

I PURPOSE

The purpose of this report is to provide the Mayor and the (eventual) Racial Profiling Task Force (called for in the Mayor's Racial Profiling Executive Instruction) with general background information and statistical data and analyses on racial and ethnic bias policing.

The report provides information on:

- statistical data and analysis of complaints of racial or ethnic bias and/or racial or ethnic profiling within the City’s public safety entities (based on cursory and not in-depth reviews);
- statistical data and analysis of arrests within the City’s public safety entities.
- Albuquerque and other local, county, and state governmental entities that are addressing this issue;
- what racial/ethnic data collection is being done within the public safety entities of the Albuquerque city government that are charged with law enforcement and security related functions and which also have arrest powers namely, the Albuquerque Police Department, Aviation Department Police and the Law Enforcement Unit of the Open Space Division of the Parks and Recreation Department; and
- Views on community policing and racial/ethnic biased policing from some segments of Albuquerque communities.

The report does not provide any specific conclusions or recommendations. The intent of the report is to serve as an initial working document for the Racial Profiling Task Force to begin its work as outlined in Executive Instruction 14: to examine the issue of racial profiling in the City of Albuquerque; review efforts being made by the city to address racial profiling; identify community expectations and agencies’ responsibilities; and come up with effective strategies.

II BACKGROUND INFORMATION

On October 22, 2001, the Albuquerque Human Rights Board and the New Mexico Human Rights Coalition issued a joint statement on racial/ethnic profiling and hate crimes (attachment 1). Among other things, the Human Rights Board and the Coalition called upon:

- a. the Albuquerque Police Department, the New Mexico State Police, and other law enforcement agencies to enhance protection to those people who – through profiling and hate motivated acts – are targeted and victimized in their homes, businesses, places of employment, schools, public places, and houses of worship and to vigorously investigate all reports of criminal behavior against them; and for
- b. the city council to enact a racial profiling ordinance that will mandate the collection of data relating to racial/ethnic profiling incidents and the development of policies and procedures to identify, prevent and prosecute racial/ethnic profiling incidents in Albuquerque.

On January 30, 2002, Mayor Martin Chávez issued the aforementioned Executive Instruction on racial profiling. (More information regarding the executive instruction is included in Section III below). Subsequent to the executive instruction, staff of the Albuquerque Human Rights Office and representatives of the New Mexico Human Rights Coalition held a meeting to discuss the Human Rights Board and the Coalition’s joint statement and the mayor’s executive instruction on racial profiling. From that meeting and following a series of meetings with Nick Bakas, Chief of Public Safety, Albuquerque Police Department officials, and a cross representation of community organizations and individuals, a racial profiling committee was created (not to be confused with the Mayor’s task force which has not yet been created).

III FORMATION OF RACIAL PROFILING COMMITTEE (not Mayor’s Planned Task Force)

A cross representation of community individuals and organizations such as the Albuquerque Human Rights Office, New Mexico Human Rights Coalition, Immigrant Rights Community Council, Asian American Association, Homeless Advocacy Coalition, and others had a series of meetings with Nick Bakas, Chief of Public Safety and Albuquerque Police Department officials. The meetings were coordinated at the beginning of the new City (Chávez) administration to learn where the City and APD stood on various human rights related issues, i.e., community policing and community relations, racial profiling, immigrant issues, homeless issues etc. This group met first with Chief Bakas in January 2002, at which time concerns were raised about racial/ethnic profiling and the new APD Chief’s public position on collecting racial/ethnic data (attachment 2). Subsequently in May 2002 members of the group met with Chief Bakas, Chief of Police Gilbert Gallegos, Deputy Chief Joseph Silva, and Lieutenant Henry Landavazo of the APD Training Academy (attachments 3 and 4).

On January 30, 2002, Mayor Chávez issued Executive Instruction 14 on Racial Profiling. The Mayor’s Executive Instruction establishes a policy prohibiting any form of racial profiling in the provision of city services. It calls for creation of a task force to review those efforts being made by the City of Albuquerque to address racial profiling and to otherwise enhance the relationship between the city and the community it serves (attachment 5).

During this time, at the request of APD Deputy Chief Joseph Silva, the New Mexico Human Rights Coalition organized a community-policing forum that brought together members of the community with APD officials. The primary intent of the forum was for APD officials to hear from the community about their experiences with APD and what

III FORMATION OF RACIAL PROFILING COMMITTEE (not Mayor’s Proposed Task Force)

they saw as priorities for APD in furthering the intent of community policing. During the forum, several participants commented on bias and profiling concerns. A summary of participants’ comments about the forum, which was sent to the APD, included some of those concerns about biased policing (attachment 6).

Based on information learned from the forum and from all of the aforementioned meetings, and in view of the Mayor’s racial profiling executive instruction, the Albuquerque Human Rights Office and the New Mexico Human Rights Coalition jointly formed a temporary Racial Profiling Committee in order to:

- conduct initial research on what other cities and states are doing (have done) to address racial profiling (voluntarily or by mandate);
- examine available information, data, and statistics relative to possible racial profiling in public safety operations within city government.
- provide the mayor’s task force with preliminary information as it begins its task as called for in the Executive Instruction.

This committee included representatives from several NMHRC member organizations and other community individuals. The ACLU initially assigned an intern to assist the committee by doing the research on nation-wide racial profiling, in general, and data collection.. After the intern left the ACLU, the Human Right Office took on the remaining research. The AHRO also completed the remaining tasks of the committee.

IV MEETINGS WITH CITY OFFICIALS AND STAFF AND OTHERS

A series of meetings was held in an attempt to understand the city’s process, specifically, data collection processes in general, as well as hate crimes statistics, possible profiling statistics, citizens’ complaints, and other related information and data.

Meeting with APD Deputy Chief Joseph Silva and APD staff on Crime Statistics

A meeting was held with Deputy Chief Joseph Silva. The discussion included the general issues of racial and ethnic policing/profiling and minorities and women on the police force. Deputy Chief Silva shared his thoughts on racial and ethnic policing/profiling and he also explained APD’s efforts to recruit and retain minorities and women on the force. Virginia Candelaria-Martínez, Director of the Human Rights Office, told Chief Silva about prior years’ APD issues and efforts relative to complaints about the under representation of minorities and women and about an analysis of APD’s sworn force and recommendations the Human Rights Office had made to a prior chief of the APD. Ms. Candelaria-Martínez promised to send Deputy Chief Silva a copy of the analysis and a copy of the 1995 Review and Comparative Analysis of APD's sworn Workforce.

