

# Office of the Police Monitor

## Six-Month Report

### February 11 - August 11, 2002

<http://www.ci.austin.tx.us/opm/>

Fall 2002

#### Message from the Police Monitor



It has been over six months since starting my job as Austin's first Police Monitor on February 11, 2002. Establishing a brand new office certainly has its challenges and finding the best staff to support the office was a full time job in and of itself. However, as of June 17<sup>th</sup>, my superb staff is on board and the office is fully operational. With my team in place, we immediately initiated several outreach programs throughout the city to introduce ourselves to the citizens of Austin.

After diligently working each day on your behalf, we are delighted to present the Six Month Report of the Police Monitor's Office. The first report includes data and statistics relating to the nature of complaints, geographical area of incident as well as the breakdown by ethnicity and gender of complainants; community activities of our first six months of operation and an article on guidelines relating to racial profiling.

Our seven member Citizen Review Panel is also featured in this report and we are pleased to have a dedicated panel working with us to review complaints and to assist in making policy recommendations.

I am proud to do my part as Austin's first Police Monitor to make Austin a brighter community for us all.

Iris Jones

#### Functions of the Police Monitor

- ▶ Accept Complaints from Citizens
- ▶ Monitor Investigation of Complaints
- ▶ Conduct Community Outreach and Educational Forums
- ▶ Publish Reports on Activities of Office

#### Mission Statement

Through our outreach efforts, we will educate the community and law enforcement to promote the highest degree of mutual respect between Police Officers and the Public. By engaging in honest dialogue over issues and incidents that impact the community and law enforcement, the Office of Police Monitor will enhance public confidence, trust, and support in the fairness and integrity of the Austin Police Department.

#### Complaint Process

The Police Monitor's Office is the main location for accepting complaints filed by members of the public against police officers. To file a complaint with the Office of the Police Monitor the public can contact our office by telephone, fax, or in person. The Police Monitor or a member of the Police Monitor's office will conduct an initial interview with the complainant and will explain the oversight and investigative process. The Internal Affairs Division of the Austin Police Department will conduct an investigation. The Monitor's office will participate in the APD Intake investigation. The Police Monitor will make policy recommendations to the Chief of Police. Upon the conclusion of the Internal Affairs Investigation, the complainant will be notified in writing of the outcome.

*Police Monitor Iris Jones attends the Texas Women's Hispanic League honoring City Manager Toby Hammett Futrell*



*Iris Jones*



*Toby Hammett Futrell*



*Honorable Mayor Gus Garcia greets the crowd at the Police Monitors Open House August 13th*



*Open House Ribbon cutting ceremony August 13th*

## Recognizing Racial Profiling

By Alfred Jenkins III

Assistant Police Monitor

Being falsely accused of a misdeed is one of life's most frustrating events. Racial profiling by law enforcement goes a step further; here specific groups of persons are unjustly targeted for investigation based solely on the color of their skin. In fairness to law enforcement, officers are often placed in the difficult position of balancing the use of effective techniques to capture actual criminals, an outcome that most persons support, against ensuring the fair treatment of all citizens.

Regardless, many scholars have stated that racial profiling is one of the most pervasive social injustices of our time. While racial profiling may occur in a number of settings, according to the Texas Commission on Law Enforcement, the traffic stop is the most pervasive. A study released on October 6, 2000, indicated that when compared to a similarly situated white motorist in Texas, a Black male was 2.5 times more likely to be searched in connection to a traffic stop, while a Hispanic male was nearly four times more likely to be searched.<sup>1</sup> As a result, it is important to understand what racial profiling is and what it is not.

Before we discuss how the law defines and deals with racial profiling, test your knowledge by answering these true/false questions. The answers follow this article.

### Pop Quiz

- 1) T or F An arrest is required in order for a traffic stop to result in racial profiling.
- 2) T or F Racial profiling by law enforcement is illegal in Texas.
- 3) T or F A police officer may stop an individual for a minor traffic violation even if the officer really just wants to search the individual's car.
- 4) T or F During a traffic stop, a police officer always has the authority to search your vehicle.
- 5) T or F Office of the Police Monitor is the correct location to bring complaints of racial profiling.

Texas law prohibits racial profiling<sup>2</sup> and defines it as "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."<sup>3</sup> The law further requires that each individual law enforcement agency adopt detailed written policies, which among other things are to strictly prohibit and clearly define specific acts constituting racial profiling.

The Austin Police Department implemented its policy three months prior to the passing of the state law. Austin Police Department General Orders, Policies and

Procedures B116 defines racial profiling as "any pattern or practice, including but not limited to stopping, detaining, frisking, and searching by police officers that is based on the generalized belief that a person of a particular race, ethnicity, or national origin is more likely to commit certain types of crimes."

