

1. Equipment includes the rental of voting machines, ADA compliance headphones and keypads (1 per site), transfer cases, voting signs and election supply cabinets.

2. Supplies include smart cards, sample ballots, forms, maps, labels, pens, tape, markers, etc.

C. The Contracting Officer, Sharon Rowe, shall be appointed the Early Voting Clerk by the City.

a. The Contracting Officer shall supervise and conduct Early Voting by mail and in person and shall secure personnel to serve as Early Voting Deputies.

b. Early Voting by personal appearance for the City's May 10, 2014, General Election shall be conducted during the time period and at the locations listed in Exhibit "A", attached and incorporated by reference into this contract.

c. All applications for an Early Voting mail ballot shall be received and processed by the Collin County Elections Administration Office, 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069.

1. Application for mail ballots erroneously mailed to the City shall immediately be faxed to the Contracting Officer for timely processing. The original application shall then be forwarded to the Contracting Officer for proper retention.

2. All Federal Post Card Applicants (FPCA) will be sent a mail ballot. No postage is required.

d. All Early Voting ballots (those cast by mail and those cast by personal appearance) shall be prepared for count by the Early Voting Ballot Board in accordance with Section 87.000 of the Texas Election Code. The presiding judge of this Board shall be appointed by the Contracting Officer.

D. The Contracting Officer shall arrange for the use of all Election Day locations. Vote Centers will be utilized in this election. Voters may also vote at any additional Vote Center open under a full service contract at no additional cost to the jurisdiction. The City shall assume the responsibility of remitting the cost of all employee services required to provide access, provide security or provide custodial services for the polling locations. The Election Day Vote Centers are listed in Exhibit “B”, attached and incorporated by reference into this contract.

E. The Contracting Officer shall be responsible for establishing and operating the Central Counting Station to receive and tabulate the voted ballots in accordance with Section 127.001 of the Election Code and of this agreement. Counting Station Manager and Central Count Judge shall be Sharon Rowe. The Tabulation Supervisor shall be Patty Seals.

- a. The Tabulation Supervisor shall prepare, test and run the county's tabulation system in accordance with statutory requirements and county policies, under the auspices of the Contracting Officer.
- b. The Public Logic and Accuracy Test of the electronic voting system shall be conducted.
- c. Election night reports will be available to the City at the Central Counting Station on election night. Provisional ballots will be tabulated after election night in accordance with law.
- d. The Contracting Officer shall prepare the unofficial canvass report after all precincts have been counted, and will provide a copy of the unofficial canvass to the City as soon as possible after all returns have been tallied.
- e. The Contracting Officer shall be appointed the custodian of the voted ballots and shall retain all election material for a period of 6 months.
  1. Pending no litigation and as prescribed by law, the voted ballots shall be shredded 6 months after the election.

2. The City can obtain the list of registered voters from the Elections Administration Office after this retention period. Pending no litigation and if the City does not request the lists, the Contracting Officer shall destroy them.

f. The Contracting Officer shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code. The Secretary of State may waive this requirement. If applicable, a written report shall be submitted to the Secretary of State as required by Section 127.201(E) of the aforementioned code.

**II. DUTIES AND SERVICES OF THE CITY.** The City shall assume the following responsibilities:

A. The City shall prepare the election orders, resolutions, notices, justice department submissions, official canvass and other pertinent documents for adoption by the appropriate office or body. The City assumes the responsibility of posting all notices and likewise promoting the schedules for Early Voting and Election Day.

B. The City shall provide the Contracting Officer with an updated map and street index of their jurisdiction in an electronic (shape file preferred) or printed format as soon as possible but no later than Friday, Feb. 28, 2014.

C. The City shall procure and provide the Contracting Officer with the ballot layout and Spanish interpretation in an electronic format.

a. The City shall deliver to the Contracting Officer as soon as possible, **but no later than noon Monday, March 3, 2014, (unless the filing period is extended under statute)** the official wording for the City's May 10, 2014, General Election.

b. The City shall approve the "blue line" ballot format prior to the final printing.

D. The City shall post the publication of election notice by the proper methods with the proper media.

E. The City shall prepare and submit to the U. S. Department of Justice under the Federal Voting Rights Act of 1965, any required submissions on voting changes; as applicable under current law.

F. The City shall compensate the Contracting Officer for any additional verified cost incurred in the process of running this election or for a manual count this election may require, consistent with charges and hourly rates shown on Exhibit "C" for required services.

G. The City shall pay the Contracting Officer 90% of the estimated cost to run the said election prior to Friday, April 18, 2014. The Contracting Officer shall place the funds in a "contract fund" as prescribed by Section 31.100 of the Texas Election Code. The Deposit should be delivered within the mandatory time frame to:

**Collin County Treasury  
2300 Bloomdale Rd. #3138  
McKinney, Texas 75071**

**Made payable to: "Collin County Treasury" with the note "for election services" included with check documentation.**

H. The City shall pay the cost of conducting said election, less partial payment, including the 10% administrative fee, pursuant to the Texas Election Code, Section 31.100, within 30 days from the date of final billing.

**III. COST OF SERVICES.** See Exhibit "C."

**IV. GENERAL PROVISIONS.**

A. Nothing contained in this contract shall authorize or permit a change in the officer with whom or the place at which any document or record relating to the City's May 10, 2014, General Election is to be filed or the place at which any function is to be carried out, or any nontransferable functions specified under Section 31.096 of the Texas Election Code.

B. Upon request, the Contracting Officer will provide copies of all invoices and other charges received in the process of running said election for the City.

C. If the City cancels their election pursuant to Section 2.053 of the Texas Election Code, the Contracting Officer shall be paid a contract preparation fee of \$75. An entity canceling an election will not be liable for any further costs incurred by the Contracting Officer in conducting the May 10, 2014, General Election. (Centralized costs incurred in the conduct of the election will be based on the proportionate share of registered voters in each jurisdiction contracting with the Contracting Officer **and** holding a May 10, 2014, General Election.)

D. The Contracting Officer shall file copies of this contract with the County Judge and the County Auditor of Collin County, Texas.

WITNESS BY MY HAND THIS THE \_\_\_\_ DAY OF \_\_\_\_\_ 2014.

Collin

\_\_\_\_\_  
Sharon Rowe  
Elections Administrator  
County, Texas

WITNESS BY MY HAND THIS THE \_\_\_\_ DAY OF \_\_\_\_\_ 2014.

By: \_\_\_\_\_  
James Fisher, City Manager  
City of Murphy

Attest: \_\_\_\_\_  
Kristi Gilbert, City Secretary  
City of Murphy

**Exhibit "A"**

## MAY 10, 2014, GENERAL ELECTION City of Murphy\*

### Early Voting Locations and Hours

Polling Place		Address			City	
Collin County Election Office (Main Early Voting Location)		2010 Redbud Blvd., #102			McKinney	
Murphy City Hall		206 N. Murphy Road			Murphy	
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>April 27</i>	<i>April 28</i>	<i>April 29</i>	<i>April 30</i>	<i>May 1</i>	<i>May 2</i>	<i>May 3</i>
	<b>8am – 5pm</b>	<b>8am – 5pm</b>	<b>8am – 5pm</b>	<b>8am - 5pm</b>	<b>8am - 5pm</b>	<b>8am - 5pm</b>
<i>May 4</i>	<i>May 5</i>	<i>May 6</i>	<i>May 7</i>	<i>May 8</i>	<i>May 9</i>	<i>May 10</i>
	<b>7am – 7pm</b>	<b>7am – 7pm</b>				<b>7am – 7pm</b> <b>Election Day</b>

\* City voters may vote at any of the additional Early Voting locations open under full contract services with the Collin County Elections Administration.

Exhibit “B”

**MAY 10, 2014  
GENERAL ELECTION**

**Election Day Polling Locations –City of Murphy\***

<b>Precincts</b>	<b>Location</b>	<b>Address</b>	<b>City</b>
“VOTE CENTERS”	Murphy City Hall	206 N. Murphy Road	Murphy

\* City voters may vote at any of the additional Election Day Vote Centers open under full contract services with the Collin County Elections Administration.

**ESTIMATED COSTS FOR THE CITY OF MURPHY**

May 10, 2014

**Exhibit "C"****SUPPLY COST**

Number of Early Voting Locations		1		
Number of Election Day Vote Centers		1		
		<b>Units</b>	<b>Cost Murphy</b>	
Sample Ballots	\$0.2200 each	300	\$66.00	
Early Voting Mail Ballots	\$1.20 each	20	\$24.00	
Precinct Ballots	\$0.6600 each	50	\$33.00	
Early voting and election day kits	\$25.00 each	2	\$50.00	
Central Counting kit and supplies	\$50.00 each	1	\$50.00	
County Precinct Maps	\$12.00 each	2	\$24.00	
Printer Labels	\$5.27 each	7	\$36.89	
Total				\$283.89

**Grand Total                      \$283.89**

**EQUIPMENT RENTAL COST**

Number of Early Voting Locations		1		
Number of Election Day Vote Centers		1		
		<b>Units</b>	<b>Cost Murphy</b>	
Voting Machines (7's)	\$150.00 each	10	\$1,500.00	
Transfer Cases	\$5.00 each	2	\$10.00	
Metal Signs	\$1.00 each	4	\$4.00	
Wood Signs	\$2.00 each	2	\$4.00	
EV Security Cabinets	\$200.00 each	1	\$200.00	
EV Computer Cabinet	\$50.00 each	1	\$50.00	
Computer	\$300.00 each	2	\$0.00	
ED Security Cabinets	\$200.00 each	1	\$200.00	
EV/ED Cabinet Drayage	\$120.00 each	2	\$240.00	
Total				\$2,208.00

**Grand Total                      \$2,208.00**

**EARLY VOTING**

Number of Early Voting Locations 1  
 Workers each location 4

		Units	Cost Murphy
Mailed Ballot Kits	\$1.00 each	20	\$20.00
Postage for Ballots	\$0.88 each	20	\$17.60
Assemble EV Location	\$50.00 each	1	\$50.00
Total Judge Hours	\$12.00 hour	68	\$816.00
Overtime Judge Hours	\$18.00 hour	20	\$360.00
Total Alt. Judge & Clerk Hours	\$10.00 hour	204	\$2,040.00
Overtime Alt. Judge & Clerk Hours	\$15.00 hour	60	\$900.00
Pickup & Delivery of Supplies	\$25.00 each	1	\$25.00

Total \$4,228.60

**Grand Total \$4,228.60**

**ELECTION DAY**

Number of Election Day Vote Centers 1  
 Workers each location 4

		Units	Cost Murphy
Total Judge Hours	\$12.00 hour	14	\$168.00
Total Alt. Judge & Clerk Hours	\$10.00 hour	42	\$420.00
Pickup & Delivery of Supplies	\$25.00 each	1	\$25.00

Total \$613.00

**Grand Total \$613.00**

**ADMINISTRATIVE EXPENSES**

Number of Early Voting Locations 1  
 Number of Election Day Vote Centers 1

		Units	Cost Murphy
Manual Recount Deposit	\$60.00 each	1	\$60.00
Process Pollworker Checks	\$1.50 each	6	\$9.00
Process Election Judge Notices	\$1.50 each	4	\$6.00

Total \$75.00

**Grand Total \$75.00**

**TABULATION**

Tabulation Network	\$4,000.00
Programming	\$2,050.00
Spanish Interpretation f/Audio Ballot	\$160.00
Notice of Inspection/Tabulation Test	<u>\$2,000.00</u>
Total	\$8,210.00

**CENTRALIZED COSTS**

Early Voting Ballot Board	\$500.00
Cost for Central Count Workers	\$500.00
FICA on Election Workers	\$3,000.00
Assemble EV Location	\$50.00
Early Voting Machines in McKinney (5)	\$1,000.00
Early Voting Computer in McKinney	\$300.00
Early Voting Personnel in McKinney	\$2,500.00
EV Security Cabinet	\$200.00
Warehouse Gas Mileage	\$300.00
Ballot Style Setup Fee & Delivery	\$300.00
County Overtime and Temporaries	\$7,500.00
FICA & Retirement for County Employees	<u>\$1,100.00</u>
Total	\$17,250.00

**Total for Tabulation & Centralized Costs      \$25,460.00**

Total Registered Voters for ? Jurisdictions - ?

City of Murphy - 10,501

## SUMMARY OF COSTS FOR CITY OF MURPHY

<b>SUPPLY COST</b>	\$283.89
<b>EQUIPMENT RENTAL COST</b>	\$2,208.00
<b>EARLY VOTING</b>	\$4,228.60
<b>ELECTION DAY</b>	\$613.00
<b>ADMINISTRATIVE EXPENSES</b>	\$75.00
<b>TABULATION/CENTRALIZED COSTS</b>	<u>\$1,000.00</u>

This number could be higher or lower....we have no idea how many jurisdictions will be holding elections

Total	\$8,408.49
10% Administrative Fee	<u>\$840.85</u>

**Grand Total** **\$9,249.34**

**90% Deposit Due by 4/18/14** **\$8,324.41**

**City Council Meeting**  
**February 4, 2014**

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**Issue**

Acceptance of the Annual Traffic Contact Report for 2013 for the Murphy Police Department (also known as the Racial Profiling Report).

**Background**

The MPD is required to present the findings of its annual traffic contact (racial profiling) analysis report to the Council before March of each year. The Annual Traffic Contact Report for 2013 was prepared by Dr. Alex del Carmen, Del Carmen Consulting, LLC, who develops the report from data provided by MPD records. The city of Murphy is required to collect certain information on vehicle stops. This information is then tabulated at the end of each year. The data is analyzed and formatted into a report that provides an analytical and numerical picture of the enforcement activities of the police officers of the MPD. Furthermore, state law now requires that a report be filed electronically with the Texas Commission on Law Enforcement Standards and Education on a form prescribed by them for that purpose.

The city of Murphy utilizes the U. S. Census Fair Roads Standard for comparison and analysis in developing its report. The city of Murphy is exempt from collecting Tier II data (much more information including pedestrian stops) since it has installed audio and video equipment in all police vehicles routinely utilized for traffic law enforcement.

**Financial Considerations**

There should be little or no fiscal impact by the receipt of the report. The city has entered into an agreement with Dr. del Carmen that does include an annual fee and is reflected in the annual budget for the MPD.

**Other Considerations**

The report has been required since 2001 with the passage of SB 1074. This law has since been codified in Articles 2.131 and 2.131 of the Texas Code of Criminal Procedure. In addition, certain standards and requirements have been established by rules of the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) as well as the Texas Transportation Code.

**Board/Staff Recommendation**

Staff recommends that the Council accept delivery of the report. There is no other action required of City Council.

**Recommended Motion**

That Council accepts the delivery of the Annual Racial Profiling Report for 2013 for the Murphy Police Department.

**Attachments**

Annual Traffic Contact Report for 2013  
TCOLE RP Report (Filed with TCOLE Electronically)



# Annual Contact Report 2013

The Murphy Police Department

# **(I) Introduction**

# Opening Statement

January 4, 2014

Murphy City Council  
205 North Murphy Road  
Murphy, Texas 75094

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law in 2001. Since, the Murphy Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements are now in place. These most recent requirements have been incorporated by the Murphy Police Department and are also being addressed in this report.

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

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/13 and 12/31/13. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1<sup>st</sup> of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Murphy Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

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

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# **TCOLE GUIDELINES**

## Guidelines for Compiling and Reporting Data under Senate Bill 1074

### Background

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

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

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

### Standard 1

Each law enforcement agency has a detailed written directive that:

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

### Commentary

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

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

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

## Standard 2

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

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

## Commentary

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

## Standard 3

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

## Commentary

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

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

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

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

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

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

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

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

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

#### **Standard 4**

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

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

#### **Commentary**

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

**Standard 5**

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

**Commentary**

None

**Standard 6**

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

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

**Commentary**

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

**Standard 7**

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

**Commentary**

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

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

# **The Texas Law on Racial Profiling**

S.B. No. 1074

## AN ACT

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

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

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

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

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

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

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

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

adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

body of each county or municipality served by the agency in a manner approved by the agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

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

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

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

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

Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

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

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

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

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

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

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

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

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

(3) analyzing and reporting collected information.