Deputy Chief Silva was open to the topics discussed as well as helpful in his suggestions and recommendations. He also arranged for members of the group to meet with APD’s Hate Crimes Analyst, CC Aragon, and its Crime Trends Statistician, Curtis Churney. Ms. Aragón briefed the committee members on the federal requirement for reporting hate crimes and the process and procedures APD uses to collect the data. Ms. Aragon also provided sample copies of APD’s hate crimes reports. Mr. Churney brief the members on APD’s collection of arrest data. He also indicated that at present he provides racial/ethnic data on arrests made by APD officers, but no other racial/ethnic data was available relative to traffic stops and other police-related activities.

IV MEETINGS WITH CITY OFFICIALS AND STAFF AND OTHERS

Meeting with Chief Nick Bakas

Following the meeting with APD’s statistics staff, members of the committee also met with Chief Nick Bakas on the issue of traffic citations (data collected on traffic citations) and to gain insight on the (NM) state police’s recently revised uniform traffic citation. The committee members asked why APD’s traffic citation form does not include race, ethnicity, and gender information. He explained that the citation form used by APD is the same as the one recently developed and used by the New Mexico state police. The members told the Chief that this information is necessary because, if the City of Albuquerque is going to collect data on traffic stops etc., it will most likely be done through citations issued by APD. The committee also asked Chief Bakas whether the APD would be willing to institute a voluntary racial/ethnic data collection system to assess the issue of racial/ethnic profiling within APD. The members also suggested to him that it would be in the City’s and APD’s interest to initiate such a system. He was non-committal on the issue but promised to bring it to the mayor’s attention.

Communication with Chief Ranger Stephen Thomas

Communications were held via telephone and email with Chief Ranger Stephen Thomas, Law Enforcement Unit (LEU), Open Space Division, Department of Parks and Recreation. Chief Thomas was helpful in responding to questions relative to the open space rangers, as well as providing data and information on arrests made by the rangers and the disposition of complaints his office had received. He also provided information on the LEU’s current and recently revised (and pending) SOPs. Chief Thomas loaned a copy of his unit’s SOPs to the Human Rights Office for its perusal.

IV MEETINGS WITH CITY OFFICIALS AND STAFF AND OTHERS

Meeting with Richard Kennedy, Assistant to the Mayor

The committee then considered the intent of Mayor Chávez’ Executive Instruction on Racial Profiling and how the committee could aid the Mayor in creating the Task Force called for in the Executive Instruction. The committee met with Mr. Richard Kennedy, Assistant to the Mayor, to discuss recommendations that should be made to the mayor regarding what the City should do in the area of racial profiling in general and how the committee could aid the mayor in creating the Racial Profiling Task Force (RPTF).

Mr. Kennedy already had a very short list of people who had expressed interest in serving on the task force, which he provided to the committee. In addition to these names, the committee offered to assist the City in the development of a more diverse list of people who might be interested in serving on the task force and/or who would meet the Mayor’s established criteria, as well as being an asset to the task force.

Over the course of several meetings with Mr. Kennedy, he and the committee discussed the intent of the Executive Instruction with regard to the operation of City government. Mr. Kennedy and the committee agreed that the implications of the executive instruction are too broad and that the Racial Profiling Task Force should be limited to examining only the operation of security operations within city government, including the APD, airport security, and parks and recreational open space security.

Meeting with Gil Najjar, HAPCOA, and Chief Malcolm Katz, Aviation Department Police

Members of the NMHRC and the AHRO subsequently met separately with Gil Najjar, president of the local chapter of the Hispanic American Police Command Association (HAPCOA), and Chief Marshall Katz, Aviation Department Police. Mr. Najjar who is also a retired APD police lieutenant, provided information about a racial profiling

IV MEETINGS WITH CITY STAFF AND OFFICIALS AND OTHERS

workshop that was part of HAPCOA’s 2002 annual conference held here in Albuquerque, as well as general information about profiling, biased policing, and various police and community workshops in other cities that have been conducted by the Police Executive Research Form (PERF). Chief Katz gave an overview of security and police activities at the airport. He provided insight about airport security checks done by the U.S. Transportation Security Administration and profiling issues relevant to airport security check-ins. He also explained the system he instituted since he took over relative to the Aviation Department Police’s security reports.

During the course of the Human Rights Office’s research, and in its discussions with Gil Najar, there was enlightenment and a better understanding that “racial profiling” as it is generally discussed and applied is a misnomer and oftentimes may be confusing and in conflict with legitimate needs that security/police officials may have with regard to profiling under limited and legitimate circumstances. Based on the reviews and discussions, a consensus evolved that the focus of governmental entities, including the city of Albuquerque and the Mayor’s Racial Profiling Task Force, should be acts or actions of the city government’s public safety operations and officials that are motivated by racial/ethnic (and other) bias, including profiling. This separates legitimate acts of profiling, stops, arrests, checks, and other law enforcement officers’ actions from those acts that are biased-based (racially or ethnically biased policing), - the result of a racial or ethnic bias of the official involved. This also clarifies the issues of racially/ethnically biased-based policing as opposed to racial/ethnic profiling.

IV MEETINGS WITH CITY STAFF AND OFFICIALS AND OTHERS

Meeting with Jay Rowland, Independent Review Officer:

At a meeting with staff of the Albuquerque Human Rights Office, in April 2003, Mr. Jay Rowland, the City’s Independent Review Officer, gave an overview of his office functions with regard to receiving and investigating citizens’ complaints against the APD, as well as reviewing citizens’ police complaints that are filed with the APD’s Internal Affairs Office. He also gave an overview on other police oversight activities his office does for the City’s Police Oversight Commission. In response to questions about issues and available data on citizens’ police complaints of racial profiling, Mr. Rowland indicated that his office did not have any specific statistics available on profiling and, unfortunately, he does not have staff available to research citizens’ police complaints relative to profiling. He offered to make available to the AHRO the Independent Review Office’s annual reports that contain information on citizens’ complaints for review relative to profiling. The AHRO accepted the offer and reviewed the IRO’s annual reports for the last three years (see Section VII).

