



**Race, Traffic Stops, & Ensuring Public Safety for a Changing Texas:  
A Review of White vs. Hispanic Disparities in Texas DPS Traffic Stops, 2009-2014**

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**BORDER NETWORK**  
*For* **HUMAN RIGHTS**

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## **Table of Contents**

**Page 3—Acknowledgements**

**Page 4—Introduction—Disparate Public Safety for Texas Drivers**

**Page 5—Methodology**

**Page 7—Background—Public Concerns About DPS Traffic Stops**

**Page 9—DPS Traffic Stop Results and Findings**

Citation Rates

Warning Rates

Ratio of Citations to Warnings

**Page 15—Policy Recommendations**

Transparency, Accountability, and Oversight

Anti-Racial Profiling Training

Collecting and Recording Accurate Information

**Page 21—Conclusion—Providing Public Safety by Providing Public Respect and Accountability**

**Page 22—Appendix A—Formulas**

**Page 23—Appendix B—Counties in THP Regions**

**Page 25—Appendix C—Selected Bibliography of Media Reporting on DPS Issues: Summer  
2014-Present**

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Thanks again to all of these contributors.

A handwritten signature in black ink that reads "FERNANDO GARCIA". The signature is stylized with a large, sweeping initial "F" and a cursive "GARCIA".

Fernando Garcia, Executive Director, Border Network for Human Rights

## Introduction—Disparate Public Safety for Texas Drivers

Over the past year, DPS has increased its presence in small Texas counties near the U.S.-Mexico border in the name of “border security”. However, the increased presence has failed to actually improve security at the border, as shown by media analysis as well as independent examination by expert criminologists.

Instead, the ‘border surge’ of 2014 and 2015 has brought DPS practices that have at times felt like communities were being harassed, and which resulted in disparate outcomes for Texan drivers throughout the state. Indeed, 2015 saw a slow-but-steady stream of news articles uncovering problems in DPS’s practices throughout Texas. These include, but are not limited to, disproportionately increased citation rates for Hispanics in traffic stops, disproportionate increases in car searches of Blacks, and the latest, misidentification of Hispanics as Whites in ticket write-ups.

This report stems from one of these articles. On September 4, 2015 the Texas Tribune released an article titled, *“Troopers Ticketing Fewer Overall, but More Hispanics”* which highlighted the difference in Hispanic citations and White citations. With the assistance of State Sen. Jose Rodriguez’s office, BNHR obtained the raw data underlying this article and undertook our own analysis of this data.

This report describes the results from our analysis of the raw DPS data. We look into 253 of Texas’ 254 counties to examine changes in the distribution of traffic citations and warnings from 2009 to 2014. These findings, conducted by BNHR staff with the help of UTEP Sociologist Christina Morales and student Eric Beltran, have shown some troubling results.

When questioned about their traffic stop practices in the past, DPS has stated that Whites are still being cited more than Hispanics, and that Hispanics and Whites are simply becoming more equal in terms of citations and warnings given. However, our data shows that Hispanic citation rates are increasing dramatically while White citation rates are decreasing. The same trend is also seen in warning rates and in ratio of citations to warnings (rate ratio). This is not just a matter of the two populations gradually coming to parity; it is a drastic shift that suggests a racialization of DPS traffic stops. Overall, compared to the past, Hispanics are ticketed more, pulled over more, and more likely to receive a citation than a warning, a pattern shown by all three measures that is hard to dismiss as a fluke.

This document contains three parts: 1) a statement of our methodology in going through the DPS traffic stop data, 2) local concerns about DPS activity that spurred our initial interest, 3) our results and analysis of the findings from our statistical work, and 4) policy suggestions on how to build a better DPS going forward. We hope this informs lawmakers and the public, and leads to better public safety and law enforcement for all Texans.

## Methodology

This report is a descriptive and inferential analysis of a DPS Excel spreadsheet obtained by Senator Rodriguez's office on all traffic stops throughout Texas, broken down by county, conducted from 2009 through 2015. However, 2015 data was incomplete, and was therefore excluded from the analysis, leaving a study period of 2009-2014. The initial spreadsheet was divided into traffic citations and traffic warnings, and included breakdowns of these traffic stop outcomes by county, race/ethnicity, and sex. While the below offers descriptive statements of the formulas we used in processing this data and calculating our findings, you can find full formal mathematical statements of these formulas, along with other mathematical notes in Appendix A.

To provide additional perspectives on this data, we also coded each county by both its Texas Highway Patrol Regions (THP), and by broader geographical regions. There are 6 THP Regions used to define Texas: Dallas Region, Houston Region, McAllen Region, El Paso Region, Lubbock Region, and San Antonio Region. The data was also separated into geographical regions as follows: Border Counties, Near Border Counties, and Interior Counties. Please see Appendix B for the breakdown of counties across both these geographic categories and the THP regions. By dividing the counties into different regions we are able to see if there are any disparities within and between THP or geographic regions, such as differences between communities near the Texas-Mexico border and those in the Texas interior.

In order to reduce year-to-year stochastic noise in the data (which made the data appear random and without a clear distribution), and make it easier to calculate and understand, all traffic stop data was divided into three-year averages, 2009-2011 and 2012-2014, each aggregated by county.

A percentage change was calculated between these averages in order to see if there has been an increase or decrease in citations and warnings in these three-year periods. Given BNHR's initial interest in border enforcement by DPS, these three-year averages were calculated only for the Hispanic and Non-Hispanic White (White) categories. However, the data would allow for future research to look at other populations. The data was moved into a new spreadsheet where population in each county was added and change in population was taken into account in the initial raw numbers. Given our findings and the findings of other studies, the potential exists to do additional comparisons for the other racial/ethnic groups in the data.

The final data set orders the data by county. County by county population data was obtained from the American Community Survey (ACS) through the U.S. Census Bureau website, and was also calculated as a multi-year average. Because of a lack of 2014 ACS data, we used 2009-2011 and 2012-2013 population averages for each county's Hispanic, White, and total populations.

We then calculated county-level rates of citations and warnings using the ACS population data for the averaged years, and normalizing for a county/racial-ethnic population of 100,000. This was done by dividing the 2009-2011 citation average with the ACS 2009-2011 population and

multiplying the result by 100,000. This was completed for Hispanics and Non-Hispanic Whites, for both study periods, for both traffic warnings and citations.