Of course, a police officer is totally within his or her authority to stop you if you violate the law. Moreover, the law permits police officers to stop a vehicle if they have probable cause to believe a traffic violation has occurred even if the officer has ulterior motives to search the vehicle.<sup>4</sup> Additionally, the law permits an officer to take certain actions for their safety such as ordering the driver to exit the vehicle<sup>5</sup> and stopping and frisking a person for weapons.<sup>6</sup>

When an officer asks to search your vehicle its up to you since the officer needs voluntary consent in order to conduct the search. So you are within your rights to consent or refuse to consent. However, an officer does not require consent if he has a warrant, probable cause to believe a crime occurred, or arrests the driver of the vehicle for a violation of the law.

The following tips have been offered for those persons who are stopped by the police while driving:

- ⇒ Remain calm.
- ⇒ Be respectful and polite. If you disagree with a ticket fight it in court not on the side of the road.
- ⇒ Keep your hands where police can see them.
- ⇒ If not informed, ask the officer why you were stopped.
- ⇒ Only the driver should speak unless someone else is directly asked a question.
- ⇒ Produce valid ID and information when asked.
- ⇒ If stopped at night, turn on interior lights.

If you believe that you have been a victim of racial profiling:

- ⇒ Write down the name of the police officer and his badge number.
- ⇒ Make note of witnesses, time, and location of the incident.
- ⇒ Determine whether the incident is being recorded by video camera by the officer.
- ⇒ You may refuse to have your vehicle searched.
- ⇒ Remember that the Office of the Police Monitor is the place to report complaints against Austin Police Department officers.

1 Dwight Steward, Ph. D and M. Douglas Berg, Ph. D. A Statistical Examination of Racial Profiling: A preliminary statistical analysis of the search rates of minority and non-minority Texas motorists (October 6, 2000).

2 Tex. Crim. Proc. Code § 2.131 (Vernon 2001).

3 Tex. Crim. Proc. Code § 3.05 (Vernon 2001).

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

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

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

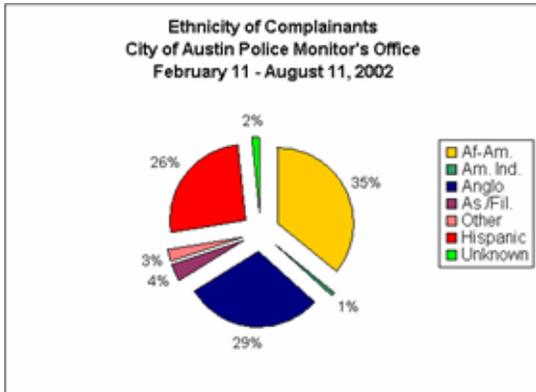
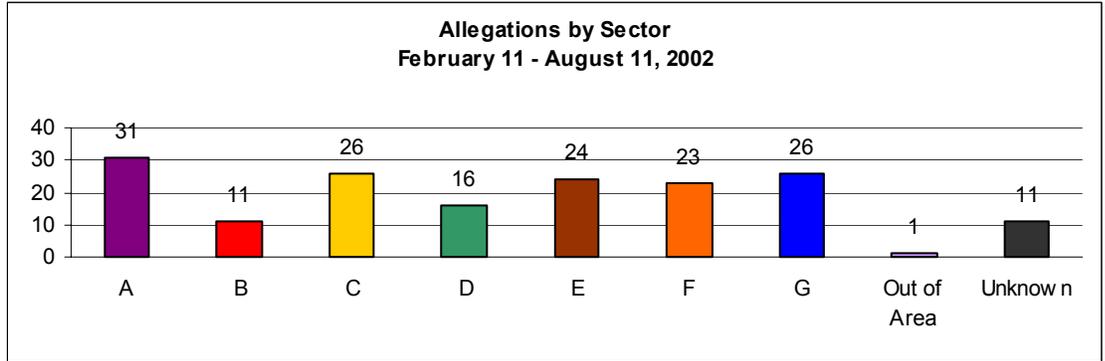
**Quiz Answers**

- 1) **False.** Arrest is not required to constitute racial profiling; a person need merely be targeted for investigation.
- 2) **True.** Texas Code of Criminal Procedure § 2.131 prohibits racial profiling.
- 3) **True.** The United States Supreme Court said so in the case of *Whren v. United States*, 517 U.S. 806, 116 S. Ct. 1769 (1996).
- 4) **False.** Generally an officer requires voluntary consent unless the officer has a warrant, probable cause, or arrests the driver of the vehicle.
- 5) **True.** The Office of the Police Monitor is the primary place to file complaints regarding an Austin Police Department officer or an Austin Police Department practice or policy.