AHRO staff gave Mr. Rowland an overview of the AHRO functions. The staff also pointed out to Mr. Rowland the critical need his office has for a Spanish interpreter to assist his office with Spanish-speaking complainants. The AHRO also offered to coordinate a contact and meeting between Mr. Rowland and the consul at the Mexican Consulate here in Albuquerque, which he accepted.

V COMMUNITY INPUT ON RACIAL AND ETHNIC BIASED POLICING

During the research and the gathering of information on racial and ethnic bias policing, it was noted that there was very little in the way of information on peoples’ perceptions and/or experiences relative to racial and ethnic bias policing and/or profiling in their respective communities. The Human Rights Office and the Coalition recognized that such information would be valuable not only to the mayor’s task force, but also to city government and the law enforcement agencies in Albuquerque.

The Coalition agreed to undertake a random survey to obtain information about perceptions, opinions and/or experiences in the community on racial and ethnic bias policing in Albuquerque. The Coalition used a combination of its email network and postal mailing list of individuals and organizations, the majority of who are not affiliated with the Coalition as well as two other non-Coalition email lists (see Section VII).

VI DEFINITION OF BIASED-BASED POLICING

Over the years the terms racial profiling, racial and ethnic bias in policing, and, more recently, biased-based policing have emerged across the country. The terms themselves resulted from wide-spread complaints by Blacks and Hispanics and, more recently, other racial and ethnic minorities who claimed that they were being profiled, stopped, arrested, and/or otherwise treated in a discriminatory manner by police officers of various law enforcement agencies. Such complaints have been leveled against police officers in municipal police departments as well as state police officers and county law enforcement officers.

From these complaints also emerged the term DWB (Driving While Black or Brown).

While the more popular reference is still made to racial/ethnic profiling, and newer references are to racial and ethnic biased policing, such illegal acts on the part of some officers in law enforcement is akin and equivalent to racial and/or ethnic discrimination. Such acts are and should be regarded as and treated in the same manner as unlawful acts of discrimination in employment, housing, and public accommodations by governmental employees and/or officials, that are perpetrated against an individual because of his/her race, national origin or ancestry, gender, color, religion, sexual orientation, age, or physical or mental disability.

While such acts have been primarily based on race and ethnicity, it is also recognized that oftentimes others are targets of profiling or other bias policing because of their gender, sexual orientation, national origin or ancestry, age, religion, physical or mental disability, or because they appear to be homeless.

VI DEFINITION OF BIASED-BASED POLICING

As such, it has been pointed out that the term “racial or ethnic bias in policing” does not acknowledge the bias toward the other aforementioned groups. Hence, “biased-based policing” would seem to be an appropriate and more encompassing term. The National Organization of Black Law Enforcement Executives (NOBLE) recommends the following definition of biased-based policing:

BIAS-BASED POLICING: The act, either intentional or unintentional, of applying or incorporating personal, societal, or organizational biases and/or stereotypes as the basis, or factors considered, in decision-making, police actions, or the administration of justice.

VII OVERVIEW OF BIASED-BASED POLICING

As enumerated above, over the many months, there have been myriad meetings and dialogue between city government public safety representatives and community representatives that touched upon or related to biased-based policing in the city of Albuquerque.

Input relative to community perceptions of the existence of racial and ethnic biased policing in Albuquerque, as well as information on individuals who believe they or others were victims of racial or ethnic bias policing and/or profiling was also obtained. In addition, research of topical issues relating to racial/ethnic profiling and collection and cursory reviews were made of information and data relative to citizens’ police complaints of racial/ethnic bias and citizens’ arrests in the city of Albuquerque:

A. Public Safety Entities within the Albuquerque City Government

The Albuquerque Police Department, the Aviation Department Police, and the Law Enforcement Unit, Open Space Division of the Parks and Recreations Department, are the governmental entities within the Albuquerque city government that are charged with public safety functions and that also have arrest powers. While there may be some minimal sharing of information with the Albuquerque Police Department (APD), training, and other exceptions, each of these entities generally operate independent of each other:

1. The Aviation Department Police utilize APD’s Standard Operating Procedures (SOPs); it submits copies of its arrest reports to APD and participates in training offered at the APD Police Academy.

VII OVERVIEW OF BIASED-BASED POLICING

2. The Law Enforcement Unit until recently appears to have been completely independent of APD, having its own Standard Operating Procedures. The LEU prepares annual reports that include the number of arrests. The LEU maintains its own arrest records and, until March 2003, did not submit its arrest records to APD’s Records Division.

B. APD Police Academy - Training on Racial/Ethnic Profiling

The Albuquerque Police Department is the only one of the City’s three law enforcement entities that provides direct training to its officers on racial/ethnic profiling. The APD’s SOP on illegal profiling requires that the Advanced Training Unit of the APD Police Academy conduct annual training for all personnel on the issue of profiling. The training is also available to officers of the Aviation Department Police and the Law Enforcement Unit, Open Space Division (attachment 7).

At present, the Academy provides racial profiling training for its sworn officers in two-year cycles. An assistant district attorney in Bernalillo County taught profiling training in the Academy’s class of 2001-2000. The training sessions, which ran for about five or six months, provided training for 30 to 40 officers at a time (attachment 8).

APD’S monthly roll call training in October 2002 included a segment on racial profiling and the next training cycle (2004-2005) will be on various topics, including profiling. The training will be held for all sworn personnel including officers from the Aviation Department Police and the Law Enforcement Unit, Open Space Division.

VII OVERVIEW OF BIASED-BASED POLICING

C. Citizens’ Police Complaints of Racial/Ethnic Bias

1. Albuquerque Police Department

The APD has two SOPs that directly relate to racial/ethnic biased policing: SOP 1-04-4N, Personal Code of Conduct – Conduct While on Duty - involving violations because of racial or ethnic bias), and SOP 1-04-11, Illegal Profiling involving violations because of race or ethnicity (attachments 9 and 10).