From these rates we calculated, for each county, the change in traffic citations and warnings individually from 2009-2011 to 2012-2014 by dividing the older rate (2009-2011) over the newer rate (2012-2013), multiplying by 100 to convert to a percentage, and subtracting 100 to measure change from the initial period. In reading these results, zero means no change, positive numbers are growth over this time period, and negative numbers are a reduction over this period. Again, this was done for both traffic warnings and citations for both Hispanics and Whites. This gave us a percent change in citations and warnings that accounts for county-level population changes. Again population change was calculated with ACS population for each county and corresponding three year periods. This measure of change between the two periods gives us a look at changes in who gets pulled over for traffic stops and potential disparities in how stops are initiated.

We also calculated the 'rate-ratio'—the ratio of the rate of citations issued to the rate of warnings. Using this ratio to compare between racial/ethnic groups, between geographic regions, and over time allows a look at potential disparities in how traffic stops are conducted and concluded. Using the already obtained citation and warnings rates, we ran a simple division of the rate of citations divided by the rate of warnings to calculate the rate ratio. A rate ratio of 1 indicates an equal rate of citations to warnings, while numbers greater than 1 mean more citations than warnings are issued to a population, and a rate ratio below 1 indicates the issue of more warnings than citations.

Finally, paired sample T-tests were conducted in order to support and verify the descriptive statistical findings drawn from the above calculations. T-tests are used to test the possibility of two population variables, such as citation rates, being significantly different from each other. If a test indicates significance, using a standard of a probability of the difference between the sample population variables appearing 5 percent of the time or less if the true population variables are equal ( $p \leq .05$ ), then the difference between samples is very likely not due to chance. Instead, there is an apparent difference between the two sample populations—and which may suggest the role of outside factors in accounting for this difference.

Statewide T-tests were conducted to compare citations rates, warning rates, and rate ratios both between the two study periods and between Hispanics and Whites. We also performed T-tests to look for differences between citations rates, warning rates, and rate ratios between the different THP operating regions of Texas.

Moving forward, we are looking to use chi-squared tests to further statistically examine the distributions of changes to citations and warning rates, and to rate ratios for the 253 counties studied. We also anticipate using regression analysis to attempt to identify potential correlates and causes of the statistical disparities we find below.

## Background—Public Concerns About DPS Traffic Stops

As we state in the introduction, our initial interest in looking at DPS traffic stops was in response to concerns being raised around Texas' nascent border security efforts and the impact that DPS' approach was having on border communities in South Texas.

Starr County Judge<sup>1</sup> Eloy Vera in 2015 repeatedly raised concerns that residents of his county, one of both the poorest and most Hispanic in the nation, were unnecessarily being subjected to excessively high levels of DPS traffic enforcement.

At a July 2015 panel, Judge Vera testified to his own experiences with DPS traffic stops,

I have a Ford pickup that has a grill on the front and I have been stopped six times because the guard blocks part of the license plate. I said that is the way it came from the dealership. I didn't do anything to it. I said where do you want me to put it? You know it is this kind of harassment that we go through. In Starr County, unfortunately, a lot of our people are very humble, on low incomes and they are afraid to go out. Anything that is wrong or anything that is lacking and they are going get a citation. So, it has played havoc on our economy. People will not go out, they stay home. They might go out once a week to our stores. Everyone suffers. (Rio Grande Guardian, July 14<sup>th</sup> 2015, <https://riograndeguardian.com/vera-fears-border-security-bill-will-bring-more-harassment-for-starr-county-residents/>)

In a media appearance several months later, Judge Vera reiterated the persistence of these community concerns,

One of the things I get hit with, every time I go to HEB, Walmart, wherever I go, by our constituents is... the number of troopers that are in our community. It seems like you can't travel a quarter of a mile without coming to one or two units parked on the side of the road or traveling U.S. 83. The other thing I get hit with is the number of stops that they make. (Rio Grande Guardian, Oct. 2<sup>nd</sup>, 2015, <https://riograndeguardian.com/dps-were-going-to-triple-the-number-of-troopers-in-starr-county/>).

These concerns were echoed by others in the area, with business groups like the Texas Border Coalition raising particular concerns about economic impacts,

To have DPS troopers sitting in their trucks half a block away from each other does not make sense. Talk to Judge Vera. People do not want to leave their towns. They do not want to leave their homes. It is causing a loss in economic activity. (Rio Grande Guardian, Nov. 5<sup>th</sup>, 2015,

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<sup>1</sup> County Judge is the highest elected office in a Texas County and heads a county's Commissioner's Court—the county's legislative body.

<sup>2</sup> See article here for Capt. Sibley's discussion of the citation-to-warning ratio: <http://riograndeguardian.com/dps->

<https://riograndeguardian.com/texas-border-coalition-welcomes-straus-decision-on-dps/>).

And human rights organizers raised concerns that such fears were further stoked by the appearance of collaboration between DPS and the Border Patrol,

When the border surge was concentrated in Hidalgo County, LUPE received six reports in a span of one month from community members being stopped for traffic violations by DPS officers, who community members report asked about citizenship or immigration status, called Border Patrol, or threatened to call Border Patrol...The effect of all of this is a major change in the lives of many Starr County and western Valley residents. Our members in Starr County have said the 'surge' has changed their lives. You don't go out, they tell us, except when you have to, to go to work or to buy groceries. Anything non-essential—the things that make life more enjoyable and boost the local economy – they decide not to do them, opting to stay home rather than risk traffic fines or immigration checks. (Rio Grande Guardian, Oct. 2<sup>nd</sup>, 2015, <https://riograndeguardian.com/dps-were-going-to-triple-the-number-of-troopers-in-starr-county/>).

These were and are serious concerns coming from many sectors of South Texas border communities. While traffic stops in aggregate may provide some public benefit against unsafe driving, they seem much more harmful than helpful when they make communities so fearful they are afraid to live their lives. Moreover, these were concerns never adequately addressed by DPS. Even now, well after this increased DPS presence has been put in place and DPS has made some effort to modulate their approach, residents still have concerns about the frequency of traffic stops and impacts on local economies, suggesting that there is more fine-tuning that can be done.

Spurred by these fears, upon receiving this DPS data, we decided to examine whether we could quantify the increase in traffic stops that was having on South Texas border communities, and get a sense of the potential impacts should Texas decide to further expand DPS' border operations.

As we will explore, however, in the following section, the findings of our quantitative analysis show disparate impacts of DPS traffic stops not to be a border-exclusive concern, but rather a statewide issue.