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

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

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

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

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

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

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

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

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

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

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

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

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

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

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

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

## SECTION 9. Not later than January 1, 2002:

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

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

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

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

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

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 President of the Senate

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 Speaker of the House

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

\_\_\_\_\_  
Secretary of the Senate

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

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

# **Most Recent Legal Requirements (H.B. 3389)**

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

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

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

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

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

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

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

(a) In this article:

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

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

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

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

(1) clearly define acts constituting racial profiling;

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

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

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

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

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

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

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

(C) whether the peace officer knew the race or

ethnicity of the individual detained before detaining that individual; and

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

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

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

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

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

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

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

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

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

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

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

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

(A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

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

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

(a) In this article:

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

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

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

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

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

(A) evaluate and compare the number of motor

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

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

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

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

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

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

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

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

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

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

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

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

from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

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

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

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

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

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

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

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered

by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

## **(II) Responding to the Law**

# **Institutional Policy on Racial Profiling**



**MURPHY POLICE DEPARTMENT  
DIRECTIVE**

**SUBJECT: Racial Profiling**

**NUMBER: 2.01.1**

**EFFECTIVE DATE: November 18, 2009**

**RELATED STANDARDS:**

**REVIEW DATE: November 18, 2011**

**APPROVED:** \_\_\_\_\_  
**Chief G.M. Cox**  
**DATED: 11/18/2009**

- I. PURPOSE:** To reaffirm the commitment of the Murphy Police Department's to unbiased policing in the encounter with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.
- II. POLICY:** It shall be the policy of the Murphy Police Department to police our community in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, state, and federal laws in a responsible and professional manner, without regard to race, ethnicity, or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This Directive is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

**III. DEFINITIONS:**

- A. 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 on information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.
- B. Race or Ethnicity – persons of a particular descent
- C. Acts Constituting Racial Profiling – acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.
- D. Pedestrian Stop – an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.
- E. Traffic Stop – the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulating traffic.

#### IV. DELIVERY PROTOCOL:

##### A. PROHIBITION:

- a. Officers of the Murphy Police Department are strictly prohibited from engaging in racial profiling in any form. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description when used as part of a description of a suspect or witness for whom an officer is searching.

##### B. COMPLAINT PROCESS:

1. No person shall be discouraged, intimidated or coerced from filing a complaint or be discriminated against because they have filed a complaint.
2. Any person who believes that a peace officer employed by the Murphy Police Department has engaged in racial profiling with respect to that person, may file a complaint in accordance with the provisions in Directive 2.04.1 – Internal Investigations.
  - a. An employee who is contacted regarding a complaint against an officer shall follow the procedures set forth in Directive 2.04.1 – Internal Investigations.
  - b. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, “How to File a Complaint” and a compliant form. Brochures are maintained in the Murphy Police Department lobby and at Murphy City Hall.
3. Any supervisor who becomes aware of an alleged or suspected violation of this Directive shall report the alleged violation in accordance with Directive 2.04.1 – Internal Investigations.
4. Complaints of racial profiling shall be classified as a Level 1 complaint, and shall be investigated by the Chief of Police or his designee.

##### C. DISCIPLINARY AND CORRECTIVE ACTIONS:

1. Any department officer who is found, after investigation, to have engaged in racial profiling in violation of this Directive may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

##### E. PUBLIC EDUCATION:

1. The Murphy Police Department shall provide education to the public concerning the racial profiling complaint process. The primary method of public education shall be through the brochure “How to File a Complaint” which are maintained in the lobby of the Murphy Police Department, and at Murphy City Hall. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet and/or public meetings.

##### F. COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED OR ARREST MADE

1. For each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, an officer involved in the stop shall collect the following information on the citation:
  - a. Information identifying the race or ethnicity of the person detained. The following codes will be used to identify the individual’s race:

- B = Black
- H = Hispanic
- A = Asian
- W = White
- I = Native American / American Indian
- M = Middle Eastern
- O = Other

Note: Officers may not ask the individual to identify their race. If the officer is unable to determine the race or ethnicity of the person contacted, then the race shall be entered as “other” on the citation(s) issued.

- b. Whether a search was conducted;
  - c. If a search was conducted, whether the person detained consented to the search;
  - d. Whether contraband was found;
  - e. Whether the person contacted is a resident or non-resident of the City of Murphy. This shall be reflected on each citation issued, using an (R) for residents or a (NR) for non-resident.
  - f. Whether the peace officer knew the race or ethnicity of the individual detained before detaining the individual.
2. The information collected shall be compiled in an annual report covering the period of January 1 through December 31 of each year, and shall be submitted to the governing body of the City of Murphy no later than March 1 of the following year. The report will include:
    - a) A breakdown of citations by race or ethnicity;
    - b) Number of citations that resulted in a search;
    - c) Number of searches that were consensual;
    - d) Number of citations that resulted in custodial arrests;
    - e) Public education efforts concerning the racial profiling complaint process; and.
    - f) The number of complaints received by the department that officers were racially profiling.
  3. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include indentifying information about any peace officer involved in a stop or arrest.

#### G. AUDIO AND VIDEO EQUIPMENT

1. Each motor vehicle regularly used by this department to make traffic stops is equipped with a mobile video camera system capable of recording video and audio.
2. Each traffic stop made by an officer of this department that is capable of being recorded by video and audio shall be recorded. In units equipped with mobile video camera systems, both video and audio recordings shall be required.
3. Supervisors and officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperable mobile video camera equipment shall not be utilized, under normal circumstances.
4. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile

video equipment when situations dictate.

5. All in-car video recording boxes shall be locked at all times.
6. All recordings shall be kept for a minimum of ninety (90) days from the date of the recording. This is in compliance with Article 2.135. (2-b) of the Texas Code of Criminal Procedure.
7. All recordings will be kept in a secure location within the police department to prevent loss or tampering. The location will be designated by the Support Services Manager.
8. All recordings must be kept accessible by supervisory staff for review.

#### H. REVIEW OF VIDEO DOCUMENTATION

1. To ensure the Department meets the standards set forth under the State racial profiling laws, recording reviews shall be conducted. Each video shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a traffic stop. The Field Services Commander shall ensure that all recordings are properly stored and retained in accordance with applicable laws and this Directive.
2. If a complaint is received alleging that an officer has engaged in racial profiling, the tape shall be forwarded to the Chief of Police. The Chief of Police shall retain the recording until final disposition of the complaint has been made.
3. The Field Services Commander or her designee shall review a randomly selected sampling of video and audio recordings, made recently by officers employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted weekly and documented on the appropriate form.
  - a. Written documentation shall include:
    - i. The names of the officers whose contacts were reviewed;
    - ii. The date(s) of the tapes reviewed;
    - iii. The date the actual review was conducted; and
    - iv. The name of the person conducting the review.
  - b. The Field Services Commander or their designee shall view thirty (30) minutes of video on each officer every two weeks.
  - c. The recordings that are reviewed may be chosen at random, unless some event requires the review of specific recorded materials.
  - d. The Field Services Commander shall forward the required documentation to the Office of the Chief of Police.
  - e. The Office of the Chief of Police shall maintain a file of all tape review documentation performed, in compliance with this Directive.
4. In reviewing video recordings, the Field Services Commander or her designee, shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.
  - a. If any material on the recording does not comply with State racial profiling laws or Murphy Police Department Policy, the Field Services Commander or their designee

shall insure that appropriate corrective action is taken in compliance with Article 2.132. (b-5) of the Texas Code of Criminal Procedure.

#### I. TRAINING

1. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) not later than the second anniversary of the date the officer was licensed, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.
2. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT), not later than September 1, 2003.

#### IV. ADMINISTRATIVE REVIEW AND REVISION

- A. *Biennially*, the Chief of Police shall review the organizational structure, making any revisions, as needed.
- B. The Chief of Police reserves the right to amend, modify, or change the agency's organizational chart to reflect the agency's authorized structure by adding or deleting any new positions or functions.
- C. A copy of the agency's organizational chart will be posted in the Briefing Room. In addition, all personnel will be provided a copy of the organizational chart, as part of their individual policy manuals.

- V. **CLOSING STATEMENT:** Violations of this Directive would serve only as grounds for discipline within the Murphy Police Department.

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

**Informing the Public on the Process of Filing a Racial Profiling Complaint with the Murphy Police Department**

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

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

# Racial Profiling Training

### **Racial Profiling Training**

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

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

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

**Racial Profiling 3256**

**Instructor's Note:**

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

**Abstract**

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

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

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

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

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

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

**Evaluation Process and Procedures**

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

**Reference Materials**

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

## **Racial Profiling 3256**

### **1.0 RACIAL PROFILING AND THE LAW**

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

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

#### **Racial Profiling Requirements:**

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

#### **A. Written departmental policies**

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

#### **B. Not prima facie evidence**

#### **C. Feasibility of use of video equipment**

#### **D. Data does not identify officer**

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

#### **F. Vehicle stop report**

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

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

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

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

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

**2.0 RACIAL PROFILING AND THE COMMUNITY**

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

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

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

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

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

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

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

**3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION**

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

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

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

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

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

**3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.**

- A. Drug courier profile (adapted from a profile developed by the DEA)
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
  2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
  3. Vehicle is rented
  4. Driver is a young male, 20-35
  5. No visible luggage, even though driver is traveling
  6. Driver was over-reckless or over-cautious in driving and responding to signals
  7. Use of air fresheners
- B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

**3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.**

- A. Thinking about the totality of circumstances in a vehicle stop
- B. Vehicle exterior
1. Non-standard repainting (esp. on a new vehicle)
  2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
  3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
  4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)
- C. Pre-stop indicators
1. Not consistent with traffic flow
  2. Driver is overly cautious, or driver/passengers repeatedly look at police car
  3. Driver begins using a car- or cell-phone when signaled to stop
  4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

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

**Resources**

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

# Report on Complaints

**Report on Complaints**

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/13---12/31/13, 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 Murphy 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 1/1/13 ---- 12/31/13.

**Complaints Filed for Possible Violations of The Texas Racial Profiling Law**

<b>Complaint No.</b>	<b>Alleged Violation</b>			<b>Disposition of the Case</b>

**Additional Comments:**

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# **Tables Illustrating Traffic and Motor Vehicle-Related Contacts**

## **Tier 1 Data**

**(I) Tier 1 Data****Motor Vehicle-Related Contact Information (1/1/13—12/31/13)**

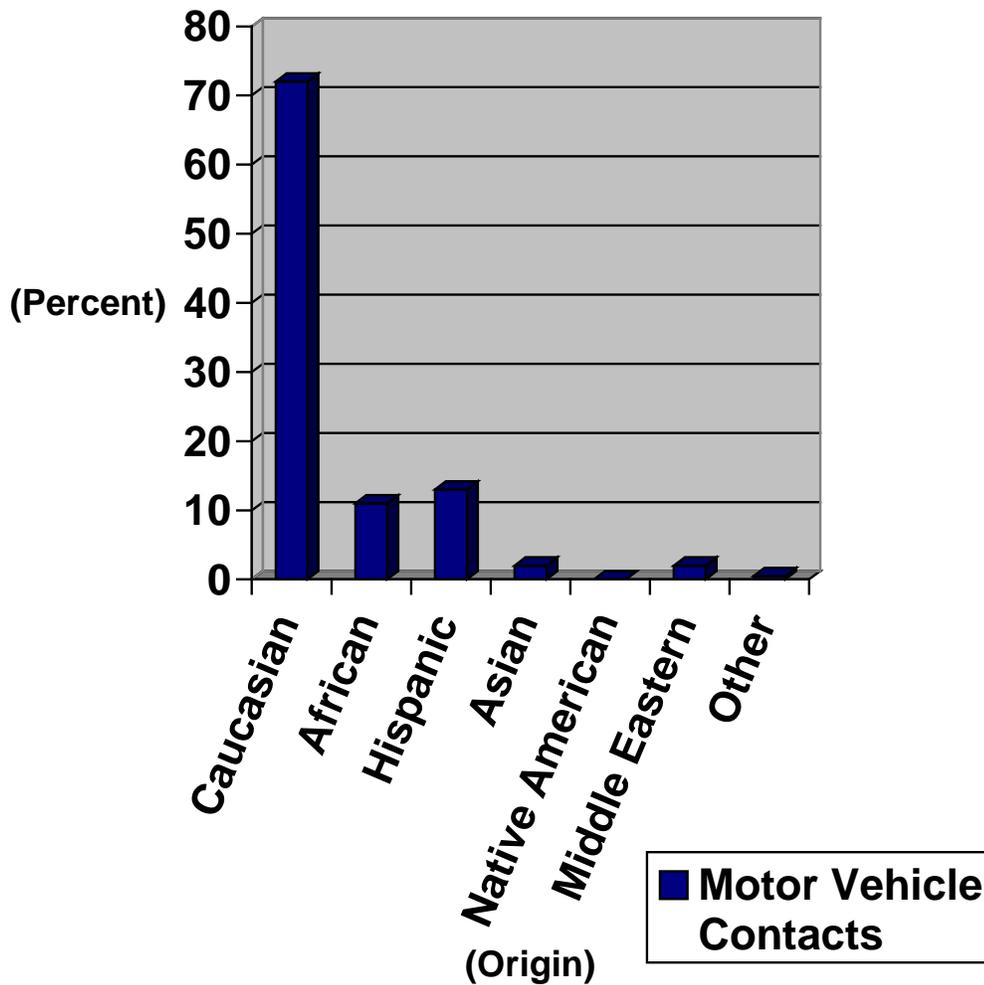
<b>Race/Ethnicity*</b>	<b>Contacts</b>		<b>Searches</b>		<b>Consensual Searches</b>		<b>PC Searches</b>		<b>Custody Arrests</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Caucasian</b>	3,623	53	116	54	59	58	57	50	33	63
<b>African</b>	1,070	16	44	20	23	23	21	18	7	13
<b>Hispanic</b>	973	14	40	19	15	14	25	22	7	13
<b>Asian</b>	655	10	3	1	1	1	2	2	2	4
<b>Native American</b>	10	.1	0	0	0	0	0	0	0	0
<b>Middle Eastern</b>	442	7	12	6	4	4	8	7	2	4
<b>Other</b>	18	.3	1	.5	0	0	1	1	1	2
<b>Total</b>	6,791	100	216	100	102	100	114	100	52	100

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

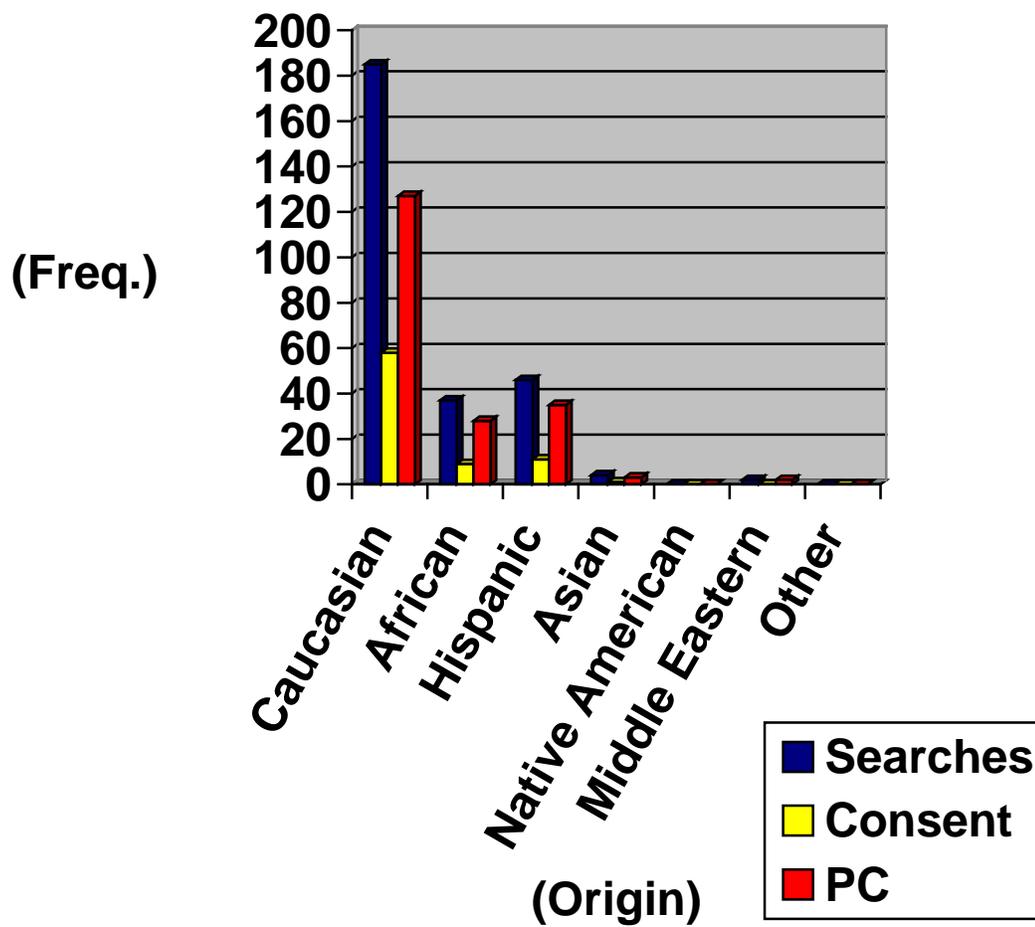
\* Race/Ethnicity is defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern".