From a cursory scan and review of citizens’ police complaints contained in the Independent Review Office’s annual reports for 2000, 2001, 2002, and the first quarter of 2003, it is evident that some citizens who have interfaced with the APD police officers, primarily racial/ethnic minorities, believe that they have been the victims of racial or ethnic biased policing. The actual number of complaints that could be determined in the cursory review as racial/ethnic bias policing was relatively small (27); however, there are likely more racial or ethnic bias policing complaints that citizens have filed. This would be attributed to various factors, including vague information in the synopsis in the annual reports and the SOP violations investigated by the governmental entity not corresponding to the racial/ethnic bias/profiling alleged by the citizen (attachment 11). A thorough examination of all of the original complaints filed by citizens would be necessary to more accurately ascertain how many complaints were related to racial or ethnic bias policing/profiling

VII OVERVIEW OF BIASED-BASED POLICING

The majority of citizens identified in the annual reports on citizens’ complaints were minorities 214 (40 percent). Whites were 103 (19 percent) and the remainder (41 percent) was either “other” or “unknown.” Asians filed 0.2 percent of the 538 complaints; Blacks eight percent, Native Americans two percent, and Hispanics 29.4 percent (attachment 12).

Although some citizens complained of racial/ethnic bias, racially/ethnically biased actions, and/or racial/ethnic profiling by police officers, more often than not the investigations did not focus on that aspect of the complaint and the officers were not charged with violating the APD’s SOP(s) relating to racial/ethnic bias or illegal profiling (attachments 13 and 14).

The racial or ethnic biased policing complaints have been either racial/ethnic biased treatment and/or the result of racial or ethnic biased profiling. The majority of the racial/ethnic bias complaints are based on ethnicity, filed by Hispanics. The majority of the racial/ethnic profiling complaints are based on race filed by Blacks (attachments 15, 16, and 17).

(a) Racial/Ethnic Profiling

Eleven citizens’ complaints included allegations of racial/ethnic profiling. Most of those investigated included violations of the APD’s racial/ethnic bias SOP (1-04-4N) and only two of the 11 included an investigation for violation of the APD’s illegal profiling SOP (1-04-11). In all but one instance where there was an investigation, the findings relating to the violations of SOP 1-04-4N and 1-04-11 were that the officers were exonerated or the allegation was not sustained or unfounded (attachments 18 and 19). See attachment 20 for an

VII OVERVIEW OF BIASED-BASED POLICING

explanation of the various disposition findings utilized by the APD Internal Affairs Unit and the Independent Review Office.

All but two of the eleven racial/ethnic profiling complaints involved traffic stops or stops on the street, in a park, or in a public business. Most of the stops did not appear to result from moving traffic violations or result in arrests (attachment 16).

(b) Racial/Ethnic Bias

Sixteen citizens’ complaints included allegations of racial/ethnic bias. The acts the citizens believed were based on racial or ethnic bias and racial or ethnic motivation of the police officers included general biased treatment, ethnic or racial slurs or derogatory remarks, verbal abuse or threats, non-English language (Spanish) of the citizen, and physical abuse. Half were investigated for violation of the APD’s racial/ethnic bias SOP (1-04-4N). In all instances where there was an investigation, the findings relating to the violations of SOP 1-04-4N were that the officers were exonerated or the allegation was not sustained or unfounded. Eight of the 16 racial/ethnic bias complaints involved traffic stops, a traffic accident, or stops on the street (attachment 17).

2. Aviation Department Police

No information or data was available on citizens’ complaints against law enforcement officers of the Aviation Department Police. The Aviation Department Police utilizes the APD’s SOPs as well as federal regulations that are applicable to an airport environment.

VII OVERVIEW OF BIASED-BASED POLICING

There is no indication that the department pays particular attention to the SOPs on racial/ethnic bias and/or racial/ethnic profiling.

3. Law Enforcement Unit, Open Space Division

No information or data was available on citizens’ complaints against law enforcement officers of the Law Enforcement Unit. The Law Enforcement Unit has its own SOPs that are currently being reviewed and revised. Its current SOPs do not include prohibitions of racial/ethnic bias policing. Depending on the nature and seriousness of complaints against officers, the LEU will conduct an investigation and take appropriate disciplinary action if the complaint is founded.

4. Appeals to the Police Oversight Commission

In addition to its other responsibilities, the City’s Police Oversight Commission (POC) hears citizens’ appeals of the findings and decisions (on their complaints against the APD police) that are made by the Police Oversight Commission’s Independent Review Office, and/or the APD chief of police. The POC has been hearing citizens’ police complaints’ appeals since sometime in 2000 (attachment 21).

Available information reflects that at least four of the citizens’ racial/ethnic bias and/or racial/ethnic profiling complaints included in the IRO’s annual report (see the citizens’ police complaints cursory review above) were appealed to the Police Oversight Commission.

VII OVERVIEW OF BIASED-BASED POLICING

Also from the available information, there is no indication that the POC addressed the issue of racial/ethnic bias and/or profiling allegations (included in some of the complaints reported in the IRO’s annual reports) that had been made by some of the citizens, but were not investigated by the Internal Affairs Office or the Independent Review Office.

In the one instance (previously mentioned above) where a finding was sustained on a “racial profiling” complaint, a violation of SOP 1-04-11 (illegal profiling); in July 2003, the Bernalillo County Sheriff appealed the sustaining decision to the Police Oversight Commission. Ultimately, after the commission’s initial hearing of the appeal and subsequent unsuccessful efforts between the Independent Review Officer and the APD chief to resolve the issue, the commission, at its August 14 public hearing, reversed the Independent Review Officer’s finding that sustained the complaint. Only one member of the Police Oversight Commission cast a dissenting vote. (attachment 22)

During the Police Oversight Commission’s initial public hearing in July it also came to light that, on two separate occasions, the APD chief had previously reversed sustained findings on police officers’ violations of SOP’s and he exonerated the officers (attachment 23). Those reversals were done after the complaints had been closed. One of the reversals was a decision made by the previous APD chief of police.

VII OVERVIEW OF BIASED-BASED POLICING

5. U.S. Transportation Security Administration

Although passenger security checks at the Albuquerque Airport are conducted by the U.S. Transportation Security Administration (TSA) and not by the public safety entities within the city government, the question of racial/ethnic profiling of citizens is a concern of many within the greater Albuquerque community. For this reason, information was obtained from the TSA regarding possible passenger complaints of racial/ethnic profiling at the airport.

Subsequent to the attacks on September 11, 2001, security checks of passengers and others were drastically increased at the Airport. On October 8, 2002, Transportation Security Administration (TSA) federalized the Albuquerque Airport’s security checkpoint.

As part of its security checks process, the TSA makes available to passengers and others going through its checkpoints a “complaints and compliments comments form” (attachment 24).