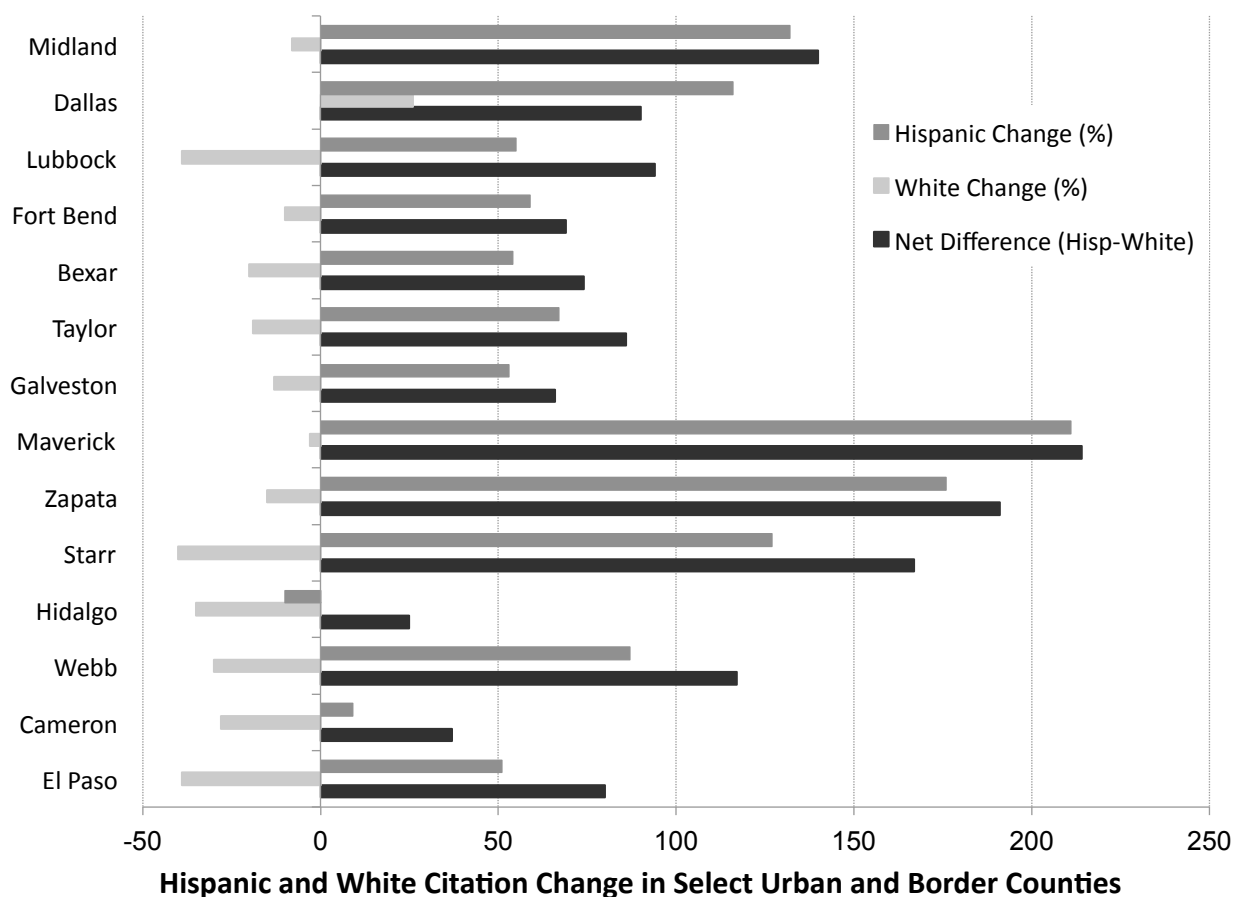


## DPS Traffic Stop Results and Findings

### Citation Rates

Across the state, traffic citation rates (as measured by citations per 100,000 persons of an ethnicity) have risen significantly for Hispanics, 22.3 percent between 2009-2011 and 2012-2014, while White citation rates dropped significantly by, -24 percent. Further statistical tests showed that this is a statistically significant gap between Hispanics and Whites across Texas.

This disparity is particularly stark in several key counties around the state. In Starr County, where one of the poorest communities in the country has seen an increased DPS presence since the summer of 2014, **traffic citation rates for Hispanics have risen by 127 percent compared to a 40 percent drop in citation rates for Whites** between these periods. Other border counties see similar patterns. **Hispanic citations are up 51 percent in El Paso County**, up 9 percent in Cameron County, and up 87 percent in Webb County, as compared to 39, 28, and 30 percent drops in White citations in each of these respective counties.



At the most extreme, traffic citations for Hispanics are up **164 percent in Zapata County**, up **176 percent in Kinney County**, and up **211 percent in Maverick County**. White citation rates have

dropped in each of these counties. Even in Hidalgo County, where Hispanic citations dropped nearly 10 percent, White citations fell faster, dropping 35 percent in that same span.

Nor is this just a border phenomenon. In major Texas interior counties (populations over 100k) Hispanic traffic citation rates are up over 50 percent in all of Galveston, Bexar, Fort Bend, and Lubbock counties, up over 60 percent in Taylor County, and up over 70 percent in Comal County. **In even more extreme cases, Hispanic citations have more than doubled in Dallas and Midland counties, up 116 and 132 percent respectively.**

Statewide, between 2009 and 2014, Hispanic citation rates more than doubled in 46 counties, **more than tripled in 13, and more than quadrupled in 6. All told, Hispanic traffic citation rates increased in 177 Texas counties and there are only 29 counties (of 253 with data) where the changes in citation rates for Whites exceed those of their Hispanic counterparts.** Moreover, even in the 75 counties where Hispanic traffic citation rates dropped, falling just over 15 percent, White citation rates still fell further, dropping 34 percent between 2009 and 2014.

Interestingly, additional statistical tests showed no geographic variability in the data whether comparing border to interior counties or at the level of THP's operational regions. This suggests that the disparities appearing in the traffic stop data are a result of DPS practices statewide and not only an increased focus on border security.

These disparities are particularly notable because our method of using rates already takes population change into account. Our results cannot be explained away by pointing at Hispanic growth in Texas as DPS has done before, such as they did with the Texas Tribune story that spurred this report (<http://www.texastribune.org/2015/09/04/dps-citations-down-except-hispanic-drivers/>). Likewise there is no reason to suspect racialized changes in driving behaviors in Texas. That these disparities appear statewide is disturbing as it suggests DPS may have systemic issues how the agency handles traffic stops, rather than this being symptoms of the 'border surge'.