*This information is not intended to be taken as legal advice. If you have any questions regarding a particular issue we suggest you seek legal counsel.*

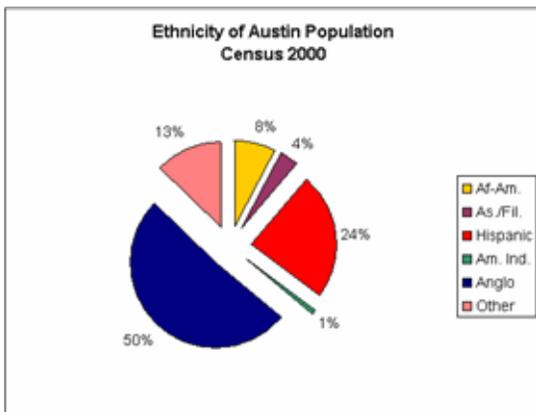
Adam = Northwest Austin  
 Baker = West Austin  
 Charlie = East Austin  
 David = Southwest Austin  
 Edward = Northeast Austin  
 Frank = Southeast Austin  
 George = Downtown Austin

This chart compares the allegations received in each sector to the allegations received in the other sectors.



The chart below lists the types of allegations made in individual complaints. All complaints are in writing and notarized. A complaint may contained more than one allegation of misconduct. In the first six months of operations, 112 complaints were filed which included 168 allegations.

**City of Austin Complaint Allegation Categories Police Monitor's Office February 11, 2002 - August 11, 2002**



The top chart identifies the ethnicity of individuals who have filed complaints with the Police Monitor's Office in the first six months of operation. The complainant designates the ethnicity him/herself. The bottom chart represents the ethnicity of all of Austin.

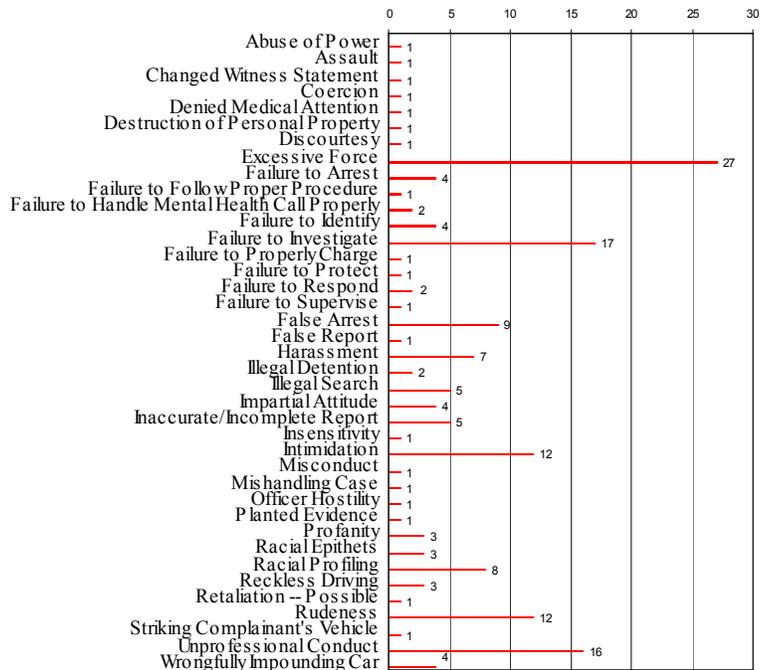
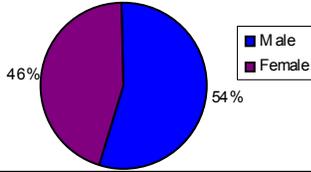
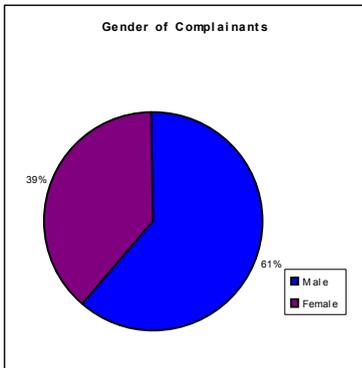


Chart shows the division of allegations contained in complaints by gender of the complainants. A complaint may contain more than one allegation