From October 2002 through May 2003, the TSA received 1,500 forms. Of those, 87.5 percent were compliments, 8.5 percent were complaints, and 4 percent were suggestions and comments. The compliments were very positive with regard to manner of the screeners’ performance and efficiency. None of the compliments related to racial or ethnic bias (attachments 25 and 26).

VII OVERVIEW OF BIASED-BASED POLICING

D. Arrests Made by the Public Safety Entities of the City Government

The APD’s SOP on illegal profiling which prohibits its members from targeting individuals for enforcement action or other police activity based solely upon race, ethnicity, gender, sexual orientation, religious affiliation or economic status requires the APD’s Crime Analysis Unit, on a quarterly basis, to compile data for analysis to determine if profiling is occurring. The report data is to be forwarded to APD’S Deputy Chief of Operations.

At present, the Crime Analysis Unit is only compiling data on arrests and not on citizens’ complaints of racial/ethnic profiling or other racial/ethnic bias. The unit has been compiling the number of adults arrested since 2000. The unit submits the statistical data (Ethnicity Arrest Report) to the Deputy Chief of Operations on a quarterly basis (attachment 27)

The arrests statistics the unit compiles also includes the arrest statistics of the Aviation Police Department and (as of March 2003) the Law Enforcement Unit of the Open Space Division. The number of Aviation Department Police arrests and the Law Enforcement Unit, Open Space Division, included in the APD arrest statistics, would be negligible and would not change, in any significant way, the race/ethnicity statistical analysis of the arrests made by APD:

1. Albuquerque Police Department

Overall the arrests, by the Albuquerque Police Department, of minorities and non-minorities are about 49 and 48 percent respectively, with the arrests of Blacks and Native Americans being three times greater than their percentages of the Albuquerque population.

VII OVERVIEW OF BIASED-BASED POLICING

Depending on the year, there appears to be a significant disparity between the arrests of Hispanics and whites. In the last quarter of 2000 and in 2001 the arrests of Hispanics was greater than that of whites; in 2002 and the first quarter of 2003 the arrests of whites was greater than that of Hispanics.

In the last quarter of 2000 and in 2001 minorities were almost twice as likely to be arrested as were non-minorities and in 2002 and the first quarter of 2003 non-minorities were almost twice as likely to be arrested as were minorities (attachments 28 and 29)

2. Aviation Department Police

The Aviation Department Police Chief has initiated monthly reports, including arrest statistics. The monthly statistical report captures data on arrests relating to DWI, felonies, misdemeanors, and domestic violence. Data is also collected on DWI assists, warrants, and misdemeanors, moving, and parking citations. However, the department does not have or maintain race/ethnicity data relating to the individuals it arrests, serves warrants to and/or gives citations.

The Aviation Department Police uses the same incident and arrest form as APD and other law enforcement entities in New Mexico, the State of New Mexico Uniform Incident Report (attachment 30). The arrest statistics of the Aviation Department Police are included in the quarterly statistical race/ethnicity arrests reports that APD’s Crime Analysis Unit compiles for submission to APD’s Deputy Chief of Operations.

VII OVERVIEW OF BIASED-BASED POLICING

The Department only had arrests statistics available for December of 2002 and February, April, and May of 2003. The total arrests for those months were 50 DWI arrests, eight felony arrests, 29 misdemeanor arrests, and one domestic violence arrest (attachment 28).

During those same months, the Aviation Department Police issued a total of 660 citations: 28 misdemeanor citations and 632 moving citations.

3. Law Enforcement Unit, Open Space Division

The Law Enforcement Unit (LEU) does not prepare quarterly reports on its arrests. It prepares annual reports that include the number of arrests and it only maintains data on the number of arrests. Although it uses the same incident and arrest form as APD’s and other law enforcement entities in New Mexico, the State of New Mexico Uniform Incident Report, that includes racial/ethnic data, it does not include that data as part of its annual report.

As of March 1, 2003, all of its arrest records are now submitted to APD’s records division.

The Law Enforcement Unit does not have a breakdown of arrestees based on race or ethnicity. Although its offense report form has this information included on the forms, the unit does not have an automated database. As it has consolidated its reports with APD on March first of 2003, the unit’s statistics will be included in with APD’s. The Law Enforcement Unit made 873 arrests between 2000 and March 31, 2003: 134 arrests in 2000, 272

VII OVERVIEW OF BIASED-BASED POLICING

arrests in 2001, 340 arrests in 2002, and 77 arrests made in the first five months of 2003 (attachment 31).

Depending on the nature and seriousness of complaints against officers, the LEU will conduct an investigation and take appropriate disciplinary action if the complaint is founded. Among the LEU’ four more serious disciplinary actions from November 1994 to February 2001 was one for ethnic bias (ethnic slurs) by an officer to another employee. The officer in question was suspended for four days (attachment 31).

E. Community Perceptions, Opinions, Experiences, and Beliefs on Racial and Ethnic Bias in Policing in Albuquerque

From the New Mexico Human Rights Coalition’s (NMHRC’s) limited survey, some people in the community hold perceptions and beliefs that racial and ethnic bias policing and racial and ethnic profiling exists in Albuquerque. Some believe that they have been victims of racial or ethnic bias in policing and/or have been profiled by law enforcement agencies in Albuquerque because of their race or ethnicity. Some who may or may not have been victims of biased policing state that they are aware of others who they believe were victims of racial or ethnic bias in policing and/or were profiled because of their race or ethnicity (attachment 32).

There are varying opinions as to who in the Albuquerque city government is concerned about the problem, as well as to whether efforts are being made by city officials to eliminate the problem:

VII OVERVIEW OF BIASED-BASED POLICING

1. Racial and Ethnic Bias Policing and/or Profiling in Albuquerque

Racial or ethnic comments or slurs, verbal abuse, physical abuse, and various types of citizen stops by some members of Albuquerque’s three law enforcement agencies are perceptions and beliefs of some in the community. Many believe that traffic stops, stops on the street, and stops in a park, because of a person’s race or ethnicity, are the most prevalent types of citizen stops by law enforcement officers.

There is a belief that Blacks/African Americans, Hispanics, Native Americans, Arabs, and Middle Easterners are the most frequent victims of racial and ethnic bias policing/profiling.