Instead, in the absence of one of the above explanations, this very much appears to be a problematic result, intentional or inadvertent, of statewide DPS practices. This further suggests that we need to take a close look at the agency to identify any potential changes in policies, personnel, operating procedures, agency charges, and other variables to identify what may have changed at DPS to account for the changed results of their traffic stops. In the meantime, this data shows clear patterns that undercut DPS' ability to serve the public when its actions affect Texans so differently, based apparently only on their ethnic background.

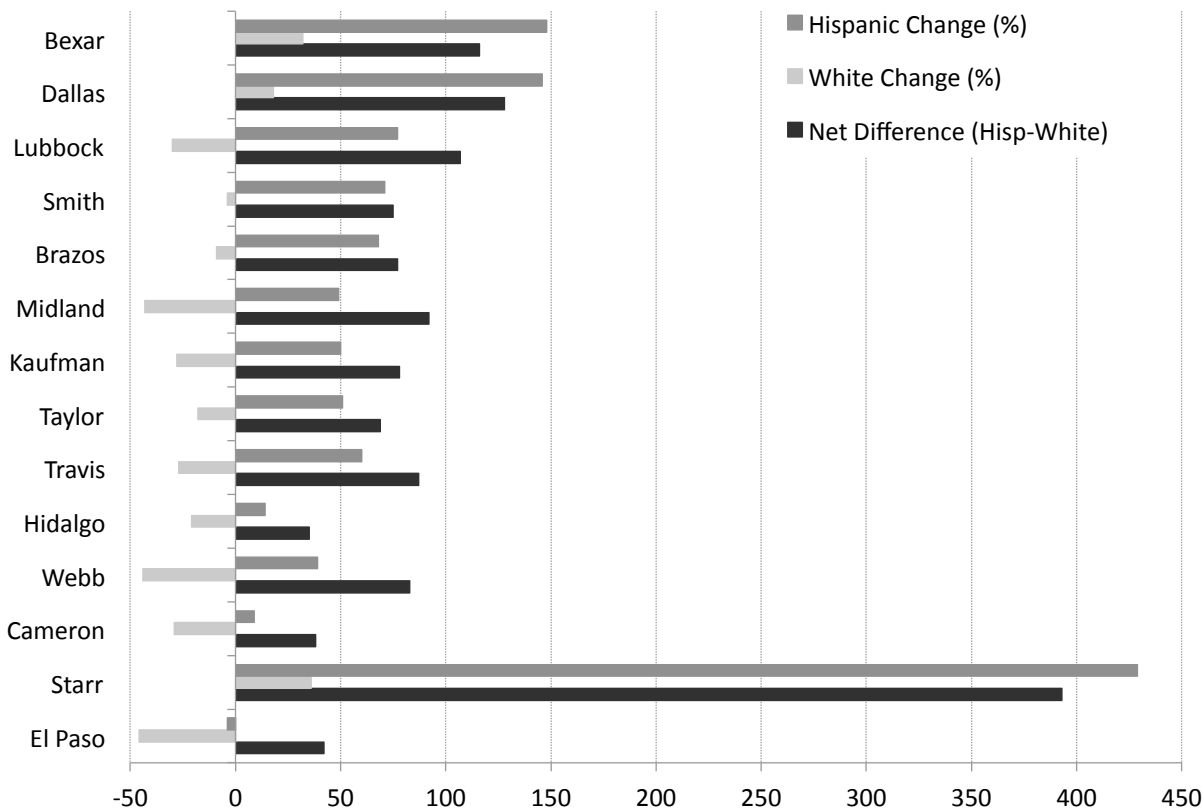
#### Warning Rates

Across the state, as with citation rates, warnings rates (warnings per 100k persons of an ethnic background) **have risen significantly for Hispanics, by an average of nearly 41 percent between 2009-2011 and 2012-2014, while White warnings rates decreased more than 21 percent during this span.** Statistical tests confirm the difference to be statistically significant.

Like with the changes in citation rates, these are figures that already account for population change across Texas. As such, this suggests that, again, DPS' initiation of traffic stops cannot be explained by the relative growth of Hispanic populations compared to Whites.

Looking at border counties, we see some of the same patterns with warnings that we did with citations. For instance, **in Starr County, warnings rates for Hispanics increased by 429.2 percent while White warnings rates only increased by 36.4 percent** during the study period. In Cameron County, Hispanic warning rates are up 8.6 percent while Whites rates down 29.4 percent. In Webb County, Hispanic warning rates are up 39.2 percent while White rates are down 44 percent. In El Paso County even though Hispanic warning rates decreased by 4.4 percent, White warning rates dropped by 46.2 percent. All of this suggests disparate practices toward Hispanic and White drivers in border areas that result in Hispanic drivers being increasingly likely to be pulled over by DPS in the course of their operations.

**Hispanic and White Warning Change in Select Urban and Border Counties**



In major counties in the Texas interior (populations over 100k) there are even greater increases in warning rates for Hispanics. In Travis, Taylor, and Kaufman counties there is an over 50 percent increase in Hispanic warnings rates. Tarrant and Brazos counties have over 60 percent increases, while Smith and Lubbock counties have over 70 percent increases. **The most extreme cases have Dallas County with a 145.7 percent increase and Bexar County with a 148.4 percent increase in Hispanic warning rates**, well more than double the rates from 2009-2011.

Together, **warning rates have increased for Hispanics in 159 Texas counties, compared to only 39 Texas counties with a rise in White warnings rates. Moreover, there are only 38 counties (of 253 with data) where the changes in warnings rates for Whites exceed those of their Hispanic counterparts.** Additional statistical tests show that when comparing across the THP Operating Regions there is a consistent drop in White citation rates and warning rates, and increases in Hispanic citation rates and warning rates, which is statistically significant for each sub-region of the state. This gap in the treatment of Hispanic and White drivers is also present whether we are looking just at border counties, or at the Texas interior.

This data follows what the citation rates exposed in suggesting that Hispanics are being disparately affected by DPS traffic stops. They show an increase in traffic stops and an increase in warnings that cannot be explained by population growth. Nor, again, is there evidence to suggest a racialized change in driving behaviors that would drive this shift in traffic stops. Moreover, we must take this together with the fact that further tests show these drops in White warning and citation rates and rises in Hispanic warning and citation rates as a consistent pattern across THP Operating Regions. This is not just a border issue, it is an issue in every region of the state. Altogether, like with the citations, this strongly suggests that these statistical disparities are the effect of DPS's practices, policies, and personnel that would appear to disproportionately impact Hispanic populations in traffic stops. Again, this suggests a need for both an independent-external and a legislative review of DPS to analyze the agency to identify the causes of these unacceptable disparities.