\*\*Figure has been rounded

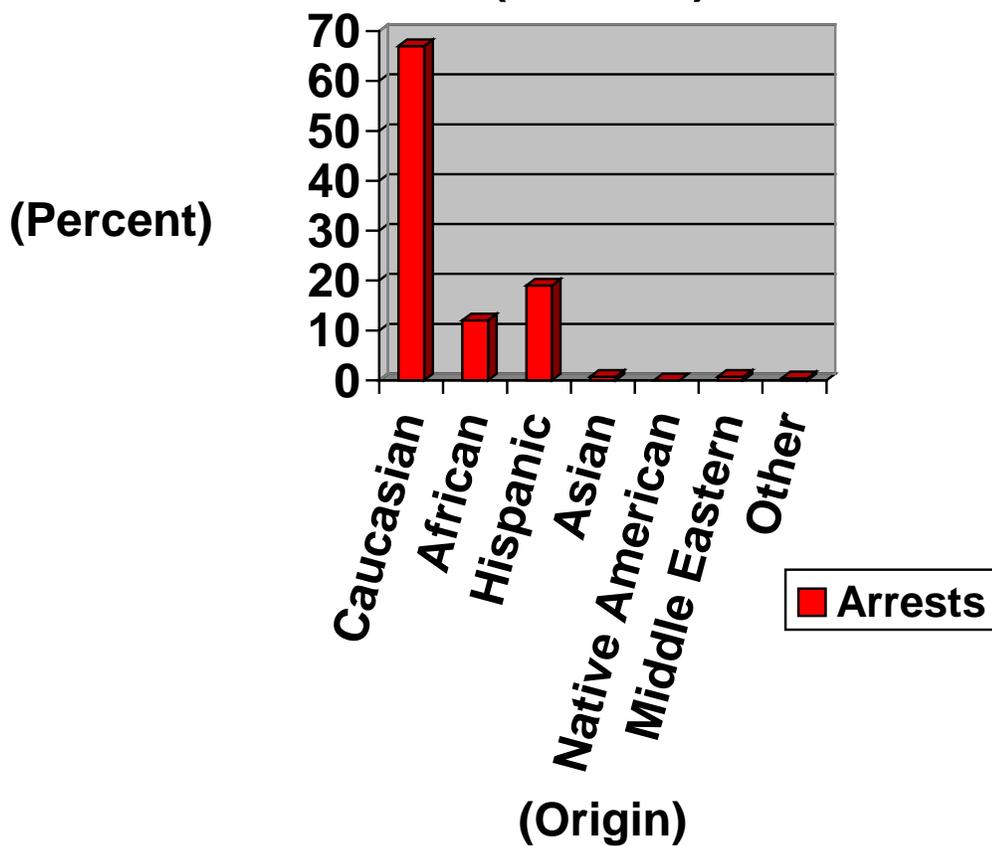
### Tier 1 Data (Motor Vehicle Contacts)



### Tier 1 Data (Searches)



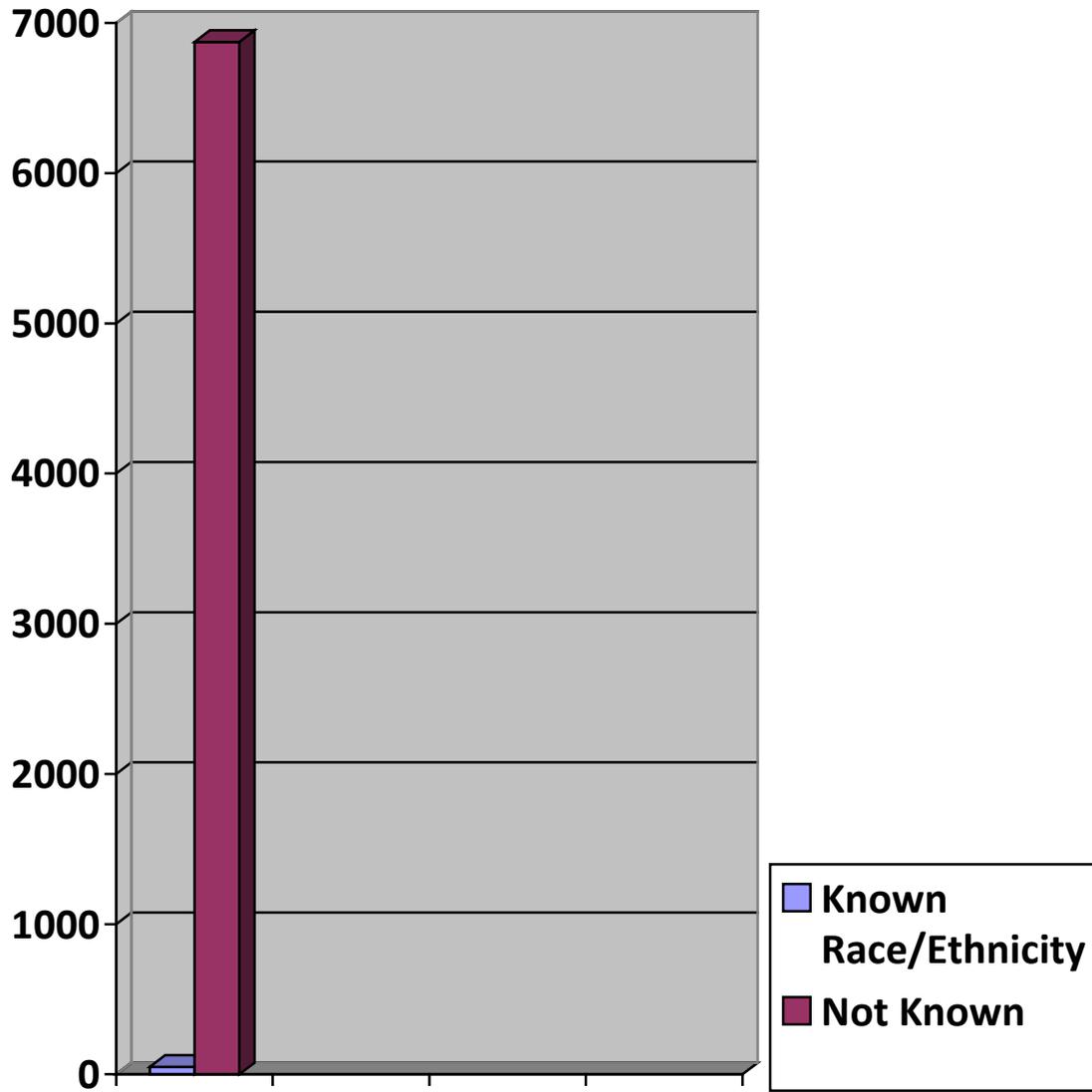
### Tier 1 Data (Arrests)



Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/13--12/31/13)

<b>Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained</b>	<b>Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained</b>
0	6,791

### Known Race/Ethnicity (Frequencies)



## Tier 1 (Partial Exemption TCLEOSE Form)

**Partial Exemption Racial Profiling Reporting (Tier 1)****Department Name Murphy Police Department****Agency Number 085216****Chief Administrator Name G.M. Cox****Reporting Name Kim Parker****Contact Number 972-468-4200****E-mail Address Kparker@murphytx.org****Certification to Report 2.132 (Tier 1) – Partial Exemption****Policy Requirements (2.132(b) CCP): Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:**

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) require collection of information relating to motor vehicle

stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

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

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

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

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

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

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

These polices are in effect

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Chief Administrator Date

## **Partial Exemption Racial Profiling Reporting**

**(Tier 1)**

### **Video and Audio Equipment Exemption**

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

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

OR

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

I claim this exemption

\_\_\_\_\_  
Chief Administrator Date

## Partial Exemption Racial Profiling Reporting (Tier 1)

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

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

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

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

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

### **Number of Motor Vehicle Stops:**

1. 2112 citation only

2. 51 arrest only

3. 43 both

4. 2206 Total

### **Race or Ethnicity:**

5. 294 African

6. 246 Asian

7. 1102 Caucasian

8. 443 Hispanic

9. 119 Middle Eastern

10. 2 Native American

11. 2206 Total

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

12.\_0\_\_\_\_Yes

13.\_2206\_\_\_\_No

14.\_2206\_\_\_\_Total

**Search Conducted:**

15.\_215\_\_\_\_Yes

16.\_1991\_\_\_\_No

17.\_2206\_\_\_\_Total

**Was Search Consented?**

18.\_102\_\_\_\_Yes

19.\_113\_\_\_\_No

20.\_215\_\_\_\_Total Must Equal # 15

## **Option to submit required data by utilizing agency report**

**You must submit your report in PDF format**

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

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

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

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

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

This report meets the above requirements

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Chief Administrator

Date

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

**[www.tcleose.state.tx.us](http://www.tcleose.state.tx.us)**

# **Tier 1 Baseline Comparison (Fair Roads Standard)**

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

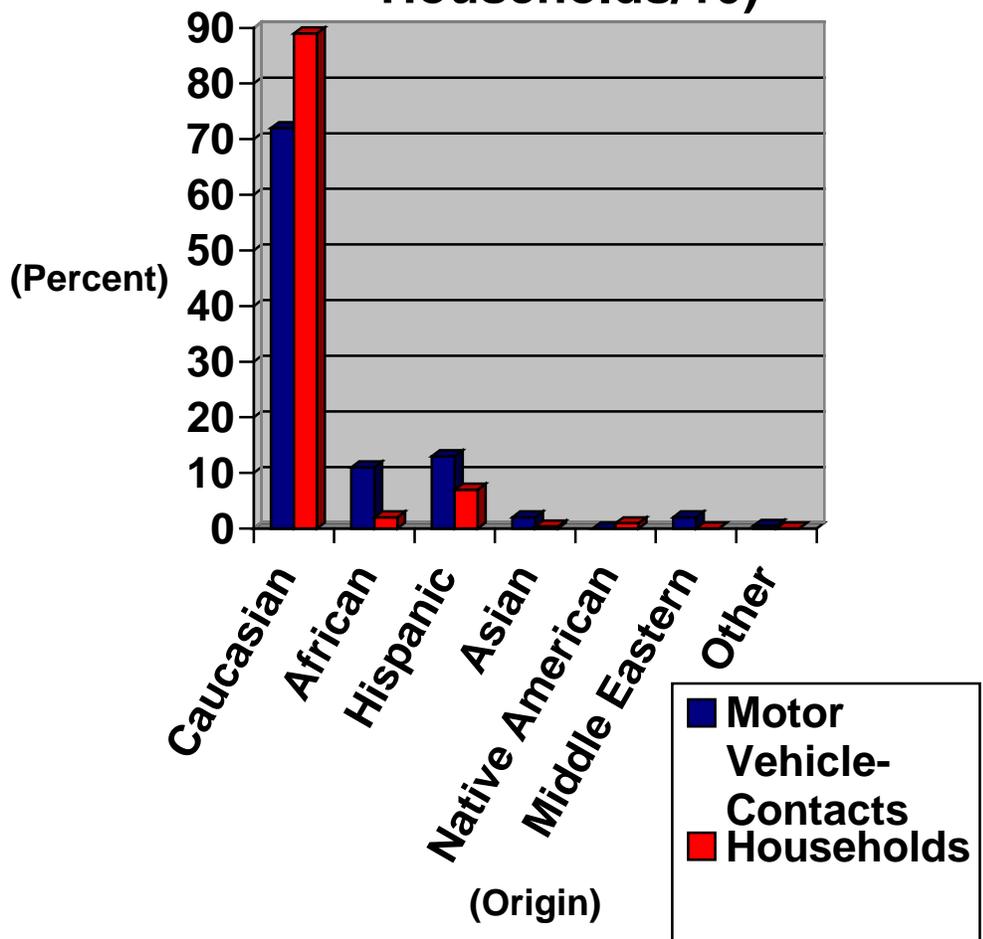
Comparison of motor vehicle-related contacts with households in DFW that have vehicle access (in percentages). (1/1/13—12/31/13)

<b>Race/Ethnicity*</b>	<b>Contacts (in percentages)</b>	<b>Households with vehicle access (in percentages)</b>
<b>Caucasian</b>	53	60
<b>African</b>	16	14
<b>Hispanic</b>	14	19
<b>Asian</b>	10	5
<b>Native American</b>	.1	N/A
<b>Middle Eastern</b>	7	N/A
<b>Other</b>	.3	N/A
<b>Total</b>	100	98**

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

\*\*Represents rounded figure

### Tier 1 (Motor Vehicle-Contacts and Households/10)



**Tier 1 Data  
(Ten-Year Comparative Analysis)  
(2004—2013)**

**(III) Ten-Year Tier 1 Data Comparison****Comparison of Ten-Year Traffic and Motor Vehicle-Related Contact Information  
(1/1/04---12/31/13)**

Race/Ethnicity*	Traffic-Related Contacts (in percentages)							
			(04)	(05)	(06)	(07)	(08)	(09)
<b>Caucasian</b>			60	61	61	64	59	56
<b>African</b>			11	12	13	13	14	15
<b>Hispanic</b>			22	18	16	13	14	15
<b>Asian</b>			6	8	7	8	11	13
<b>Native American</b>			1	.4	.2	.2	.02	.03
<b>Other</b>			0	.4	2	2	2	.7
<b>Total</b>			100	100**	100**	100	100	100**

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

\*\* Figure has been rounded.