Some people state that the groups most often victims of racial/ethnic policing/profiling are Asians (mostly Chinese and Southeast Asians), Blacks/African Americans, often young men, Hispanics, Native Americans (specifically Navajo), gays and lesbians, homeless people, and people of color. In identifying ethnic groups, Mexicans, Cubans, Iraqis, darker skinned Hispanics, Chicanos, and young Hispanics were mentioned.

2. Law Enforcement Agencies

More people believe that racial and/or ethnic bias in policing is a serious problem in the Albuquerque Police Department. Some also believe that it is a serious problem in the Open Space Rangers Division and in the Aviation Department (Airport) Police.

VII OVERVIEW OF BIASED-BASED POLICING

While they are not law enforcement agencies within the City of Albuquerque, the Bernalillo County Sheriff’s Department and the New Mexico State Police were named by several people as having a serious problem with racial and/or ethnic profiling.

A serious problem with racial and/or ethnic profiling is also believed to exist among the Passenger Security Checkers at the airport.

3. Concern about Racial and Ethnic Bias Policing Within City Government

People believe that the Police Oversight Commission and the Mayor are the most concerned, and that the city council and the chief of the Albuquerque Police Department are the least concerned. Some people also believe that the chief of the Aviation Department Police and the chief ranger are less concerned, however, more people have no opinion on these two chiefs.

4. What Entity Within City Government is Trying to Eliminate the Problem

People indicate that the mayor and the Police Oversight Commission are doing the most to eliminate the problem of racial and ethnic bias in policing. Not many indicate that the city council, the chief of the Albuquerque Police Department, chief of the open space rangers or the Aviation Department police chief are making an effort to eliminate racial and ethnic bias in policing.

VII OVERVIEW OF BIASED-BASED POLICING

5. Victims of Racial and Ethnic Bias Policing/Profiling

A number of people indicate they had been personal victims of racial and ethnic bias policing/profiling by a member of one of Albuquerque’s law enforcement agencies. They identified their race as Black, Hispanic, and Native American. Some identified their ethnicity as Hispanic, African American, Chicano, Spanish and Tewa, and Semitic. The Albuquerque Police Department was the law enforcement agency cited most often as perpetrating the racial and ethnic bias policing/profiling.

Racial/ethnic profiling was cited far more often than racial/ethnic bias as the type of biased policing experienced. The bias cited included comments, slurs, and verbal and physical abuse, traffic stops and on the street stops.

6. Awareness of Others Who Were Victims of Racial and Ethnic Bias Policing/Profiling

Many people were aware of others who they believed were victims of racial and ethnic bias in policing than indicated that they themselves were victims.

The race of those cited as victims was most often Black. Asians, Hispanics and Native Americans, Arabs, Blacks and Native Americans and Blacks and Middle Easterners were also cited. The ethnicity of such persons included Hispanic, the most often indicated, as well as Amerasian, African American, Mexican, Latino and Middle Easterners.

Racial/ethnic comments, slurs, and verbal and physical abuse, and traffic stops are the most prevalent racial/ethnic bias.

VII OVERVIEW OF BIASED-BASED POLICING

7. Additional Comments and Suggestions

A task force, studies, policy and legislation, traffic stops and data collection, investigation of complaints, training and education, discipline, the Police Oversight Commission, and community policing rank high in the comments and suggestions of people who responded to the NMHRC survey.

Other comments and suggestions include arrests, getting serious about it and being honest about the problem, establishing an office of Latino affairs on the state level, having Vietnamese and Spanish speaking police in certain areas, treating people like they are human, not assuming that the police are always telling the truth in a specific situation, telling people what is being done, communication, treating low income and homeless people as valuable neighbors and community members, and award laurels to those who practice fair and equal treatment.

F. Anecdotal Information - Racial/Ethnic Biased Policing and Profiling

Among the various issues of racial/ethnic bias policing that have surfaced over the years, there are two that have occurred since the 1990s that are significant in that they broadly reflected on the Albuquerque Police Department (attachment 33):

1. Incident Between the APD and Members of the Black Community

Sometime in July 1991 an incident occurred which involved Blacks and others, and members of the Albuquerque Fire Department and the Albuquerque Police Department. The incident related to a party where the majority of the attendees was Black. The incident turned into a racial issue.

VII OVERVIEW OF BIASED-BASED POLICING

Also, questions were raised about how the police responded to and handled the situation.

Following the incident a number of concerned parents and community individuals and leaders went to the minister of a Black church in the South Broadway community. Various additional meetings were held. A representative of the Community Relations Service of the U.S. Department of Justice was subsequently called in to serve as a mediator. Several separate and joint meetings were held between the mediator, representatives of minority organizations (mostly Black), the police chief and other APD officers and staff.

A Memorandum of Agreement (MOA) was developed by the mediator and subsequently signed by the chief and community representatives. The MOA established the Albuquerque Police/Minority Task Force and it addressed various issues/concerns, solutions, and implementation of the MOA. (Attachment 34)

2. Fatal Shooting Incidents in the APD and New Mexico Los Vecinos United

In the early to mid 1990s Albuquerque faced a rash of fatal shootings of citizens by officers of the Albuquerque Police Department. The controversy surrounding the fatal shootings had continued for at least a decade, with the escalation of public protests (in 1996) and candlelight vigils on behalf of the persons who had been shot and killed. Hispanics seemed to be the majority of the victims of the fatal shootings.

VII OVERVIEW OF BIASED-BASED POLICING

The New Mexico Los Vecinos United (Los Vecinos) was at the forefront of the community protests and the efforts to halt the shootings and to hold the APD and the City government accountable.

A report to the city council as well as the continuing efforts of members of the community led to the city council’s establishment of a police oversight task force in 1998. A subsequent result of the initial study and the report of the oversight task force was a change in the police oversight system, enactment of the Police Oversight Ordinance, the elimination of the Police Safety Advisory Board and the establishment of the current Police Oversight Commission and the Independent Review Office.

3. Housing Discrimination Complaint

In 2002, the Human Rights Office assisted property owners in filing a housing discrimination complaint with the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development (HUD). Included in the complaint were allegations of harassment and racial profiling. The complainants alleged their neighborhood association, the Albuquerque Crime Free Multi Housing Unit, and the Albuquerque Police Department discriminated against them because they were renting to Blacks.

In a follow-up with HUD on the status of the complaint it was learned that HUD did not complete its complaint intake process of the complaint the Human Rights Office had forwarded because the complainants had resolved the issues in their complaint with the City’s administration.