#### Ratios of Citations to Warnings

In addition to these changes in traffic citation and warning rates for Hispanics, further analysis of this data continues to back up fears of racial disparities in DPS' traffic policing. Per the suggestion of DPS Captain Hank Sibley<sup>2</sup>, we have also looked at the ratios of traffic stops resulting in citations compared to those resulting in warnings, i.e. the 'warnings to tickets' ratio or as we refer to it, the 'rate ratio', calculated as described above in the methodology.

Following Captain Sibley's suggestion proved wise as **these findings again suggest DPS traffic stop behavior treats Hispanics more harshly than Whites across Texas, with the interesting exception of THP operational regions near the border.** It is possible, but unknowable from this dataset whether this is the result of cultural sensitivity training provided to THP personnel in the border regions, or other variations in personnel, policy, and practice, which impact when DPS pulls drivers over and how DPS treats those drivers during traffic stops.

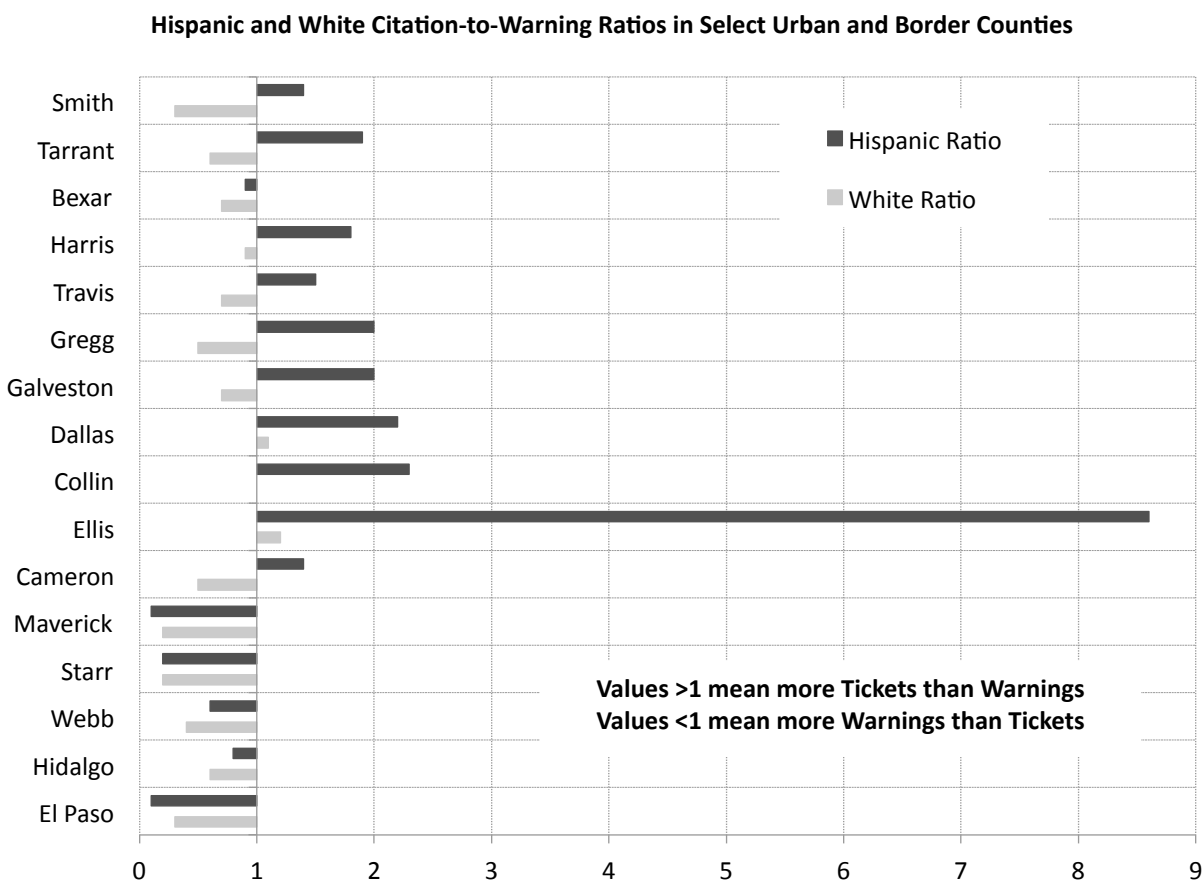
Looking at these ratios statewide, we see a persistent disparity in the treatment of Hispanic drivers compared to their White peers. Hispanics were 26 percent more likely to get a warning than a citation between 2009 through 2011 while their White counterparts were almost twice as likely to get a warning as a citation. **This gap in the treatment of Hispanic and White drivers**

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<sup>2</sup> See article here for Capt. Sibley's discussion of the citation-to-warning ratio: <http://riograndeguardian.com/dps-were-going-to-triple-the-number-of-troopers-in-starr-county/>

did not change when looking at the 2012-2014 data, with Hispanics 23 percent more likely to get a warning than a citation, while their White peers were still twice as likely to get a warning over a citation. Indeed, as this shows, the gap increased slightly. This suggests potential problems not only in how DPS is pulling over drivers to make traffic stops but also in how they are treating drivers once a stop has been made.

Much as with the county level citation rate figures, a number of counties again stand out for their disparities in the 2012-2014 data. At the high end, among major counties, **Hispanics in Ellis County received citations 8.6 times as often as warnings**, compared to Whites receiving



them only 20 percent more frequently. **Hispanics in Collin, Dallas, Galveston, and Gregg counties were all at least twice as likely to receive citations as warnings** (compared to citation to warning ratios of 1.0, 1.1, 0.7, and 0.5 for White drivers). **Hispanics were more likely to get citations than warnings in 24 of the state's 39 largest counties, and more likely to get citations than their White counterparts in 38 of these 39 counties, with El Paso the only exception.** A similar pattern holds when looking at Texas-Mexico border counties, with the likelihood of a Hispanic getting a traffic citation exceeding a White's in 11 of the 16 counties.

Statewide, **Hispanics were 2 or more times more likely to get a ticket than a warning in 16 counties between 2012 through 2014, compared to just two counties where this was true for Whites.** Furthermore, **Whites were more likely to get a warning than a ticket in 231 counties**

during this period, versus only 144 for Hispanics, and more likely to get a warning than a Hispanic driver in 243 of the 253 counties we examined.