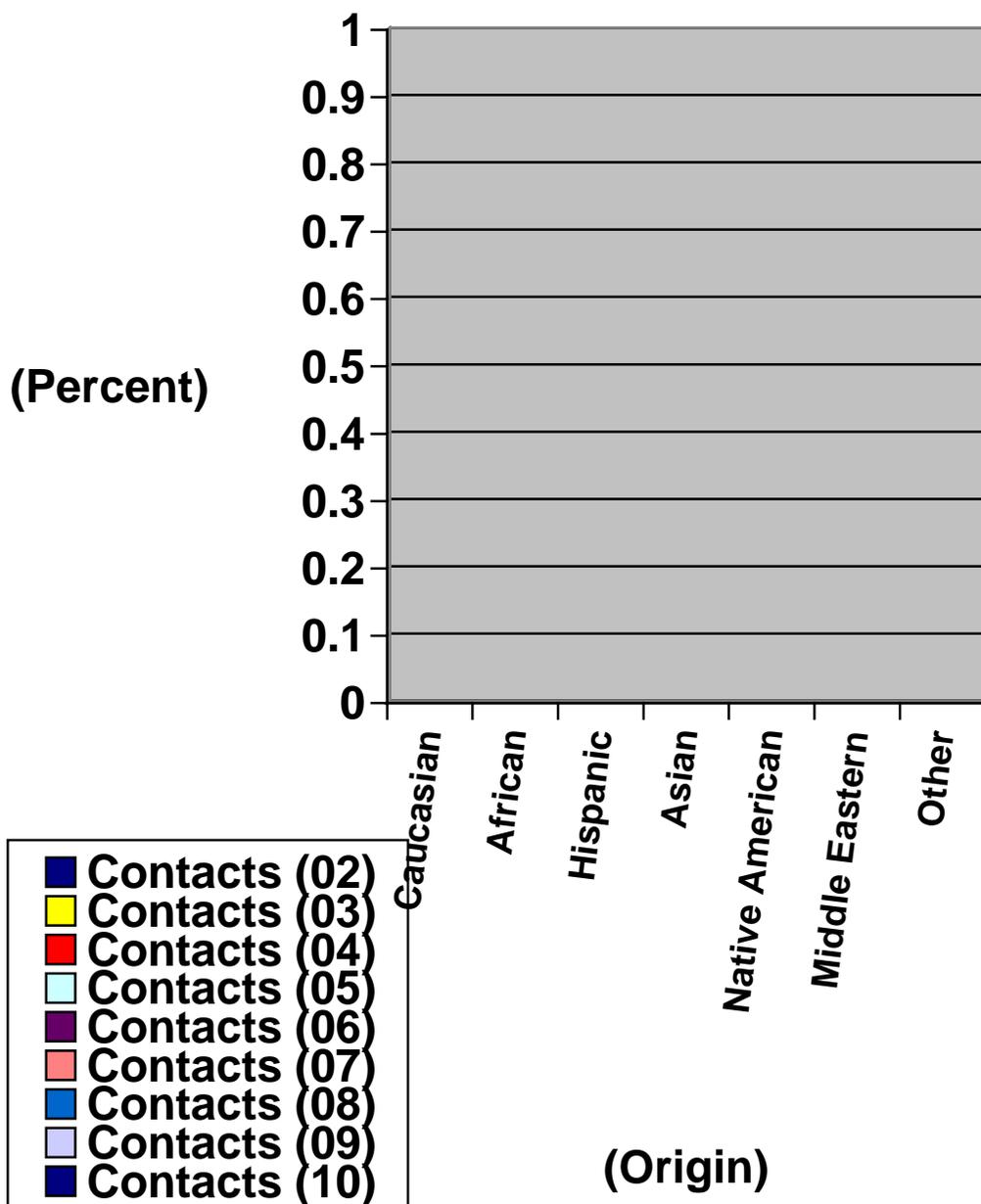
**Comparison of Ten-Year Traffic and Motor Vehicle-Related Contact Information  
(1/1/04---12/31/13)**

Race/Ethnicity*	Motor Vehicle-Related Contacts (in percentages)			
	(10)	(11)	(12)	(13)
<b>Caucasian</b>	55	57	53	53
<b>African</b>	15	15	15	16
<b>Hispanic</b>	14	14	17	14
<b>Asian</b>	9	8	10	10
<b>Native American</b>	.05	.1	.7	.1
<b>Middle Eastern</b>	7	6	4	7
<b>Other</b>	.5	.04	.4	.3
<b>Total</b>	100**	100	100	100

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

\*\* Figure has been rounded.

### Tier 1 Data (Contacts 04-13)



# **Analysis and Interpretation of Data**

## Analysis

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

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

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

In an effort to comply with The Texas Racial Profiling Law, the Murphy Police Department commissioned the analysis of its 2013 motor vehicle contact data. Thus, three different types of data analyses were performed. The first of these involved a careful evaluation of the 2013 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also,

the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2013 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Murphy Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Murphy Police Department in 2013 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Murphy Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort Worth (DFW) Metroplex.

The final analysis was conducted while using the 2004--2009 traffic data and the 2010—2013 motor-vehicle related data. Specifically, all traffic-related contacts made in 2009 were compared to similar figures reported in 2004, 2005, 2006, 2007 and 2008. Similarly, motor vehicle contact data was compared while using data from 2010, 2011, 2012 and 2013. Although some researchers may not support the notion that in ten years, a “significant” and “permanent” trend can take effect, when considering this analysis, it was determined that comparing ten years of traffic/motor vehicle contact data may highlight possible areas of consistency with regards to traffic and motor vehicle-related contacts. That is, the ten-year comparison has the potential of revealing indicators that a possible trend of traffic and motor vehicle-based contacts with regards to members of a specific minority group, may in fact, develop.

### Tier 1 (2013) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2013, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. With respect to searches, most of them were performed on Caucasian drivers. This was followed by African Americans and Hispanics. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in motor vehicle-related contacts; this was followed by African Americans and Hispanics.

### Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in the DFW who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American and Asian descent that came in contact with the police was higher than the percentage of African American and Asian households in DFW that claimed, in the 2010 census, to have access to vehicles. With respect to Caucasian and Hispanic, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Hispanic drivers that came in contact with the police in 2013 was lower than the percentage of Caucasian and Hispanic households in DFW with access to vehicles.

### Ten-Year Comparison

The ten-year comparison (04-13) of traffic and motor vehicle related-contact data showed some similarities. As illustrated in table 3, the percentage of drivers (from different racial/ethnic groups) that came in contact with the Murphy Police in 2013 was similar to the percentage of drivers, from the same racial/ethnic groups that came in contact with the Murphy Police Department from 2004 to 2012. However, a few differences were noted. When comparing 2013 to the previous years, there was an increase in percentage of contacts among African American drivers. A decrease in percentage was detected among Hispanics.

### Summary of Findings

The comparison of motor vehicle contacts showed that the Murphy Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Hispanic drivers than the percentage that resided in DFW and had access to vehicles. Further, the data suggested that the percentage of African American and Asian drivers that came in contact with the police in 2013 was higher than the percentage of African American and Asian households in DFW with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

An examination of the twelve-year traffic and motor vehicle-related contact data suggested that the Murphy Police Department has been, for the most part, consistent in the racial/ethnic composition of motorists it comes in contact with during a given year. The consistency of contacts for the past twelve years is in place despite the fact the city demographics may have changed, thus, increasing the number of subjects likely to come in contact with the police.

While considering the findings made in this analysis, it is recommended that the Murphy Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals; particularly with African Americans and Asians. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public.

As part of this effort, the Murphy Police Department is also encouraged to:

- 1) Perform an independent search analysis on the search data collected in the first quarter of 2014.
- 2) Commission data audits in 2014 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Murphy Police Department complied with recommendations made last year, in a similar report, regarding data audits. Further, the information and analysis provided in this report serves as evidence that the Murphy Police Department has, once again, complied with the Texas Racial Profiling Law.

# **(III) Summary**

# Checklist

## Checklist

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

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Murphy Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
  - a) Race and ethnicity of individual detained
  - b) Whether a search was conducted
  - c) If there was a search, whether it was a consent search or a probable cause search
  - d) Whether a custody arrest took place
- Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2014.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

# Contact Information

**Contact Information**

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

Del Carmen Consulting, LLC  
817.681.7840  
[www.texasracialprofiling.com](http://www.texasracialprofiling.com)  
[www.delcarmenconsulting.com](http://www.delcarmenconsulting.com)

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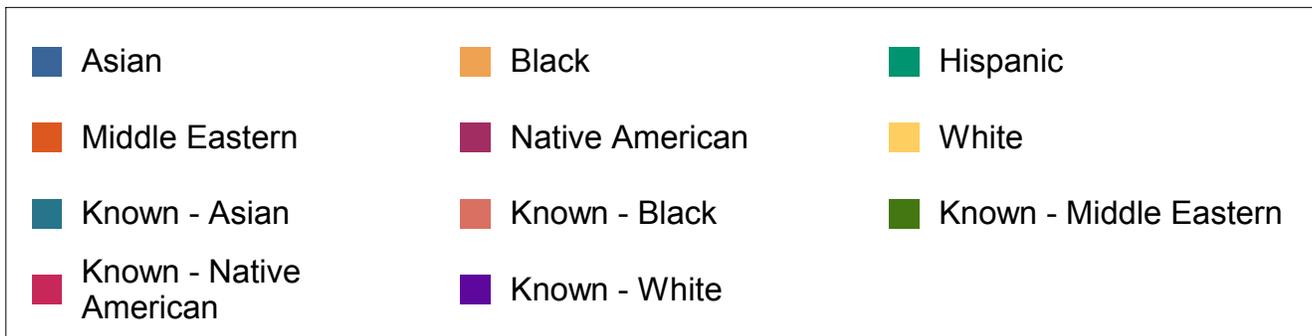
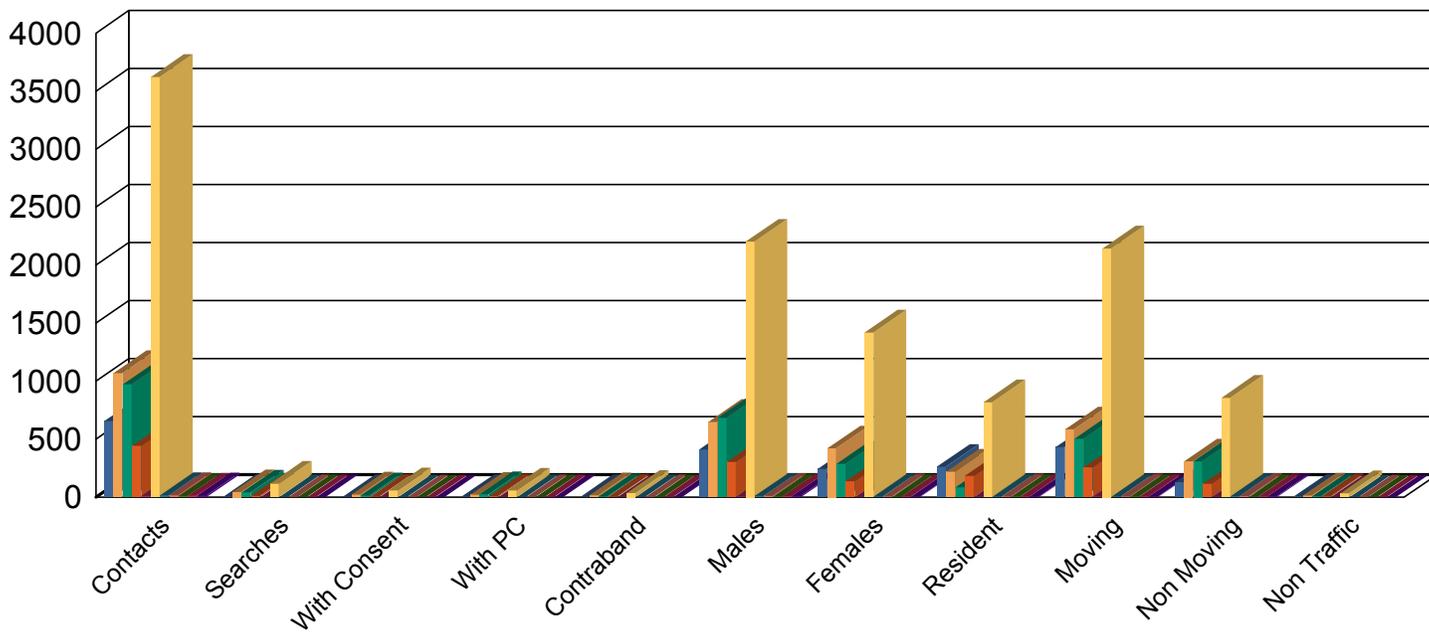


# MURPHY POLICE DEPARTMENT

## Racial Profiling

01/01/2013 - 12/31/2013

	Contacts		Search	Consent	PC	Contraband	Male	Female	Resident	Race Known	Reason For Contact		
	#	Percent									Moving	Non-Moving	Non-Traffic
<b>Asian</b>	655	9.65%	3	1	2	1	411	244	262	0	431	130	5
<b>Black</b>	1070	15.76%	44	23	21	16	649	421	220	0	585	309	14
<b>Hispanic</b>	973	14.33%	40	15	25	7	685	288	85	3	504	310	8
<b>Middle Eastern</b>	442	6.51%	12	4	8	4	304	138	182	0	257	114	6
<b>Native American</b>	10	0.15%	0	0	0	0	6	4	3	0	5	2	0
<b>White</b>	3623	53.35%	116	59	57	36	2203	1420	819	0	2144	856	34
<b>Others</b>	18	0.27%	1	0	1	1	11	7	6	18	7	9	0
<b>Total</b>	<b>6791</b>		<b>216</b>	<b>102</b>	<b>114</b>	<b>65</b>	<b>4269</b>	<b>2522</b>	<b>1577</b>	<b>21</b>	<b>3933</b>	<b>1730</b>	<b>67</b>



Hispanic is determined by ethnicity, regardless of race.  
Hispanics are not included in other races.



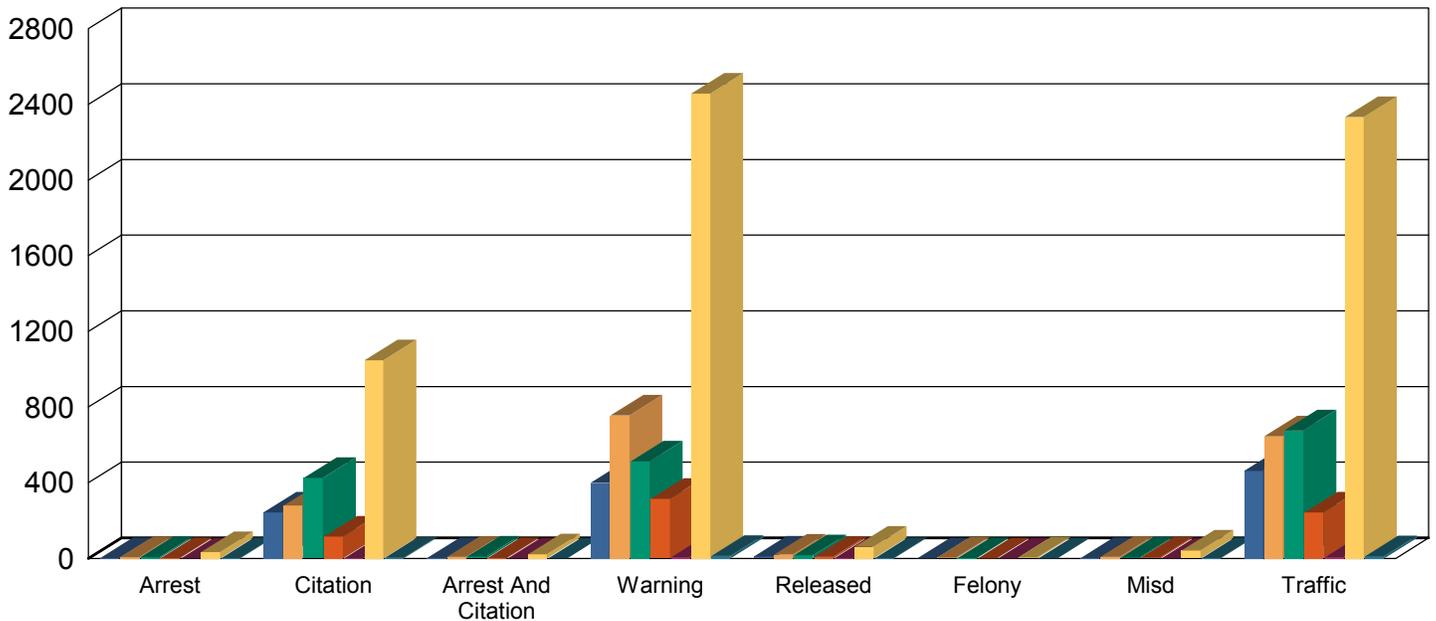
# MURPHY POLICE DEPARTMENT

## Racial Profiling Dispositions

Item 6.D.

01/01/2013 - 12/31/2013

		Disposition					Charge			
		Arrest	Citation	Arrest/Citation	Warning	Released	Felony	Misd	Traffic	No Charge
<b>Asian</b>	<b>655</b>	2	242	2	399	10	0	1	462	190
<b>Black</b>	<b>1070</b>	7	279	8	756	20	4	8	645	407
<b>Hispanic</b>	<b>973</b>	7	426	10	512	16	2	4	677	284
<b>Middle Eastern</b>	<b>442</b>	2	116	1	315	8	0	4	242	194
<b>Native American</b>	<b>10</b>	0	2	0	7	1	0	0	7	0
<b>White</b>	<b>3623</b>	33	1047	22	2457	61	5	41	2333	1,227
<b>Others</b>	<b>18</b>	1	3	0	13	1	0	1	11	6
<b>Total: 6791</b>		<b>52</b>	<b>2115</b>	<b>43</b>	<b>4459</b>	<b>117</b>	<b>11</b>	<b>59</b>	<b>4377</b>	<b>2308</b>



Hispanic is determined by ethnicity, regardless of race. Hispanics are not included in other races.