VII OVERVIEW OF BIASED-BASED POLICING

In a follow-up with the complainants, one advised the Human Rights Office that a meeting had been held by their attorney and City representatives. During the meeting, the complainants’ attorney requested evidence of violations by the complainants of the City’s nuisance codes and/or records of violations of any City codes; no evidence was presented by any of the City officials.

The complainant stated that a different meeting was organized by the neighborhood association, whereby neighbors were provided an opportunity to address their concerns about activities on the complainants’ property. The organizers of that meeting also invited the media and a story about the meeting was subsequently printed in a local newspaper.

The complainant stated that, subsequently, the attorney from the City Attorney’s Office issued a directive that all harassment of the complainants and their tenants, by City officials, was to stop. Since that time, the complainants and their tenants have not had any problems with City officials.

G. Research on Racial and Ethnic Bias Policing

Governmental entities across the country, including law enforcement agencies, are addressing the issues of bias-based policing - racial/ethnic profiling, racial/ethnic bias - in a variety of ways. Legislation, public policy statements, task forces, traffic stops, and other citizen-police encounters data collection are the primary ways that the governmental entities are dealing with bias-based policing. In a few instances the efforts have been the result of court consent decrees. Also, in some

VII OVERVIEW OF BIASED-BASED POLICING

instances, law enforcement agencies have voluntary initiated policies, procedures, and data collection (attachments 35 and 36).

The research of racial and ethnic bias policing indicates that the issues and associated problems of racial and ethnic biased policing are being taken seriously by various municipal, county, and state governments, and police chiefs and sheriffs of their respective governments. Some governmental entities have been proactive in taking various actions and positive steps to address the issue. In a few instances actions have been the direct result of court “consent decrees,” while some are voluntary actions taken by the various governmental entities:

1 Legislation

Various forms of legislation have been enacted by states and municipalities have adopted ordinances or resolutions that prohibit racial or ethnic bias policing/profiling. The legislation, ordinances, and resolutions vary in addressing the issue; i.e., requiring law enforcement agencies to adopt policies that prohibit race-based stops and requiring investigations where such patterns are determined to exist, as well as requiring data collection on traffic stops, etc. In Portland, Oregon, a resolution that took a strong stand against race-based policing was adopted as a result of the collaboration between area chiefs, sheriffs, the state police superintendent, and union and labor representatives.

VII OVERVIEW OF BIASED-BASED POLICING

2. Task Forces

Several municipalities in the research have established task forces to address racial profiling in their respective cities. In at least two instances the task forces were established by the municipality’s chief of police.

Community leaders, community forums, and community members have played a major role in the work of the task forces.

3. Policies and Procedures

An impressive number of police chiefs and sheriffs have been positive and proactive in addressing the issue of racial and ethnic biased policing. Some have issued statements and/or established policies specifically relating to biased policing and/or profiling.

4. Data Collection and Traffic Stops

A varying number of municipal, county, and state law enforcement agencies have race/ethnicity and gender-related data collection and analysis and reporting requirements primarily relating to traffic stops and/or other police-citizen encounters. While a few are the result of city council requirements, a larger number is the result of voluntary actions of the police chiefs.

States, through legislative action, have mandated data collection on traffic stops by local, county and state law enforcement agencies.

VII OVERVIEW OF BIASED-BASED POLICING

5. Consent Decrees

Some municipalities and states are recording race/ethnic-related information relating to traffic stops, some have paid damages and/or made other settlement-related payments as a result of lawsuits and consent decrees or other court action.

Racial and ethnic bias policing and/or profiling of Blacks and Hispanics have been the bases of the various court actions.

6. Other Information

In St. Paul, Minnesota, the local police department and the local chapter of the NAACP entered into an agreement for remedial measures to address concerns of the African American community on race relations and relations between citizens and the police. Data that showed that Blacks and Hispanics were stopped and searched by the police was used by the NAACP leadership to obtain assistance from the Community Relations Service of the U.S. Department of Justice to assist in mediation with the police department.

7. Studies, Surveys, and Other Material

A American Civil Liberties Union (ACLU) study on racial profiling indicates that while Blacks and Hispanics were more likely to be stopped, searched, and/or ticketed, law enforcement agencies were in a state of denial that racial profiling was taking place (attachments 35 and 36).

VIII OVERVIEW OF BIASED-BASED POLICING

In the city of Albuquerque, in three surveys of citizens’ satisfaction with police service delivery, the opinions on “satisfaction comparisons” of racial and ethnic groups was limited to “ethnic groups” - Hispanics and Anglos. The opinions of members of racial minority groups (Native Americans, Asians, and Blacks) were “lumped together” without any distinction made as to the opinions of individuals within these specific racial groups (attachments 35 and 36).

In the city of Albuquerque’s 1996 citizen satisfaction assessment of city services and policies, the citizens’ opinions, perceptions, evaluations, and suggestions regarding satisfaction was again limited to “ethnic groups” (Hispanics and Anglos) while those of racial minority groups (Native Americans, Asians, and Blacks), were not sought nor considered. Even relating to race relations in Albuquerque, where citizens were asked what they thought of relations between people of *different cultures and racial backgrounds*, the opinions of the Native Americans, Asians, and Blacks were not included. Only Anglos and Hispanics were given the opportunity to evaluate *race relations* in Albuquerque (attachment 37).

8. Law Enforcement Agencies

There are at least four national law enforcement associations that include the issue of racial profiling as a concern and issue for their respective associations. Two of the four represent minority law enforcement command and/or executive officers, one is an international association of chiefs of police, and the other is a service-oriented organization that

VIII OVERVIEW OF BIASED-BASED POLICING

specializes in law enforcement-related research and management services (Attachments 35 and 36).

- (a) The Hispanic American Police Command Officers Association (HAPCOA), a national organization, includes command level officers from local, county, state, and federal law enforcement agencies. HAPCOA provides yearly national conferences for training and networking and establishing relationships and partnerships within the law enforcement profession.

HAPCOA has two community policing workshops on its training agenda for 2004 that relate to racial profiling: Preventing Racial Profiling Practices, a course for officers, and Preventing Racial Profiling Practices, a course for front line supervisors.

- (b) The International Association of Chiefs of Police (IACP), a nonprofit membership organization of police executives supports law professionals in a wide variety of services.