Moreover, additional statistical testing shows that this gap in treatment between Hispanic and White drivers was statistically significant statewide in both the 2009-2011 and 2012-2014 periods. This means that **we see a persistent, significant gap in the treatment of traffic stops based on ethnicity** in a way that appears to target Hispanics for harsher enforcement.

However, there were some interesting findings in the regional analysis as **this statistically significant gap between Whites and Hispanics in the ratio of Citations to Warnings appeared for the Dallas, Houston, San Antonio, and Lubbock THP regions, but not the El Paso or McAllen THP regions.** This regional difference stands out and demands further examination as it suggests that border communities may receive more equitable treatment from DPS in this regard than the interior. What is needed then is both an understanding of what organizational factors, such as personnel, policies, or practices vary between the border and interior THP regions in such a way as might explain this gap, and ideas of how to use those differences to duplicate these positive outcomes across Texas.

#### Summary

**In all, we see a clear and significant pattern of disparity around DPS traffic stops during the study period.** Even after normalizing for population change, **traffic stop rates across Texas, resulting in both warnings and citations, are falling for Whites, and rising for Hispanics.** This difference is statistically significant, and happening with broad geographic uniformity across the state. **Moreover, we see a persistent and significant gap in the treatment of Whites and Hispanics in traffic stops, where White drivers are much more likely to receive a warning than their Hispanic counterparts.** Again, this happens with broad geographic uniformity across Texas, with the sole exception of THP operational areas along the U.S.-Mexico Border.

In some ways, as a group of border residents, it is a relief to see that DPS traffic enforcement is not particularly targeted at border counties. That relief is undercut, however, by the realization that this is because problematic racial disparities in DPS traffic stops are happening statewide instead. **This isn't a border problem, as we had feared, it's a Texas problem.**

Still, we firmly believe that by bringing communities, legislators, and DPS together we can work to address the concerns raised here and in other reporting, and put in place policies and practices to make a better, safer Texas for all Texans.

There is reason to think that we can work together. DPS for instance has moved to have an outside review of its traffic stop data to look for potential racial profiling, and community feeling about the DPS presence in South Texas has gone from being afraid to leave their homes, to merely aggrieved by the high number of traffic citation. While we still find that problematic, it is a notable improvement, and one that came from modulations by DPS itself in response to community concerns. We want to work with this kind of good will to make DPS enforcement even better, and we lay out some of our ideas for doing so in the following section.

## Policy Recommendations

Border Network for Human Rights does not mean to tarnish the reputation of the men and women of the Texas Department of Public Safety. We work to reveal disparities in our state and help those who are marginalized and targeted. However, the facts presented through our statistical analysis cannot be ignored and waved away. There are actual communities and people harassed due to the way DPS practices traffic stops in their communities.

To this end we present policy suggestions to improve DPS going forward along three main platforms: 1) Building Transparency, Accountability, and Oversight at DPS; 2) Reinforcing Policies and Practices against Racial Profiling; and 3) Improving Data Collection and Reporting. It is not enough to note the problems with DPS, we need to also move forward with solutions.

### Transparency, Accountability, and Oversight

First and foremost, DPS must implement policies that allow for more transparency regarding its policies and practices that ultimately affect the community. In the past, DPS has ignored racial profiling allegations instead of attempting to communicate with the community and fix issues that arise. They blame the misclassification of Hispanics to out dated in-car computer systems. When confronted on the increase of Hispanic citations they claim that officers are just now doing a better job at writing citations.

The lack of transparency has led communities and organizations like the Border Network for Human Rights to question the actions, and at times even the motives of DPS. That we see, in DPS' own data growing disparities in the treatment of White and Hispanic drivers simply heightens these concerns. These numbers should not be ignored and DPS must be accountable.

Ultimately, this lack of transparency, accountability, oversight, and community engagement weakens DPS as a law enforcement agency. Effective law enforcement rests on strong relationships of trust between agencies and communities they serve. When people trust law enforcement, they report crimes against themselves and their property, or to which they bear witness. When there is not that trust, crime goes unreported and the only winners are criminals themselves. All of this need is heightened during a time of agency growth, when we must redouble our efforts to ensure that additional resources and expanded profiles do not come at the expense of basic public obligations. It behooves DPS to change this, and to commit to transparency, accountability, oversight, and community engagement to foster a positive relationship with the public.

#### 1) Transparency

DPS needs to assure that community concerns are heard thoroughly and acted upon seriously, whether to clarify misunderstandings or to make whatever change is necessary to address real problems.

However, DPS' current approaches all too often take a strategy of resistance. DPS has had spokespeople repeatedly fight with media about their reporting, repeatedly issued

statements rejecting the possibility of problematic practices, sent letters to state legislators to discredit media reports that had not yet even become public, and Director McCraw when presented with evidence that contradicts past DPS statements has even told reporters “...the bottom line is, I don't trust anything you say.”<sup>3</sup>

This approach to managing criticism from the media, the legislature, and the public cannot last. It fundamentally undermines DPS’ ability to build public trust and with it undermines their ability to address criminal activity. The agency must be able to curb its impulses to fall into a defensive crouch, and instead figure out how to work with such feedback to build itself into an even better organization.

Beyond a new public relations strategy, DPS needs to build better mechanisms for hearing and acting upon community complaints. It needs to find means to strike a balance between protecting employee confidentiality and providing the public the information it needs to judge whether the agency is conducting problematic behavior such as racial profiling. Certainly, we see no harm in DPS turning anonymized data on racial profiling complaints to academic experts and the media. And if such data cannot be produced at present, it behooves the agency to figure out how to produce future data that can be used to verify the agency’s integrity.

We further suggest that DPS and the Texas Legislature explore the possibility of creating an Ombudsman within the agency—independent staff specifically charged with taking in public comment and ensuring that it gets heard and acted upon in a fair and thorough manner. We need to ensure that citizens are treated with respect and dignity, and this is an excellent means, used in a wide variety of other private and public sector settings, of achieving that goal.

## 2) Accountability

DPS needs to do a better job collecting and reporting data about what it aims to do as an agency, and what it is actually doing in practice. This means working internally, as well as with the legislature and public to build standards that the agency will stand by and measure itself against.

Up to this point DPS has shown a lack of clear standards and metrics for much of its activity. This has allowed the agency to repeatedly change the criteria it argues it should be judged by at the first sign of problems or shortcomings, and to avoid any real reckonings or changes.