## TIER 1 - PARTIAL EXEMPTION RACIAL PROFILING REPORT

**Agency Name:** MURPHY POLICE DEPT.  
**Reporting Date:** 01/02/2014  
**TCOLE Agency Number:** 085216  
**Chief Administrator:** G. M. COX  
**Agency Contact Information:** Phone: 972-468-4200  
 Email: [kparker@murphytx.org](mailto:kparker@murphytx.org)  
 Mailing Address:  
 MURPHY POLICE DEPT.  
 206 N Murphy Rd  
 Murphy, TX 75019

This Agency claims partial racial profiling report exemption because:

Our vehicles that conduct motor vehicle stops are equipped with video and audio equipment and we maintain videos for 90 days.

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

Article 2.132(b) CCP Law Enforcement Policy on Racial Profiling

MURPHY POLICE DEPT. has adopted a detailed written policy on racial profiling. Our policy:

- (1) clearly defines acts constituting racial profiling;
- (2) strictly prohibits peace officers employed by the MURPHY POLICE DEPT. from engaging in racial profiling;
- (3) implements a process by which an individual may file a complaint with the MURPHY POLICE DEPT. if the individual believes that a peace officer employed by the MURPHY POLICE DEPT. has engaged in racial profiling with respect to the individual;
- (4) provides public education relating to the agency's complaint process;
- (5) requires appropriate corrective action to be taken against a peace officer employed by the MURPHY POLICE DEPT. who, after an investigation, is shown to have engaged in racial profiling in violation of the MURPHY POLICE DEPT.'s policy adopted under this article;
- (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
  - (A) the race or ethnicity of the individual detained;
  - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

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

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

(A) the Commission on Law Enforcement; and

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

**I certify these policies are in effect.**

Executed by: **G. M. COX**

Chief Administrator

MURPHY POLICE DEPT.

Date: 01/02/2014

## MURPHY POLICE DEPT. Motor Vehicle Racial Profiling Information

### Number of motor vehicle stops:

1. **2112** citation only
2. **51** arrest only
3. **43** both
4. **2206 Total** (4, 11, 14 and 17 must be equal)

### Race or Ethnicity:

5. **294** African
6. **246** Asian
7. **1102** Caucasian
8. **443** Hispanic
9. **119** Middle Eastern
10. **2** Native American
11. **2206 Total** (lines 4, 11, 14 and 17 must be equal)

### Race or Ethnicity known prior to stop?

12. **0** Yes
13. **2206** No
14. **2206 Total** (lines 4, 11, 14 and 17 must be equal)

### Search conducted?

15. **215** Yes
16. **1991** No
17. **2206 Total** (lines 4, 11, 14 and 17 must be equal)

### Was search consented?

18. **102** Yes
19. **113** No
20. **215 Total** (must equal line 15)



# The Texas Commission on Law Enforcement

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  - [TCLEDDS Account Help](#)
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Welcome to the TCOLE Department Reporting System!  
**Thank you, your Racial Profile Report has been accepted.**

## Your TCLEOSE Department Information

Chief Administrator:	G. M. COX	Account Holder:	Kim Parker
Department:	MURPHY POLICE DEPT.	Account Expiration:	<b>04/05/2012</b>
TCOLE Agency No:	085216	Account Holder Email:	kparker@murphytx.org
Department Address:	206 NORTH MURPHY ROAD MURPHY, TX 75094	Account Holder Phone:	972-468-4235
Department Phone:	9724684200	TCLEDDS Account Active:	YES
Department Fax:	9734684277	2013 Racial Profile Report on File?	<b>YES</b> <a href="#">View Current Texas State Racial Profile Information</a>
Chief Administrator Email:	None on file		

To change your Department Information, choose Account Information, Account Updates from the Menu.

## City Council Meeting February 4, 2014

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### Issue

Discussion regarding North Murphy Road and associated projects:

1. Taking North Murphy Road off of the state highway system; and,
2. Safe Routes to Schools (SRTS) sidewalk and enhanced crosswalk grant projects.

### Background and Summary

The City Council discussed this item at their last meeting on January 7<sup>th</sup>. The Council asked for a TxDOT representative to come before the Council for further discussion on this consideration. TxDOT will be at this meeting to help address some of the concerns. Also, Bill Hale TxDOT Dallas District Engineer, sent a letter to the City regarding the consideration of taking FM 2551 (North Murphy Road) off-system. A copy is attached for your review.

I asked our City Engineer if he had any information regarding the construction improvements for South Murphy Road and FM 544. Here is what he found:

1. South Murphy Road was constructed with funding by Collin County. The project was managed by the City of Richardson Engineering Department. HDR Engineering, Inc. were the project engineers. Although I have not found any construction plans or records, I did find a copy of the construction plans cover sheet dated October 31, 2000.
2. I also found a few South Murphy Road Right-of-way plats and field notes prepared by a rather young surveyor (me) dated Sept. 1994.
3. Finally, I found correspondence related to Annexations/Dis-Annexations along S. Murphy Road to clear up the corporate boundaries between Plano, Richardson and Murphy. That correspondence ranges from May 2002 to July 2002. It appears South Murphy Road was constructed sometime between 2001 and perhaps mid-2002. That puts it at about 11-12 years old.
4. About F.M. 544: I have very little information in our records about that project. The only documents I found were related to the Utility Relocations Murphy would need to perform for the FM 544 Improvements. The first is dated August 29, 1994. I found utility relocation plans dated August 1999.

Finally, you will find a memo from the SRTS consultant concerning what the City is trying to do with North Murphy Road. The elements, sidewalks and crosswalks that are being asked for create a type of pedestrian zone that will hopefully encourage drivers to be more aware of the area including the potential of people crossing the road or are in very close proximity.

### Consideration

There are still a lot of factors to be considered and evaluated. I am working with Plano and Wylie about a proposed Interlocal Agreement for traffic signal maintenance and striping. Staff is also looking at proposed maintenance costs for Murphy Road. As I get that information, I will get it to City Council for review.

### Staff Recommendation

No action required by City Council at this time.

**City Council Meeting**  
**February 4, 2014**

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**Attachments**

TxDOT letter dated January 22, 2014

Safe Routes to School Memo January 29, 2014



January 22, 2014

RECEIVED

Mr. James Fisher  
City Manager  
City of Murphy  
206 North Murphy Road  
Murphy, Texas 75094

JAN 27 4

City Manager's Office

Re: FM 2551 CSJ: 2056-01-045

Dear Mr. Fisher:

Thank you for your letter dated January 10, 2014 informing us of the City of Murphy's intent, subject to Council approval, to remove FM 2551 from the Texas State Highway System upon completion of the FM 2551 reconstruction project. It is the Texas Department of Transportation's (TxDOT's) desire to complete an off-system agreement with the City of Murphy in the near future. As discussed at our meeting, it would be acceptable for the off-system request to be from FM 544 northward to the Murphy city limits.

Our goal is to work in partnership with communities implementing solutions, where possible, to safely manage mobility. We appreciate the opportunity to work with the City of Murphy as you develop comprehensive plans to manage the growth your city is experiencing. As we have discussed, utilizing the Safe Routes to School (SRTS) grant and conversion of FM 2551 from on-system to off-system are a few of the tools that can help accomplish the goal of safely managing mobility in a way that conforms to the unique characteristics of your city's comprehensive development plan. Specifically, taking an on-system roadway off the state highway system allows the city greater operational control; including the authority to determine access for development along the corridor, appropriate speed limits and desired aesthetics.

Currently, we are working with the City of Murphy's consultant, Freese & Nichols, Inc., to provide plans agreeable to both TxDOT and the city. While not mentioned at the meeting on December 18<sup>th</sup>, we have also been in discussion regarding a landscape development project along the corridor utilizing Green Ribbon funding. In regards to timing, state law requires that all work, including the current reconstruction project, SRTS project, and Green Ribbon project must be completed prior to official action removing FM 2551 from the Texas State Highway System. However, we would like to have the terms of the agreement and the final document both parties support completed, and ready to be acted upon once all work is completed.

If you have any questions, please contact Barry Heard, P.E. at 972-542-2345.

Sincerely,

William L. Hale, P.E.  
Dallas District Engineer

OUR GOALS

MAINTAIN A SAFE SYSTEM • ADDRESS CONGESTION • CONNECT TEXAS COMMUNITIES • BEST IN CLASS STATE AGENCY

*An Equal Opportunity Employer*



January 10, 2014

Bill Hale, P.E.  
 District Engineer, Dallas  
 Texas Department of Transportation  
 P.O. Box 133067  
 Dallas, Texas 75313-6067

Re: FM 2551  
 North Murphy Road

Dear Mr. Hale,

Thank you for meeting with me and other city representatives on December 18<sup>th</sup> to discuss the construction improvements and the Safe Routes to School project on FM 2551 in Murphy. The City is very excited about the improvements and know that they will benefit the community and visitors for years to come. The Safe Routes to School project will allow our students and citizens to safely walk to the Plano ISD campuses, Murphy Central Park and to neighborhoods throughout Murphy. The City understands that in order to accomplish many of the improvements of the Safe Routes to School project in Murphy that FM 2551 will need to come off of the State Highway System.

I respectfully request that you consider taking FM 2551 off the system from FM 544 north to the bridge structures at Maxwell Creek. This will allow FM 2551 construction improvements to move forward with the Safe Routes to School implemented into those improvements. I realize that there are still many issues to be worked out between our entities regarding taking FM 2551 off system and I am looking forward to working with you on those issues. Also, please understand that the Murphy City Council must give their approval of this request to remove FM 2551 off system before it is official.

Thank you for your time and attention to this matter. Please feel free to contact me should you have any questions.

Sincerely,

James Fisher  
 City Manager

Cc: Mayor and City Council  
 Barry Heard, TxDOT Area Engineer

James Fisher  
 City Manager  
[jfisher@murphytx.org](mailto:jfisher@murphytx.org)

206 North Murphy Road  
 Murphy, TX 75094  
[www.murphytx.org](http://www.murphytx.org)

**JAN 29 2014**

City of Murphy, Texas  
**Safe Routes to School Components**

City Manager's Office

The following items were part of the City's approved Safe Routes to School (SRTS) application. These features will be a part of North Murphy Road if the City takes its off-system.

**Off-System Scenario**

**In-Pavement Lighting** at the crosswalks. The lighting flashes when pedestrians are present to better alert drivers. The feature will be incorporated in the following intersection along North Murphy Road: Glen Ridge Drive, Shirehurst Drive, Spring Ridge Drive, and the mid-block crossing near Windsor Drive.



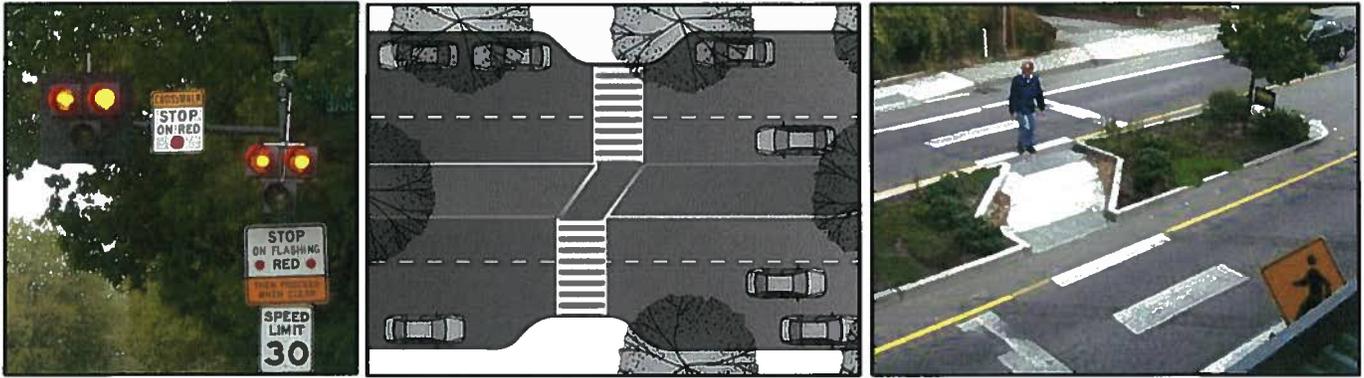
**Stamped Concrete Crosswalks** to enhance the crossing and make them more visible to drivers and pedestrians. The feature will be incorporated in the following intersection along North Murphy Road: Glen Ridge Drive, Shirehurst Drive, Spring Ridge Drive, and the crossing near Windsor Drive.



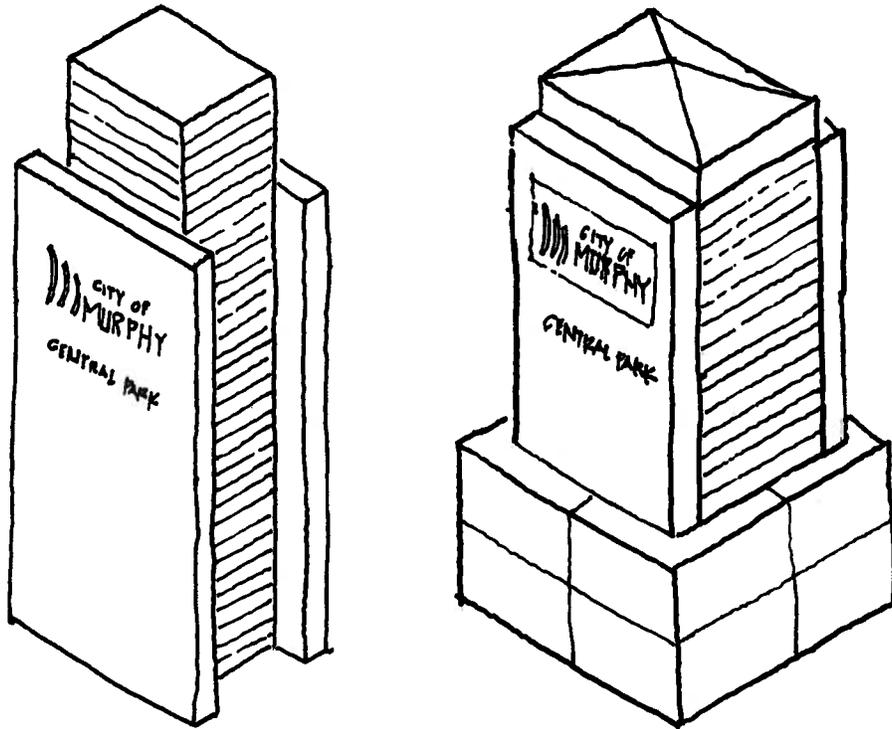
**Wider Trail-like Sidewalks** along certain segments of North Murphy Road. The wider sidewalks allow for bicyclists and pedestrians to share the pathway. They also accommodate groups of student and/or parents walking to school or using the area recreationally on the weekends.



**Mid-Block Crossing with Pedestrian Activated HAWK Signal at Windsor Drive.** The crossing will feature an offset median break to encourage better sight lines for pedestrians in the middle of North Murphy Road.



**Monument Columns** framing Transition School Zone Area. These monuments will be visible to vehicular traffic and well as pedestrian. They will help create a sense of place, helping to slow traffic and create a safer roadway.