The IACP issued a resolution, Incorporation of Racial Background as a Data Element on Driver’s License, which urges states to incorporate race and ethnicity as a data element and to print it on the driver’s license to facilitate the capture and accurate recording of this information. It has also published a sample professional traffic

VIII OVERVIEW OF BIASED-BASED POLICING

stop policy and procedure, the purpose of which is to unequivocally state that racial and ethnic profiling in law enforcement is unacceptable, and to provide guidelines for officers to prevent such occurrences, and to protect officers when they act within the dictates of the law and policy from unwarranted accusations.

- (c) The National Organization of Black Law Enforcement Executives (NOBLE) was formed to recognize that Black law enforcement executives could have a significantly more effective impact upon the criminal justice system through a united voice.

NOBLE has issued a bias-based policing report which is intended to demonstrate the need to focus on bias-based policing as one of the most critical problems in law enforcement.

- (d) The Police Executive Research Forum (PERF), a service oriented non-profit organization, specializes in law enforcement-related research projects and management services. It also serves as a membership organization for police executives.

PERF issued a research report on “Racially Biased Policing, a p Principled Response.” The report provides guidance to police agencies responding to racial profiling and the perceptions of its practices.

VIII OVERVIEW OF BIASED-BASED POLICING

9. Research Institute

The Institute on Race and Justice at Northeastern University in Boston, Massachusetts, utilizes strategic science research methodologies to assist government agencies, educational institutions, and members of the community in the development of policy changes to advance the cause of social justice (attachments 35 and 36).

VIII VALUABLE POINTS OF INFORMATION ON RACIAL AND ETHNIC BIAS IN POLICING AND DATA COLLECTION

From the preponderance of information and data relative to racial and ethnic bias in policing and data collection, both pro and con, there are several important and valuable points of information that are often overlooked.

a. Racial and Ethnic Bias in Policing

- More than a dozen legal settlements between police agencies and monitors attest to the seriousness of racial and ethnic bias in policing.
- A large majority of racially and ethnically profiled individuals are found to be law abiding.
- Racial and ethnic bias in policing subjects community residents and visitors to fear, anxiety, humiliation, anger, and resentment.
- Laws, public policies, and effective leadership are the only ways municipal governments can control the problem.

b. Data Collection

- Data collection is a readily available tool against racial and ethnic bias in policing and profiling.
- When done in a meaningful and honest way, data collection instills public trust.
- Data Collection demonstrates police value diversity in the workplace and community, it leads to community partnership, and it enhances professionalism.

**VIII VALUABLE POINTS ON RACIAL AND ETHNIC BIAS IN POLICING
AND DATA COLLECTION**

- Data collection is part of an overall system to reduce bias; it shows courage through accountability, and it brings the law enforcement code of ethics to life.
- Data collection will bring a municipality’s law enforcement agencies more closely “in step with the community.”

IX OBSERVATIONS

(As noted in the purpose of this report, conclusions and recommendations will not be provided, however, observations are made and noted that hopefully will prove to be helpful to the Mayor and to the Task Force).

There are many observations that can be drawn from all of the information and data collected, reviewed, and/or analyzed as part of this report. However, only the major observations will be highlighted that relate to biased-based policing in Albuquerque and to biased-based policing in general.

BIASED-BASED POLICING

- Racial and ethnic biased policing and profiling, while not wide spread, does exist in Albuquerque. The recent Iraqi racial profiling issue that went before the Police Oversight Commission is an example.

COMMUNITY

- There is a strong perception/belief in the Albuquerque community that race and ethnic biased policing and racial profiling against minorities exists in the City of Albuquerque.
- Organizations representing minority groups must become proactive in addressing the issue of racial/ethnic biased policing and profiling. They should also make more of an effort to coalesce on this issue.
- Over the years there appears to have been progress in police-community relations in Albuquerque. The 1991 issue involving Blacks and the Albuquerque Police Department, and the mid 1990s issue of fatal police shootings involving primarily

IX OBSERVATIONS

Hispanics and others and the Albuquerque Police Department played a major role towards the progress that has been made.

- Currently, there appears to be no significant racial/ethnic tensions in Albuquerque between law enforcement agencies and the community. As such the racial/ethnic climate provides an opportunity for a cooperative effort to address biased-based policing in Albuquerque as well as to establish a mechanism to deal with the problem.

GOVERNMENT

- Municipal, county, and state governments across the country are enacting legislation, issuing public policy statements prohibiting bias-based policing as well as, in many instances, collecting data on traffic stops and other citizen-police encounters. A number of municipal law enforcement agencies have issued their own policy statements prohibiting racial profiling and initiating data collection and analysis.
- A commitment to community-oriented policing goes hand-in-hand with a commitment to address bias-based policing. Those cities that have established community oriented policing programs are addressing issues of bias-based policing to include voluntary tracking and data collection of traffic stops and/or other police-citizen encounters.

IX OBSERVATIONS

- The exclusion of racial minority groups’ participation in previous Albuquerque citizens’ satisfaction surveys reflects the city government’s lack of awareness and understanding of the issues and concerns of those groups.
- The Police Oversight Commission (POC) is not well versed on the issue of racial/ethnic profiling and/or racial/ethnic discrimination, and it appears that the Commission lacks the power to make final and binding decisions on citizens’ complaints against the police.
- The POC has the potential to effect change in police/community relations because they are recognized and generally well received by the community in a positive light.
- The Police Oversight Commission and the Independent Review Office are critical to any efforts the City of Albuquerque makes to address the issue of bias-based policing.

LAW ENFORCEMENT

- Racial and ethnic bias in policing, including racial profiling and other forms of biased based policing, i.e. gender, homeless people, sexual orientation, age, disability, etc., is not being recognized or addressed as an issue of concern by law enforcement officials in Albuquerque.
- The disproportionate number of arrests of minorities is not being recognized as a problem by law enforcement agencies.

IX OBSERVATIONS

- Law enforcement officers in Albuquerque are not well trained on biased-based policing, particularly relating to racial and ethnic policing and profiling.
- City of Albuquerque agencies with law enforcement duties collect some data regarding race, ethnicity, gender, etc. on arrests and complaints; however, the data is not tracked or analyzed for possible patterns of bias-based policing.
- The traffic citation utilized by City law enforcement agencies does not provide for the collection of data, i.e., race, ethnicity, gender, etc., that is necessary to address the issue of racial/ethnic policing and/or profiling.