What DPS must do is develop key goals and metrics for it to be judged by, including not only metrics of criminal activity, but also of community interactions such as measuring

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<sup>3</sup> For Director McCraw’s comment, see article here: <http://kxan.com/investigative-story/dps-director-wont-release-racial-profiling-investigations/>



potential problems with racial profiling or use of force. It, with oversight from the Legislature, must then commit itself to meeting those standards, to conducting real reviews of policy, practices, and personnel when it falls short, and to making whatever changes are necessary to reach those goals in the future.

### 3) Oversight

Oversight of DPS' activities and the results on communities needs to be better maintained in two ways: improved external oversight and auditing, and more active oversight by the Texas Legislature.

On external oversight and auditing, we urge DPS to follow the model laid out by Connecticut<sup>4</sup> where Central Connecticut State University used money from the National Highway Traffic Administration to examine traffic stops undertaken by state and local police. Researchers worked in collaboration with law enforcement and communities to develop their analytic approaches, and which turned up red flags about the practices of over a dozen agencies in that state.

DPS should look into potential opportunities to replicate these practices here in Texas, and should embrace a proactive approach to examining the open questions that this report and others have raised about the agency. Showing such a commitment to opening the agency up to external review would be a wonderful way to demonstrate their commitment to fairness and a show of good faith to Texans.

Similarly, DPS should get more attention from, and be more attentive to, the Texas Legislature. While we recognize the importance of keeping Texans safe, it is critical that we do so in ways that reinforce American values of equal protection and due process. To this end, we urge the Legislature to monitor DPS' protection of the civil rights of Texans, and to use these metrics in making decisions about agency strategies and resources. Similarly, DPS needs to provide legislators relevant information in a timely manner so they can make informed and even-handed evaluations of the agency.

We should note that this is an area where DPS has made some steps in positive directions, such as instituting new procedures to audit data collected about the race/ethnicity of drivers pulled over for traffic stops. These actions are encouraging and should be expanded upon moving forward.

### 4) Community Engagement

Paths of communication must be formed between DPS, the public, and community organizations to ensure that there is no miscommunications of DPS practices, and that the community has clear and effective means of expressing problems and concerns.

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<sup>4</sup> For more information on Connecticut's study of racial disparities in traffic stops see: Pazniokas, Mark. 2015. "Connecticut's Deep Data Dive on Racial Profiling." *CTMirror*, April 7. Accessed April 4, 2016. <http://ctmirror.org/2015/04/07/connecticuts-deep-data-dive-on-racial-profiling/>

Creating clear lines of communication will ensure that the public is informed when changes in DPS practices might affect their communities, will ensure that DPS hears from the community of issues people have with their treatment by the agency, and will allow DPS and Texas communities to work together to solve problems.

For example, communities should know the type of training that officers go through, such as cultural sensitivity training. By making these trainings public the community can provide feedback that can not only improve the quality of life for community members, it can also improve the quality of policing. Similarly, we suggest that DPS introduce a series of community forums where Texans can present their concerns and have them heard and addressed by agency personnel. Developing these sorts of engagement is critical and DPS needs to take as proactive an approach as possible in doing so.

#### Reinforcing Policies and Practices Against Racial Profiling

These traffic disparities are not isolated cases; they are a statewide problem. However, there is not a statewide solution. As explained in the last section, in THP regions for El Paso and McAllen, Hispanics and Whites do not have a significant gap in ratio of Citations to Warnings. This leads us to believe that law enforcement is acting differently in the border region. It is our suspicion, although this needs independent verification, that this difference can be attributed to additional cultural sensitivity and language training requirements for DPS personnel operating in the border regions. We suspect such training makes these personnel better equipped to communicate and interact with large Hispanic populations.

Hispanics make up 38 percent of Texas' population and are distributed throughout the state, not only in communities along the Texas-Mexico border. Texas law enforcement from the border to the interior should have the same cultural and language training as departments in the border areas. While DPS is pouring hundreds of millions of dollars into patrolling border counties, the agency needs to ensure its personnel are adequately trained to have fair and unbiased interactions with all Texans.

DPS officers throughout the state should be annually certified in appropriate training such as ethics, human rights, constitutional rights, and anti-racial profiling measures, and such training should be incorporated into the continuing education curriculum provided to personnel. DPS should particularly ensure it provides cultural and social sensitivity to officers in Hispanic communities, whether or not they are border communities. However, DPS fundamentally needs to ensure that it trains its personnel to interact with diverse Texas communities, not with any particular racial/ethnic groups.

Communities must not be afraid to interact with law enforcement officers. Officers should be aware that there are people out there who fear being judged based on the way they speak or have certain physical characteristics. They might feel vulnerable and afraid, but it should not lead to suspicion. Only by ensuring this can we build the relationships of trust between law enforcement and community that are the basis for effectively fighting crime.

Although not every county has a large Hispanic population, DPS should still provide anti-racial profiling training. As seen in another report by Senator Coleman's office, Blacks are being searched more during traffic stops than any other people. We cannot ignore these reports and we must call to attention the practices in DPS that are leading to these injustices.

#### Improving Data Collection and Reporting

In a September 2015 article, the *Texas Tribune* reported that DPS has been increasingly ticketing more Hispanics than Whites over the years. A few months later an investigation by KXAN revealed that officers had systematically misclassified Hispanics as Whites meaning that citation rates for Hispanics are more likely even higher than both what the Texas Tribune reported and what we are reporting in this document. It is alarming to think that officers may be purposefully reporting Hispanics and Blacks as White. It is equally disturbing to think that a professional organization like DPS cannot put the systems in place to accurately collect information about its activities. The former gives the impression that DPS has something to hide and refuses to take responsibility, while the latter suggests potentially serious incompetence.

However, the solution is not avoiding documentation of race and ethnicity. People are asked for their race and ethnicity to ensure that hidden racial problems do not occur.

Since these reports have been released DPS initially moved to have officers begin asking drivers for race and ethnicity information. This was a move to meet their requirements under existing racial profiling law CR 2.131, where the officer must include "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". Rather than make a mistake, one that was made several hundred thousand times apparently, officers will have to take more time asking and explaining the categorizes. However, by the end of December 2015 DPS was already backing off of this new policy. DPS needs to move quickly to implement a thorough and effective solution to this problem that ensures they are collecting all necessary data at the same time they work to provide the best possible safety to the public.

To that end, we would like to echo and promote the suggestions made by Edward T. Rincon in his *Dallas Morning News* op-ed, '*How DPS can improve its system of recording race/ethnicity during traffic stops*' (published January 27, 2016), which gives helpful information and suggestions on best practices for documenting race and ethnicity. For instance, Rincon advises having an updated and consistent race/ethnicity categories, training troopers on proper use of these categorizes, and having the driver confirm the assigned category when signing the ticket.