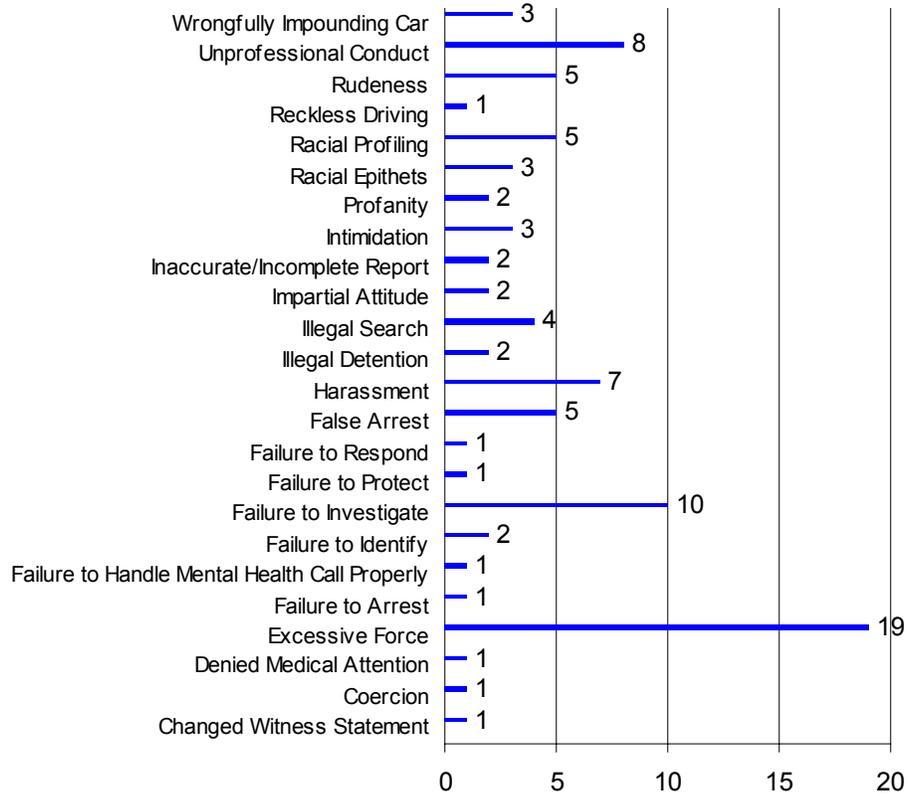


A Complaint may contain more than one allegation.

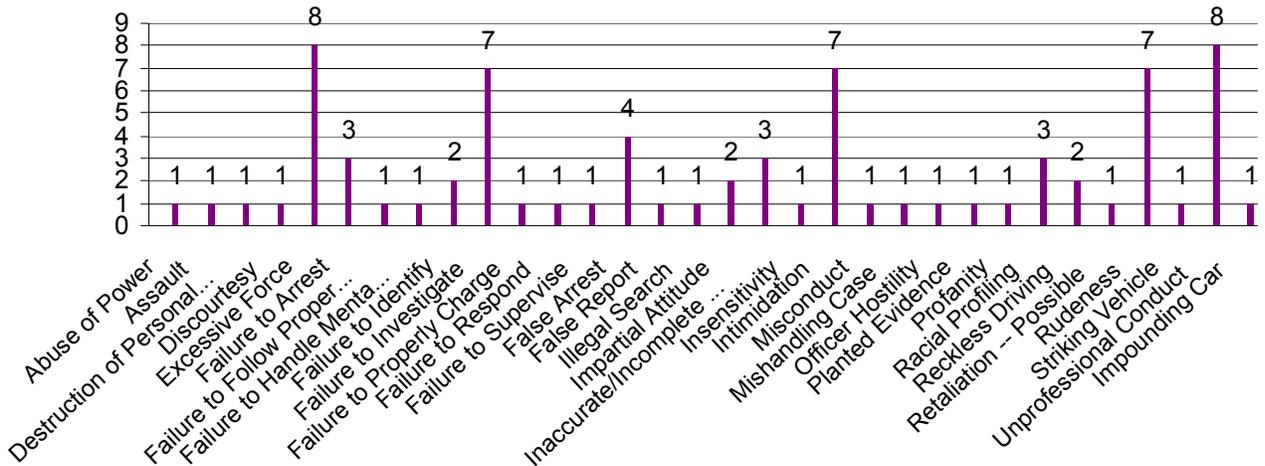
Gender of Complainants



### Type of Allegations Made by Male Complainants with Number of Each Type



### Allegations by Female Complainants with Number of Each Type



## MONITOR REACHES OUT TO PUBLIC

The Office of the Police Monitor initiated a series of neighborhood meetings this summer targeting about 100 different neighborhood associations in all areas of the city, including East, West, North, Northwest and Southeast Austin.