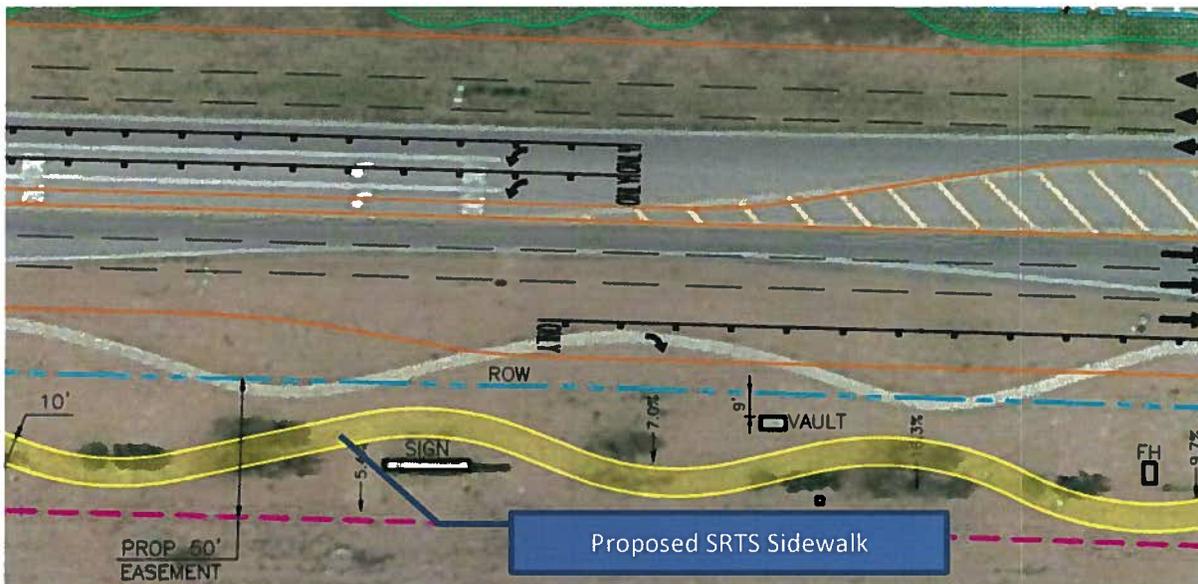


### TxDOT's On-System Scenario

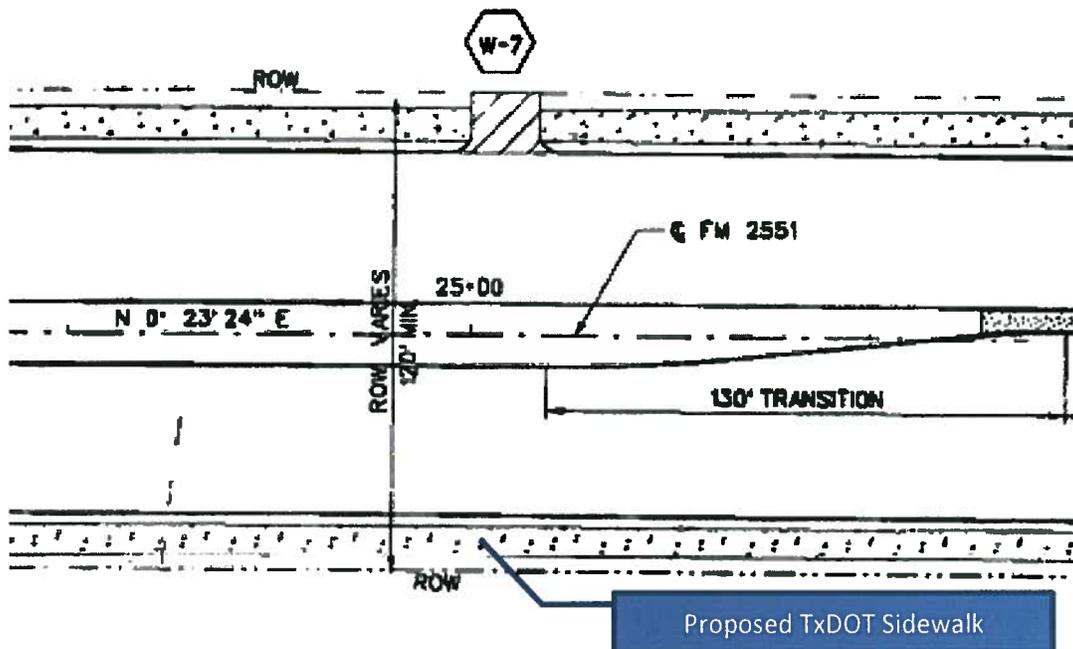
TxDOT will incorporate the stamped concrete crosswalks into its current improvements along North Murphy Road.

#### Difference between SRTS and TxDOT Sidewalk Construction

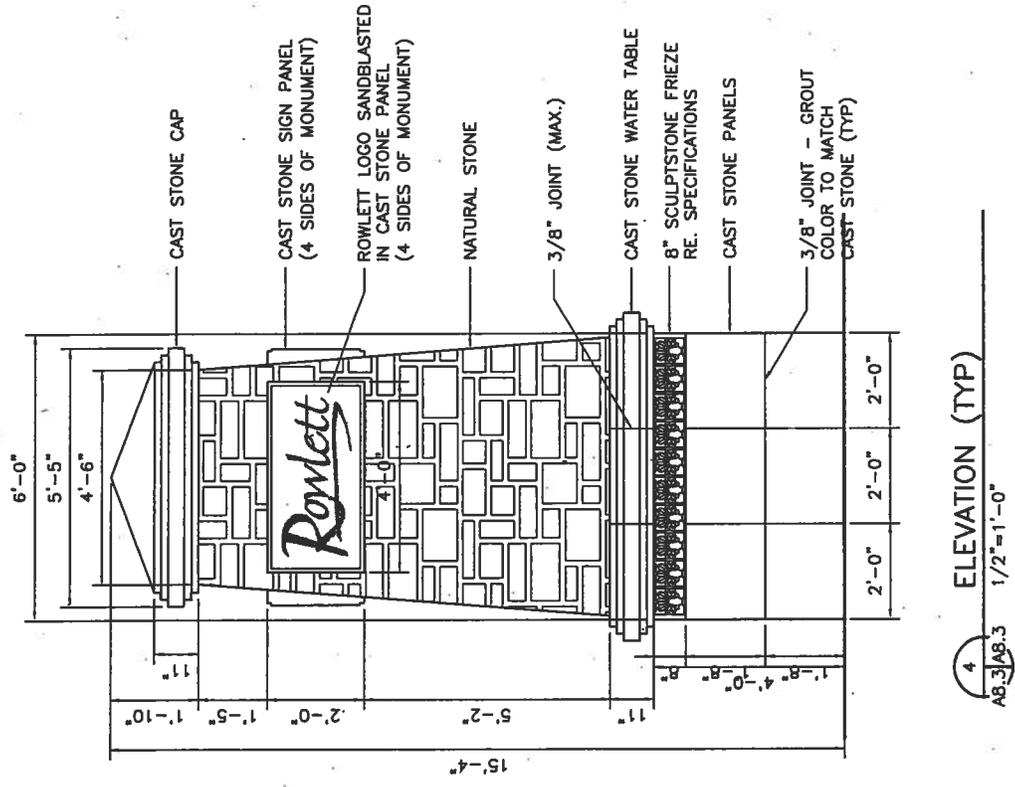
The SRTS sidewalks will provide wider, trail-like pathways along the east side of North Murphy Road. These sidewalks will be 8 to 10 feet wide and feature gentle curves for a more enjoyable walking space. In addition, these sidewalks will be located outside of the roadway's right-of-way, placing a greater distance between the vehicular traffic and pedestrians, specifically students walking to the PISD campuses.



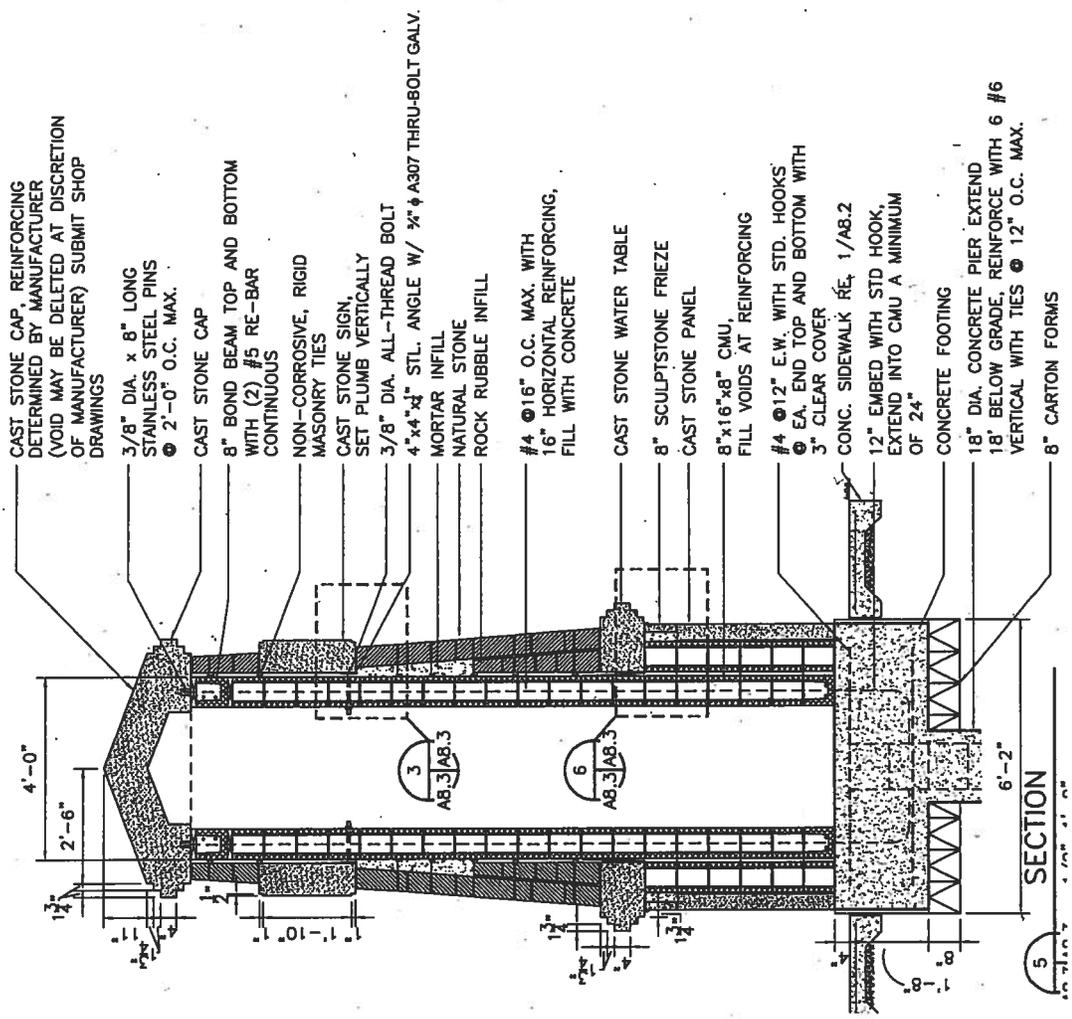
Sidewalks constructed under TxDOT's current project along North Murphy Road will be restricted to 5' widths and straight alignments. The sidewalks will also be placed roughly 2 feet from back of curb.



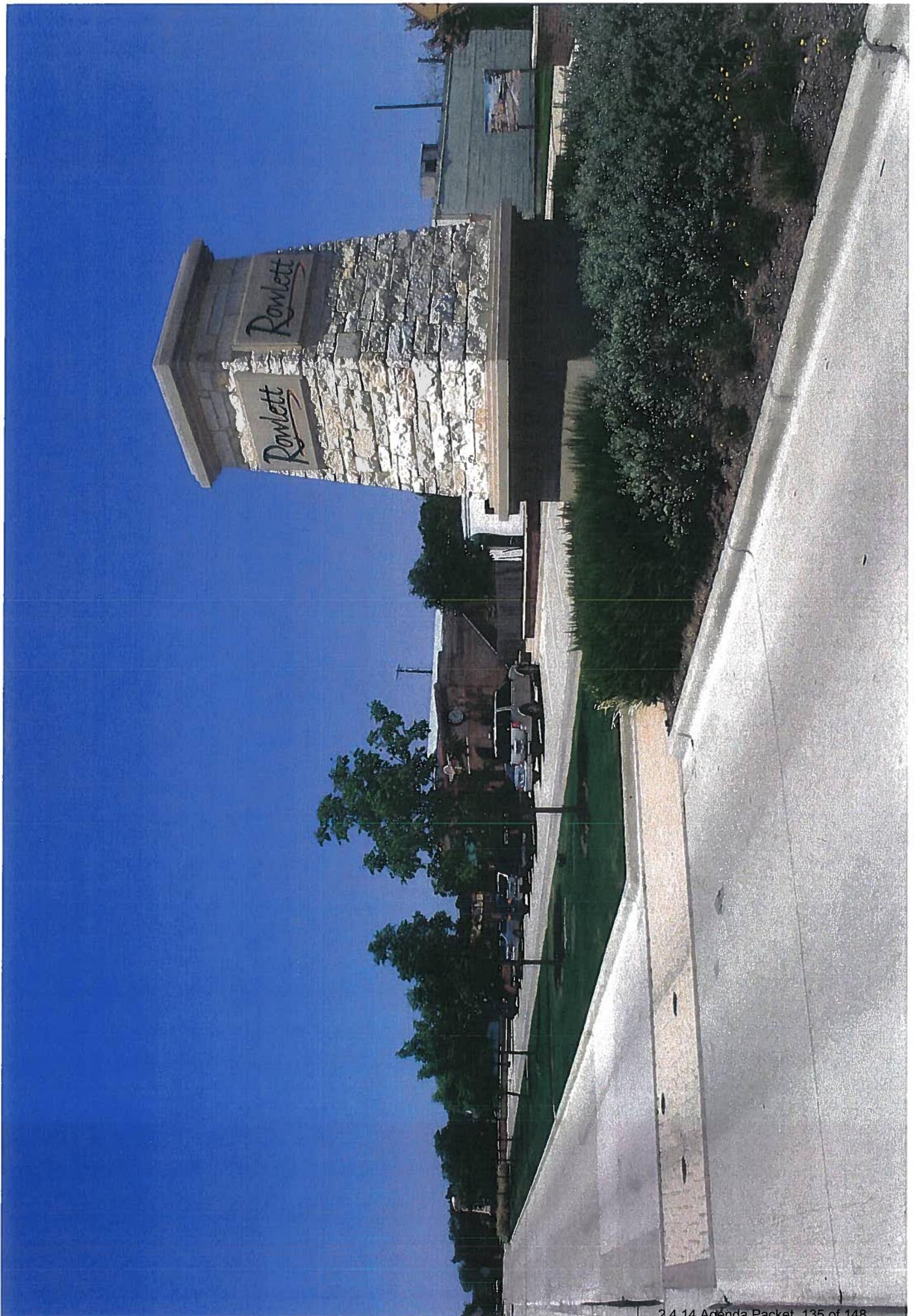
**DRAFT**  
Not this fall



4 ELEVATION (TYP)  
 AB.3/AB.3 1/2"=1'-0"



5 SECTION  
 1/2"=1'-0"



**City Council**  
**February 4, 2014**

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**Issue**

Hold a public hearing and consider and/or act on the application of BV Murphy TFG, LLC to re-plat 150 West FM 544, currently platted as Lot 1R-A, Block A, Murphy Village Addition.

**Background and Summary**

This overall property is an 8.94 acre tract located at 150 East FM 544. It is the former site of the Wal-Mart Neighborhood Market and is currently platted as Lot 1R-A, Block A, Murphy Village Addition. In April 2007, it was re-plat to create an outparcel lot for Murphy USA Fuel and Convenience Station, when that lot became Lot 1R-B.

The property is zoned 'R' Retail. A fast-food type restaurant is currently under staff review for this site and will be considered by the Planning & Zoning Commission on February 24, 2014 followed by City Council consideration.

**Considerations**

The purpose of this consideration item is re-plat Lot 1R-A into two lots, 1R-A1 and 1R-A2 to create another outparcel lot for a separate use.

Lot 1R-A1 will be the site of the existing retail store and contain approximately 8 acres. This proposed new lot, Lot 1R-A2, will contain approximately 0.78 acres and will allow for future development of Lot 1R-A2.

**Board Discussion / Action**

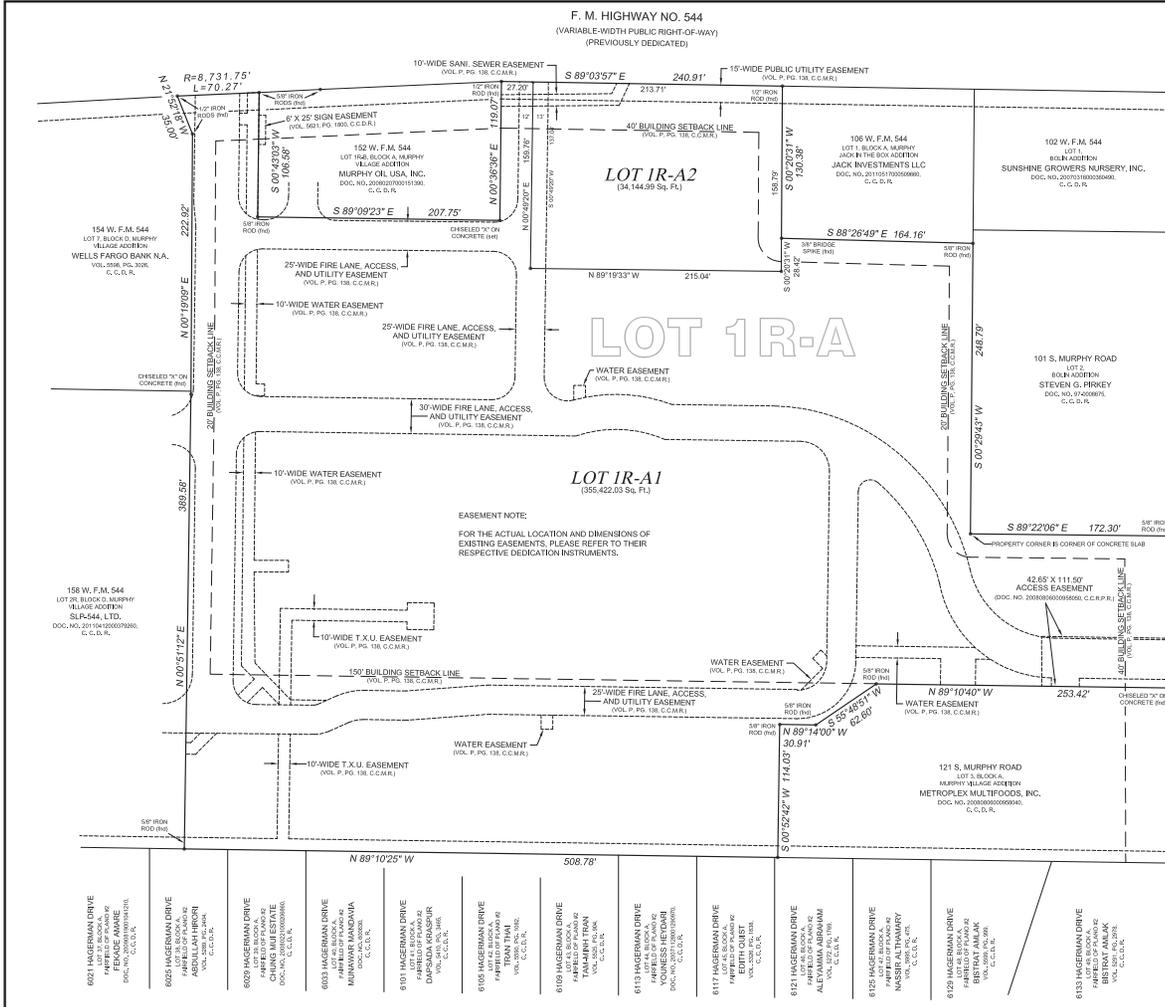
On January 27, 2014, the Planning & Zoning Commission voted unanimously to approve this item.

**Staff Recommendation**

Motion to approve the re-plat as submitted.

**Attachments**

Re-plat



**BASIS OF BEARINGS**  
S 89°03'57" E FOR THE NORTH LINE OF SUBJECT PROPERTY PER PLAT OF RECORD.

**FLOODPLAIN INFORMATION**  
THIS PLAT IS SUBJECT TO THE FLOODPLAIN REGULATIONS OF THE STATE OF TEXAS AS APPLICABLE TO THE SUBJECT PROPERTY.



**LOCATION MAP**  
(NO SCALE)

State of TEXAS  
County of DALLAS

WHEREAS BY MURPHY TFG, LLC, is the sole owner of an 8.94-acre tract out of the J. Maxwell Survey, Addition No. 306, Collin County, Texas, according to the final record in Document No. 201310404191666, Collin County Official Public Records, being more specifically described as follows:

**LEGAL DESCRIPTION**  
Lot 1R-A, Block A, Murphy Village Addition, an addition to the City of Murphy, Collin County, Texas, according to the plat hereof recorded in Volume 2007, Page 543, Map Records, Collin County, Texas.

**KNOW THESEWELL, KNOW ALL MEN BY THESE PRESENTS:**

That BY MURPHY TFG, LLC, acting herein by and through its duly authorized officer, does hereby certify this plat designating the herein above described property as MURPHY VILLAGE ADDITION, BLOCK A, LOTS 1R-A1 AND 1R-A2, an addition to the City of Murphy, Texas, and does hereby declare it to be public use for the public use forever, the streets, right-of-way, and other public improvements shown thereon. The streets and other improvements or growths shall be constructed or placed upon, or serve the convenience or use of the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be placed in the easements shown, except that landscape improvements may be placed in landscape easements, if approved by the city council of the city. In addition, utility easements may also be used for the normal use and convenience of the public utility desiring to use or using the same unless the easement limits the use to particular utilities, and use by public utilities being authorized by the public's and city's use thereof. The city and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way change or interfere with the convenience, maintenance, or efficiency of their respective systems in said easements. The city and public utility entities shall at all times have the full right of ingress and egress to and from their respective easements for the purpose of constructing, reconstructing, inspecting, maintaining, repairing, replacing, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission therefrom.

This plat approved subject to all planning ordinances, rules, regulations and resolutions of the City of Murphy, Texas.

Witness my hand on this, the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

BY: BV Management Services, Inc., the Manager

COURTNEY LEBLANC, PRESIDENT

**REPLAT**  
**MURPHY VILLAGE ADDITION**  
BLOCK A, LOTS 1R-A1 & 1R-A2  
BEING A REPLAT OF LOT 1R-A, BLOCK A, MURPHY VILLAGE ADDITION, AS RECORDED IN VOLUME 2007, PAGE 543, COLLIN COUNTY MAP RECORDS.

1" = 50' JANUARY, 2014 8.94 ACRES

**OWNER:** **SURVEYOR:**

**BV MURPHY TFG, LLC** **SALTER ENGINEERING & SURVEYING**  
901 PIER VIEW DRIVE, SUITE 201 11401 PHEASANT CREEK DRIVE  
IDAHO FALLS, ID 83402-5070 (208) 523-3794 (866) 723-9009

**THIS PLAT RECORDED IN**

STATE OF TEXAS  
COUNTY OF TARRANT

KNOW ALL MEN BY THESE PRESENTS:  
That I, **BRIAN SALTER**, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon are "set" with proper care and under my personal supervision in accordance with the Substantial Ordinance of the City of Murphy.

**BRIAN SALTER**, PROFESSIONAL LAND SURVEYOR, NO. 6507

**FAIRFIELD OF PLANO, PHASE 2, BLOCK A**

**GENERAL NOTES:**

- Special notice: Setting a portion of this addition by metes and bounds is a violation of city ordinance and State law, and is subject to fines and withholding of titles and other penalties.
- Utility, access and easement easements: The area or areas shown on this plat as "VIA" (utility, access and easement) easements (as hereby given and granted to the city) as successors and assigns, as an easement to provide utility, right of access for maintenance and access shall VAM easement. The city shall have the right to enter upon the VAM easement at any time for the purpose of installing, maintaining, repairing, replacing, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission therefrom. The city and public utility entities shall at all times have the full right of ingress and egress to and from their respective easements for the purpose of constructing, reconstructing, inspecting, maintaining, repairing, replacing, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission therefrom.
- Fences: That the undersigned does hereby covenant and agree that they shall construct upon the VAM easements, as indicated and shown hereon, a street lighting system with the City of Murphy's street lighting system for the VAM easement, and that they shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other obstructions or obstructions, including but not limited to the utility of water and electric, water, sewer or other facilities to the satisfaction of the city. The maintenance of such utility lines and easements is the responsibility of the owner, and the owner shall post and maintain appropriate signs in conspicuous places along such lines, stating "This Line, No Parking or Stopping." The landowner (or owners) is hereby authorized to remove, modify, repair, replace, and add to or remove all or parts of their respective systems without the necessity at any time procuring permission therefrom.
- Access easements: The undersigned does covenant and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and to the extent of general public use and access, and for the department and emergency use for utility, water, sewer and access shall post and maintain appropriate signs in conspicuous places along such lines, stating "This Line, No Parking or Stopping." The landowner (or owners) is hereby authorized to remove, modify, repair, replace, and add to or remove all or parts of their respective systems without the necessity at any time procuring permission therefrom.
- Purpose of Plat: This is a replat of Lot 1R-A, Block A, Murphy Village Addition. The previous subdivision plat is not being vacated, and shall remain in full force and effect. Only Lot 1R-A is being replatted to create two lots in place. 1R-A1 and 1R-A2. This is so Lot 1R-A2 can be developed as an unimproved lot separate from the plat.

**PROPERTY LOCATION STATEMENT**  
This property is located in the corporate limits of the territorial jurisdiction of the City of Murphy, Collin County, Texas.

Mayor, City of Murphy Date  
ATTEST: City Secretary, City of Murphy

City Secretary Date

**FINAL PLAT**  
Approved by the City of Murphy for filing at the office of the County Clerk of Collin County, Texas.  
RECOMMENDED BY: Planning and Zoning Commission, City of Murphy, Texas

Signature of chairperson Date of recommendation  
APPROVED BY: City Council, City of Murphy, Texas

Signature of Mayor Date of approval  
ATTEST: City Secretary, City of Murphy, Texas

City Secretary Date

Signature of City Secretary Date

Signature of City Secretary Date

**City Council Meeting**  
**February 4, 2014**

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**Issue**

Consider and/or act on revising the Alcohol Policy for the Murphy Community Center (MCC) and Murphy Activity Center (MAC).

**Staff Resource/Department**

Kristen Roberts, Director of Economic and Community Development

**Background**

On January 3, 2012, City Council approved MCC and MAC hours of operation, membership rates, room rental rates, and a catering policy. On February 7, 2012, City Council approved alcohol use at the MCC and MAC.

On April 3, 2012, City Council approved the Alcohol Policy for the MCC and MAC.

On January 21, 2014, the City Council discussed various amendment options to the MCC and MAC Alcohol Policy. Consideration items 3 has been amended below to include options as discussed by City Council.

**Considerations**

1. Review of the current MCC and MAC Alcohol Policy was requested following the City of Murphy's request for a variance to the current policy's Saturday only requirement.
2. Since the implementation of the MCC/MAC Alcohol Policy, staff has had no issues with alcohol use on premises and continues to adhere to the security component as included within the Alcohol Policy.
3. Based on City Council discussion It is recommended to amend number 2 of the policy to read as follows:
  2. Alcoholic beverage consumption in the Murphy Activity Center (MAC) and/or the Murphy Community Center (MCC):
    - a) Alcoholic beverages may be consumed inside the Murphy Activity Center and only during the permitted event and as sole event in the Facility (MAC) with fulfillment of policy requirements;
    - b) Alcoholic beverages may be consumed inside the Murphy Community Center (MCC), and will only be allowed on Saturday evenings with fulfillment of policy requirements; an approved City sponsored event is exempt from Saturday only.
    - c) Any variance to this section of the Alcohol policy must be requested of and approved by City Council.
4. The verbiage within section b) "an approved City sponsored event is exempt from Saturday only" is a staff recommendation for consideration.

**Staff Recommendation**

Motion to amend the Alcohol Policy for the Murphy Community Center and Murphy Activity Center as presented.

**Attachments**

Amended MCC and MAC Alcohol Policy with highlighted amendment

**Alcohol Use Liability Agreement  
City of Murphy (revised February 4, 2014)**

If alcoholic beverages are to be sold, served and/or consumed at \_\_\_\_\_ (the "Facility") during the period of this rental agreement or facility use permit, the lessee agrees to the following:

1. The Lessee shall pay a fee of \$50.00 for an alcohol use permit to serve alcoholic beverages at the event. If alcoholic beverages are to be sold at the event, Lessee must pay a fee of \$100.00 in advance for an alcohol use permit to sell alcoholic beverages at the event. Alcoholic beverages shall be considered to be sold under the following circumstances: a) if a fee is charged for the serving of an alcoholic beverage; and/or b) if the Lessee charges a cover charge or other admission fee or donation for the event and alcoholic beverages are then provided to patrons at no additional cost.

~~2. Alcoholic beverages may only be consumed inside the authorized portions of the Facility (Murphy Community Center and/or Murphy Activity Center) and only during the permitted event. Permitted events will only be allowed on Saturday evenings.~~

2. Alcoholic beverage consumption in the Murphy Activity Center (MAC) and/or the Murphy Community Center (MCC):

a) Alcoholic beverages may be consumed inside the Murphy Activity Center and only during the permitted event and as sole event in the Facility (MAC) with fulfillment of policy requirements;

b) Alcoholic beverages may be consumed inside the Murphy Community Center (MCC), and will only be allowed on Saturday evenings with fulfillment of policy requirements; an approved City sponsored event is exempt from Saturday only.

c) Any variance to this section of the Alcohol policy must be requested of and approved by City Council.

3. All sale and service of alcoholic beverages must cease no less than one (1) hour prior to the scheduled end of the event.

4. Lessee fully guarantees, represents and shall be totally responsible, that the sale, serving and/or consuming of alcoholic beverages at the event shall comply with the laws of the State of Texas and the rules and regulations of the Texas Alcoholic Beverage Commission ("TABC"), including, without limitation, ensuring that no alcoholic beverages are dispensed to children, minors or any persons under the age of 21. The Lessee also fully guarantees that the responsible party providing, selling and/or serving alcoholic beverages is licensed by the TABC.

5. At events where alcohol is being served or sold, the Lessee shall be responsible, at its sole cost and expense, for providing uniformed, off-duty Murphy Police Department ("MPD") officers or other police officers as approved by the Chief of Police, to ensure safety and security.

**6. LESSEE UNDERTAKES AND AGREES TO SAVE AND KEEP THE CITY OF MURPHY, ITS EMPLOYEES, AGENTS, OFFICERS, OFFICIALS, MAYOR AND CITY COUNCIL MEMBERS, CITY BOARD, COMMISSION AND COMMITTEE MEMBERS, OF AND FROM ANY AND ALL LOSSES, COSTS, EXPENSES AND DAMAGES**



**City Council Meeting**  
**February 4, 2014**

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**Issue**

Consider and/or act on awarding the bid for Animal Shelter Project and authorizing the City Manager to execute contract documents.

**Background**

This project was approved by Council at the March 19, 2013 regular council meeting.

The project, as approved, included (summary):

1. Concept drawing with suggested changes made at the joint January 2013 Council/ASAC meeting.
2. The costs for the Animal Shelter Project (ASP) to be at or below \$620,000.
3. Approval and adoption of Quorum as the architect and project management firm.
4. Authorization for Quorum to develop the bid specifications and building plans for project construction.

Council rejected all bids and approved going out for re-bids on October 15, 2013.

Bids notices were sent out, November 21, 2013, and a pre-bid meeting was held December 12, 2013.

Bids were opened on January 14, 2014.

The city received bids from thirteen (13) contractors. See the attached table for each bid, along with estimated costs for add alternates.

The lowest bid received was for \$810,600, which comes out to about \$390 per square foot. This bid is about \$128,400 less than the lowest bid received on the first round. The highest bid was \$1,075,000, which is about \$516 psf. The project estimate provided by Quorum was about \$275 psf. This amount was a reasonable estimate based upon the market, at that time, as it related to materials and labor costs.

The latest round of bids do show a significant move toward a more reasonable cost; however, the bids received are indicative of the new environment that we find ourselves as it relates to smaller project of this kind.

After a complete analysis of the bid packages and evaluation of the bidders, it is Quorum's recommendation that the city accept the bid of the lowest bidder, 3i Construction, LLC. Quorum conducted an appropriate due diligence review of the bidder and although this company has not had previous experience with the city or Quorum, the references contacted indicate that the company is a good company to work with. Quorum did indicate that the project with 3i would take about 132 days to complete rather than the anticipated 108 days. However, this 132 day project window was less than the other bidders' estimates.

**City Council Meeting**  
**February 4, 2014**

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**Financial Considerations**

It is understood that if this project is approved, it will exceed the budgeted amount by approximately \$161,000. However, it is clear that a project like ours is not going to come in much lower. In fact, it will probably come in much higher if delayed for any significant time. This amount is about 30% higher than the anticipated project costs as of March 2013. It was pointed out at the time of the original project that delays would most likely result in increased costs. It should be anticipated that a similar increase will be experienced for delays in starting and finishing this project.