On August 13, we opened our doors to the community by hosting an Open House from noon to 3 p.m. Mayor Gus Garcia kicked off the dedication ceremonies at 1 p.m. The Mayor was introduced by City Manager Toby Hammett Futrell. Joining the Mayor were Council members Raul Alvarez and Will Wynn. The Rev. Frank Garrett, imparted words of inspiration and gave a blessing to the office. Other dignitaries included State Sen. Gonzalo Barrientos, State Rep. Dawnna Dukes, former Mayor Roy Butler, who also serves on the Citizens Review Panel; former Mayor Pro Tem John Trevino Jr., former Council member Willie Lewis, Herman Lessard, President and CEO of the Austin Area Urban League, and Nelson Linder, NAACP-Austin President. An estimated 300 people attended our Open House.

The Office of the Police Monitor has completed six meetings, as well as participated in National Night Out hosted by different neighborhoods throughout Austin, and attended the 5<sup>th</sup> Annual East Austin Community Awareness Day in May. Summer meetings were held at the St. John Community Center, Covenant United Methodist Church, Conley/Guerrero Senior Citizen's Center, Beautiful Savior Lutheran Church, Northwest Recreation Center and Tarrytown United Methodist Church. Neighborhood meetings in Bannockburn Baptist Church, 7100 Brodie Lane, and the Millennium Youth Entertainment Complex, 1156 Hargrave Street, are scheduled this fall.

A seven-member Citizens Review Panel appointed by the City Manager will serve staggered two-year terms. After undergoing training, the panel will review critical incident cases and complaints submitted to them by the Police Monitor or the public. The panel may also make recommendations to Police Chief Stan Knee and recommend further investigation or an independent investigation.

Training programs such as racial profiling are in the planning stages. The Office of the Police Monitor welcomes suggestions from the public. For more information about upcoming meetings or training sessions, please call 974-9090.

## Community Outreach Events



True Light Day Care Center Event



St. John Community Center



Police Monitor's Staff at Northwest Recreation Center

Citizen Review Panel Member Ashton Cumberbatch



Conley-Guerrero Senior Center



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Our brochure is available in alternate formats including Braille and large print and Spanish.



## Police Monitor Staff



*Seated from left to right*  
Iris Jones—Police Monitor  
Alfred Jenkins III—Assistant Police Monitor  
Louis Gonzales III—Compliance Specialist  
Hermelinda Zamarripa—Community Liaison  
Flynn Lee—Compliance Specialist  
Alison White—Administrative Specialist  
Elizabeth Pugliese—Compliance Specialist

## 7 Member Citizen Review Panel and Non-Voting Chairperson Iris Jones



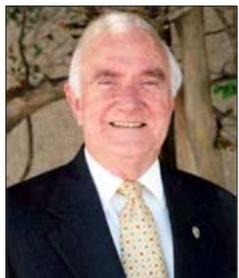
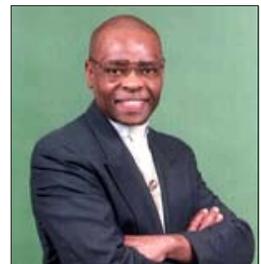
### Juan Alcalá

is an attorney practicing with the firm of Brown McCarroll, LLP. He is involved with several local bar associations and has worked with the Texas Education Agency to develop the Long Range Plan for Public Education.



### George Chang

is the principal partner of CAS Consulting Services, Inc. In his professional work, he has demonstrated a continued commitment to the environment. He serves on several boards related to the Asian-American community.



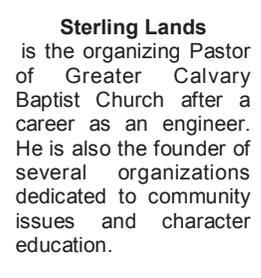
### Roy Butler

is a former mayor of Austin, who is currently president of Capitol Beverage Company. Among his many honors, he is the Austin Chair for Texas Exile, a program dedicated to curtailing gun crimes.



### Ashton Cumberbatch

is a partner in the law firm of McGinnis, Lochridge & Kilgore, focusing on employment law. He is currently serving on or has served on many boards committed to community development for all.



### Sterling Lands

is the organizing Pastor of Greater Calvary Baptist Church after a career as an engineer. He is also the founder of several organizations dedicated to community issues and character education.



### Josefina Castillo

is presently the program coordinator of American Friends Service Committee – TAO. She has a lifelong commitment to social equality and the search for non-violent solutions to problems.



### Celia Israel

is the owner and founder of Mission Resources. She currently serves on several boards devoted to economic and generational issues in Austin, as well as demonstrating a concern for women's issues.



Iris Jones