One option to consider is to build a much smaller shelter, which is not ideal or recommended. Based on the review of the project and the current and anticipated future needs of the city, the size of the recommended project was a small a facility as is advisable.

A second option to consider is to take another \$161,000 from reserves and move forward with the project. If we do take another \$161,000, the projected reserve fund balance, unaudited, at September 30, 2014 will be approximately \$2,805,250 or approximately 23% reserves.

A third option to consider would be to reject all bids and wait until a later date. I do not recommend this option as the current shelter is way past its life cycle and it runs the risk of failing the annual state inspection.

**Attachments**

Bid Tabulation Sheet: Murphy Animal Shelter

Assess letter from Quorum based on the latest round of bids with recommendation

City of Murphy Animal Shelter Funds/Expenses Spreadsheet

**Board/Staff Recommendation**

It is staff recommendation to accept the low bid from 3i Construction.

Motion: I move to award the animal shelter construction project to 3i Construction, LLC, in accordance with the bid, as submitted, utilizing the approved bid specs and documents for the Animal Shelter Project and authorize the City Manager to execute contract documents.

## MURPHY ANIMAL SHELTER CONTRACT - BID OPENING, TUESDAY, JANUARY 14, 2014 / 10:00 AM

COMPANY NAME	CONTACT INFO	Bid Bond	Total Base Bid	Alternate #1	Alternate #2	Days
<b>3i Construction, LLC</b> 400 N Saint Paul St, Suite 700 Dallas, Texas 75201	Yesenia Garcia	Bid Bond	\$810,600.00	\$5,000.00	\$3,600.00	108
	214-231-0675					
	<a href="mailto:ygarcia@3iconstruction.com">ygarcia@3iconstruction.com</a>					
<b>Affiliated Western, Inc</b> 5748 Boat Club Rd Fort Worth, Texas 76179	Donald R. Adams	Bid Bond	\$847,083.00	\$8,000.00	\$6,800.00	240
	817-999-3038 / 817-236-6030					
<b>TCMC Commercial, LP</b> 10261 Robinson Drive Tyler, Texas 75703	Steve Frazier	Bid Bond	\$875,000.00	\$5,600.00	\$7,000.00	150
	903-939-0240					
	<a href="mailto:steve@tcmcinc.com">steve@tcmcinc.com</a>					
<b>Schmoldt Construction</b> 5797 CR 126, Suite A Celina, Texas 75009	Mike Parker	Bid Bond	\$880,000.00	\$5,900.00	\$7,912.00	180
	972-382-8499					
	<a href="mailto:mike@schmoldtconstruction.com">mike@schmoldtconstruction.com</a>					
<b>DENCO Construction</b> 5525 Lyons Road Garland, Texas 75043	Steven J. Smith	Bid Bond	\$897,777.00	\$8,000.00	\$8,000.00	168
	972-226-2609					
	<a href="mailto:ssmith@dencocs.com">ssmith@dencocs.com</a>					
<b>Mart, Inc</b> 1503 Perry Street Irving, Texas 75060	Vernon Proctor	Bid Bond	\$920,000.00	\$5,500.00	\$7,300.00	200
	972-721-1522					
<b>SCM Construction Services</b> 1301 E Parkerville Rd, Suite A Desoto, Texas 75115	Samuel Mitchell	Bid Bond	\$927,500.00	\$6,500.00	\$3,700.00	280
	972-274-5151					
<b>Nissi Development Group</b> 11498 Luna Rd. Suite 105 Dallas, Texas 75234	Brian Hwang	Bid Bond	\$928,000.00	\$8,500.00	\$5,000.00	210
	972-998-3532					
	<a href="mailto:bhwang@nissigroup.com">bhwang@nissigroup.com</a>					
<b>Ratcliff Constructors</b> 4200 Beltway Drive Addison, Texas 75001	Max Young	Bid Bond	\$929,000.00	\$7,500.00	\$7,300.00	180
	972-432-9969					
	<a href="mailto:max.young@ratcliffconstructors.com">max.young@ratcliffconstructors.com</a>					
<b>Cooper General Contractors</b> 1225 E Crosby Rd, Suite A1 Carrollton, Texas 75006	John Weedon	Bid Bond	\$931,420.00	\$9,975.00	\$7,500.00	154
	972-245-7960					
	<a href="mailto:jweedon@coopergencon.com">jweedon@coopergencon.com</a>					
<b>Reeder Construction</b> 3005 Alta Mere Drive Fort Worth, Texas 76116	Cole Reeder	Bid Bond	\$962,000.00	\$10,000.00	\$4,500.00	210
	817-439-2022					
	<a href="mailto:cole@reedergeneral.com">cole@reedergeneral.com</a>					
<b>Piazza Construction, LLC</b> 2811 S Woodlawn Blvd Denison, Texas 75021	Joe Piazza	Bid Bond	\$1,033,000.00	\$6,500.00	\$4,000.00	280
	903-463-2384					
	<a href="mailto:joe@piazza-construction.com">joe@piazza-construction.com</a>					
<b>The Gilbert Const. Group</b> P.O. Box 246 Royse City, Texas 75189	J. Michael Gilbert	Bid Bond	\$1,075,000.00	\$7,200.00	\$8,800.00	210
	972-636-7020					

<b>Totals</b>	\$12,016,380.00	\$94,175.00	\$81,412.00	
<b>Average</b>	\$924,336.92	\$7,244.23	\$6,262.46	198

## MURPHY ANIMAL SHELTER CONTRACT - BID OPENING, TUESDAY, JANUARY 14, 2014 / 10:00 AM

COMPANY NAME	CONTACT INFO	Bid Bond	Total Base Bid (minus Alt #1 & Alt #2)	Total Base Bid	Alternate #1	Alternate #2	Days
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	214-231-0675						
	<a href="mailto:ygarcia@3iconstruction.com">ygarcia@3iconstruction.com</a>						
<b>Affiliated Western, Inc</b> 5748 Boat Club Rd Fort Worth, Texas 76179	Donald R. Adams	Bid Bond	\$832,283.00	\$847,083.00	\$8,000.00	\$6,800.00	240
	817-999-3038 / 817-236-6030						
<b>TCMC Commercial, LP</b> 10261 Robinson Drive Tyler, Texas 75703	Steve Frazier	Bid Bond	\$862,400.00	\$875,000.00	\$5,600.00	\$7,000.00	150
	903-939-0240						
	<a href="mailto:steve@tcmcinc.com">steve@tcmcinc.com</a>						
<b>Schmoldt Construction</b> 5797 CR 126, Suite A Celina, Texas 75009	Mike Parker	Bid Bond	\$866,188.00	\$880,000.00	\$5,900.00	\$7,912.00	180
	972-382-8499						
	<a href="mailto:mike@schmoldtconstruction.com">mike@schmoldtconstruction.com</a>						
<b>DENCO Construction</b> 5525 Lyons Road Garland, Texas 75043	Steven J. Smith	Bid Bond	\$881,777.00	\$897,777.00	\$8,000.00	\$8,000.00	168
	972-226-2609						
	<a href="mailto:ssmith@dencoocs.com">ssmith@dencoocs.com</a>						
<b>Mart, Inc</b> 1503 Perry Street Irving, Texas 75060	Vernon Proctor	Bid Bond	\$907,200.00	\$920,000.00	\$5,500.00	\$7,300.00	200
	972-721-1522						
<b>Cooper General Contractors</b> 1225 E Crosby Rd, Suite A1 Carrollton, Texas 75006	John Weedon	Bid Bond	\$913,945.00	\$931,420.00	\$9,975.00	\$7,500.00	154
	972-245-7960						
	<a href="mailto:jweedon@coopergencon.com">jweedon@coopergencon.com</a>						
<b>Ratcliff Constructors</b> 4200 Beltway Drive Addison, Texas 75001	Max Young	Bid Bond	\$914,200.00	\$929,000.00	\$7,500.00	\$7,300.00	180
	972-432-9969						
	<a href="mailto:max.young@ratcliffconstructors.com">max.young@ratcliffconstructors.com</a>						
<b>Nissi Development Group</b> 11498 Luna Rd. Suite 105 Dallas, Texas 75234	Brian Hwang	Bid Bond	\$914,500.00	\$928,000.00	\$8,500.00	\$5,000.00	210
	972-998-3532						
	<a href="mailto:bhwang@nissigroup.com">bhwang@nissigroup.com</a>						
<b>SCM Construction Services</b> 1301 E Parkerville Rd, Suite A Desoto, Texas 75115	Samuel Mitchell	Bid Bond	\$917,300.00	\$927,500.00	\$6,500.00	\$3,700.00	280
	972-274-5151						
<b>Reeder Construction</b> 3005 Alta Mere Drive Fort Worth, Texas 76116	Cole Reeder	Bid Bond	\$947,500.00	\$962,000.00	\$10,000.00	\$4,500.00	210
	817-439-2022						
	<a href="mailto:cole@reedergeneral.com">cole@reedergeneral.com</a>						
<b>Piazza Construction, LLC</b> 2811 S Woodlawn Blvd Denison, Texas 75021	Joe Piazza	Bid Bond	\$1,022,500.00	\$1,033,000.00	\$6,500.00	\$4,000.00	280
	903-463-2384						
	<a href="mailto:joe@piazza-construction.com">joe@piazza-construction.com</a>						
<b>The Gilbert Const. Group</b> P.O. Box 246 Royse City, Texas 75189	J. Michael Gilbert	Bid Bond	\$1,059,000.00	\$1,075,000.00	\$7,200.00	\$8,800.00	210
	972-636-7020						

<b>Totals</b>	\$11,840,793.00	\$12,016,380.00	\$94,175.00	\$81,412.00	
<b>Average</b>	\$910,830.23	\$924,336.92	\$7,244.23	\$6,262.46	198



January 17, 2014

G.M. Cox, Police Chief  
 City of Murphy  
 206 N. Murphy Rd  
 Murphy, TX 75094

Re: Murphy Animal Shelter  
 Quorum Project No: 13022

Chief Cox,

On January 14, 2014, thirteen (13) proposals were received for the rebid of the proposed new Murphy Animal Shelter. We have attached a bid tab for your review. As you can see, although all of the proposals received exceeded the budget, ten were less than the original proposals from September 2013. The lowest total base proposal of \$810,600 was submitted by 3i Construction, LLC. If Council accepts this proposal they have an option of deleting the two deduct alternates (the stone veneer for \$5000 and the field turf and exterior drain in the outdoor run area for \$3600). However, when compared against the other 12 proposals, these two alternates are the lowest ones and represent a good value. We recommend if the Council accepts the proposal that they accept the total proposal of \$810,600 and not eliminate the stone masonry veneer or the field turf based on the value established by all of the submittals.

Out of a possible 100 points identified in the documents for consideration in evaluation of the proposals, 3i Construction scored a 95, with the last five unclaimed points being the fact that they do not have previous experience with the City or us.

Although we have not worked with them previously, reference checks to various clients, architects, and developers turned up all positive results, with all that we talked to indicating they would use them again. Some continue to use them for multiple projects based on their previous history. The reference calls indicate that they are a fair and reputable company, and that they protect the Owner and work well with the Owner.

We confirmed that although their proposal was significantly less than the others proposed, they confirmed that they could construct the project for the price submitted and indicated they would need 132 days in lieu of their originally planned 108 days based on certain long lead times for some equipment. The 132 days is less than any other contractor.

Please let us know if you need additional information for selection and award of this contract.

Sincerely,

David G. Duman, AIA  
 Principal  
 Quorum Architects, Inc.

**City of Murphy  
Animal Shelter  
Funds/Expenditures**

<b>Year</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
<b>Expenditures</b>			
2013	Quorum Architect	Architect services	\$ 34,283.85
	Alpha Testing	Geotesting	3,200.00
	RED Ink	Plan review/inspections	865.00
2014	Birkhoff, Hendricks, Carter		<u>1,095.99</u>
			39,444.84
	Quorum Architect	Outstanding Purchase Order	<u>10,716.15</u>
	Total Expenditures		50,160.99
<b>Funding</b>			
2010	Budget - Budget amendment of 9-7-2010		50,000.00
2013	Budget from Reserves		500,000.00
2014	Tax Notes (Non MDD Funded)		<u>150,000.00</u>
	Total Funds for Project		<u>700,000.00</u>
	Funds Available (Funds less expenditures)		<u><u>649,839.01</u></u>
	Animal Shelter Bid		<u>810,600.00</u>
	<b>Shortage</b>		<b><u><u>\$ (160,760.99)</u></u></b>
2014	Tax Notes		
	MDD		850,000.00
	City Council		<u>150,000.00</u>
	Total 2014 Tax Notes		<u><u>\$ 1,000,000.00</u></u>
	Projected Fund Balance at 9/30/14 (using unaudited Fund Balance at 9/30/2013)		<u><u>\$ 3,466,050.00</u></u> 28.58% of Expenditures
	Projected Fund Balance at 9/30/14 utilizing \$500,000 of Fund Balance		<u><u>\$ 2,966,050.00</u></u> 24.46% of Expenditures
	Projected Fund Balance at 9/30/14 utilizing \$660,800 of Fund Balance		<u><u>\$ 2,805,250.00</u></u> 23.13% of Expenditures

**City Council Meeting**  
**February 4, 2014**

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**Issue**

Consider and/or act upon authorizing the City Manager to execute the necessary Right of Way Lease Agreements with DART (Dallas Area Rapid Transit).

**Staff Resource/Department**

James Fisher, City Manager  
Steven Ventura, Interim Director of Parks and Public Works

**Summary**

DART found several areas in different cities where the right of way lease agreements were not implemented. The City of Murphy has been paying \$600.00 annually for 2 of the active agreements. DART has supplied the City with a comprehensive list of eleven (11) right of way areas within the City of Murphy along with annual fees.

**Background/History**

The lease agreements were obtained for water and/or sewer lines to run underneath the DART/Kansas City Southern railroad tracks.

**Financial Considerations**

DART has created a fee schedule to phase in the fees for all 11 agreements over the next 5 years per the attached list.

**Action Requested**

Authorize the City Manager to execute the Right of Way Lease Agreements with DART.

**Attachments**

Fee Schedule of DART Right of Ways located in the City of Murphy

## City of Murphy

License Number	Description	FY14	FY15	FY16	FY17	FY18	FY19
200071	36" Waterline Casing Pipe	\$ 300	\$ 1,120	\$ 1,940	\$ 2,760	\$ 3,580	+ 5% Admin + 2.5% Cola
8574	18" Waterline Casing Pipe	\$ -	\$ 600	\$ 1,245	\$ 1,890	\$ 2,535	+ 5% Admin + 2.5% Cola
220450	20" Sewer Casing Pipe	\$ -	\$ 600	\$ 1,000	\$ 1,400	\$ 1,800	+ 5% Admin + 2.5% Cola
220449	24" Waterline Casing Pipe	\$ -	\$ 600	\$ 1,370	\$ 2,140	\$ 2,910	+ 5% Admin + 2.5% Cola
220364	24" Sewer Casing Pipe	\$ 743	\$ 1,900	\$ 3,055	\$ 4,210	\$ -	+ 5% Admin + 2.5% Cola
990504	18" Waterline Casing Pipe	\$ -	\$ 600	\$ 1,245	\$ 1,890	\$ 2,535	+ 5% Admin + 2.5% Cola
200324	18" Waterline Casing Pipe	\$ 750	\$ 1,245	\$ 1,890	\$ 2,535	\$ -	+ 5% Admin + 2.5% Cola
200021	12" Sewer Casing Pipe	\$ 300	\$ 700	\$ 1,100	\$ 1,500	\$ -	+ 5% Admin + 2.5% Cola
584290	16" Water Casing Pipe use 12" Rate	\$ -	\$ 600	\$ 1,098	\$ 1,596	\$ 2,095	+ 5% Admin + 2.5% Cola
200869	3-4' x 5' Box Culverts	\$ 1,500	\$ 1,500	\$ 1,550	\$ -	\$ -	
220608	60" Drainage Pipe	\$ 500	\$ 1,444	\$ 2,388	\$ 3,332	\$ 4,275	+ 5% Admin + 2.5% Cola
<b>Totals:</b>		\$ 4,093	\$ 10,909	\$ 17,881	\$ 23,253	\$ 19,730	