DPS should also improve their in-car computer systems and systems of recording race and ethnicity, where, as stated in KXAN's reporting, existing systems have limitations and troopers are trained to make their own judgment and report the race and ethnicity of each driver. Troopers should not be working with equipment that allows them to inaccurately report a driver's race and ethnicity. Letting this computer flaw continue for years is an irresponsible and careless act in the face of justice. This must be corrected promptly to insure that the data DPS collects and releases are accurate and trustworthy.

There is particularly broad support for fixing this particular data collection problem, as the head of the Department of Public Safety Officers' Association, Sgt. Gary Chandler said to KXAN<sup>5</sup>, "I just felt embarrassed...But then I thought, 'Wow, we can fix that.'" This is a very welcome statement on this important issue, and a good sign that by bringing DPS officers, agency officials, communities, and legislators together, we can indeed craft real, meaningful solutions to this and other concerns that will improve the public safety of Texans.

### Summary

We believe given the data analyzed in this report and concerns repeatedly raised in the media there is reason to be concerned about DPS' conduct of traffic stops. However, as we said earlier in this document, we believe that by bringing communities, lawmakers, and DPS together to work in good faith on potential solutions we can make the necessary changes to policy and practice to ensure that we are providing all Texans with real public safety.

In this document we have laid out three broad areas where we would want to work to improve DPS: 1) Data Collection in Traffic Stops, 2) Reinforcing Anti-Racial Profiling Training, and 3) Ensuring that DPS Operates in a Manner that is Transparent, Accountable, and Engages Texas Communities. Above, we have laid out the principles and first steps for each of these three areas we feel should undergird efforts to improve DPS' performance in traffic stops.

We conclude our recommendations then with an invitation to all Texans to work to make sure that government agencies like DPS provide the highest possible quality of service, with a call for DPS to recognize the public as a partner in ensuring safe Texas communities, and the hope that our legislators can have the political courage to ensure that the concerns raised in this report are addressed rather than ignored.

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<sup>5</sup> For Sgt. Chandler's comments see article here: <http://kxan.com/investigative-story/law-enforcement-associations-react-to-misrepresentation-of-race-during-traffic-stops/>

## **Conclusion—Providing Public Safety by Providing Public Respect and Accountability**

**The discrepancies between Hispanics and Whites detailed in this report should not be there if DPS were actually treating Texans the same as they carried out their duties.** The question then becomes a matter of explaining why this disparity is occurring, and working to eliminate it.

In the meantime, the findings of this report, particularly on top of the wave of questions DPS has faced over the past 18 months regarding its practices, should come as a serious concern to anyone who values freedom and justice in our society. It is worrying to see our state's foremost law enforcement agency carrying out its duties in such a disparate and discriminatory fashion. It is even more concerning to see the resistance DPS has put up to addressing these issues.

Communities on the ground fear and mistrust DPS' presence and DPS' own data, to the extent we can trust the data DPS reports, documents the inequitable enforcement that has led to this fear. This patterns in this data suggest a need for DPS to look closely at itself in response to these community concerns, and embrace the steps needed to stop racial disparities in traffic stops and rebuild the public's trust in the agency as a guarantor of justice and faithful steward of Texans' tax dollars.

We stress again that the fundamental solutions to the problems raised here are four-fold. DPS needs to rededicate its efforts to ensuring that it is transparent, that it is accountable, that it subjects itself to oversight, and that it works to engage with the communities where it operates. Addressing these things, particularly following the suggestions made in this report, will lead to a DPS that better works on behalf of all Texans, that upholds fundamental American values of equal protection and due process, and that maximizes its effectiveness at fighting crime. We feel the recommendations presented in this report point both DPS leadership and state lawmakers in a constructive direction, and we urge them forward in addressing these problems.

A better DPS is possible. A better Texas is possible. It is within our reach, and it is imperative that we put the work into realizing it. We look forward to this effort.

## Appendix A—Mathematical Notes

Percentage Change in Population:

$$(2012-2014 \text{ average population} / 2009-2011 \text{ average population}) * 100 - 100$$

Citation Rate per 100,000 persons:

$$(2009-2011 \text{ (or } 2012-2014) \text{ average citations} / 2009-2011 \text{ average population}) * 100000$$

Warning Rate per 100,000 persons:

$$(2009-2011 \text{ (or } 2012-2014) \text{ average warnings} / 2009-2011 \text{ average population}) * 100000$$

Percentage Change in Warnings:

$$(2012-2014 \text{ Warning Rate} / 2009-2011 \text{ Warning Rate}) * 100 - 100$$

Percentage Change in Citations:

$$(2012-2014 \text{ Citation Rate} / 2009-2011 \text{ Citation Rate}) * 100 - 100$$

Citation-to-Warning Rate Ratio:

$$(2012-2014 \text{ citation rates} / 2012-2014 \text{ warning rates})$$

Hispanic-White Net Difference:

$X_{ND} = X_H - X_W$  ( $X$  is a variable such as Citation Change or Rate Ratio; Results greater than Zero reflect greater increases for Hispanics or decreases for Whites)

Hypothesis Testing for T-Tests of Difference of Means between Whites and Hispanics:

$$H_0: \mu_W = \mu_H \text{ (Average for Whites Equals Average for Hispanics)}$$

$$H_1: \mu_W \neq \mu_H \text{ (Average for Whites does not Equal Average for Hispanics)}$$

## Appendix B—Counties in THP Regions

### Region 1: Dallas

Dallas County, Texas  
Navarro County, Texas  
Kaufman County, Texas  
Hunt County, Texas  
Collin County, Texas  
Ellis County, Texas  
Rockwall County, Texas  
Camp County, Texas  
Cherokee County, Texas  
Smith County, Texas  
Gregg County, Texas  
Harrison County, Texas  
Van Zandt County, Texas  
Wood County, Texas  
Panola County, Texas  
Upshur County, Texas  
Henderson County, Texas  
Anderson County, Texas  
Rains County, Texas  
Marion County, Texas  
Rusk County, Texas  
Lamar County, Texas  
Cooke County, Texas  
Franklin County, Texas  
Red River County, Texas  
Hopkins County, Texas  
Cass County, Texas  
Titus County, Texas  
Grayson County, Texas  
Morris County, Texas  
Bowie County, Texas  
Fannin County, Texas  
Delta County, Texas  
Somervell County, Texas  
Tarrant County, Texas  
Hood County, Texas  
Erath County, Texas  
Johnson County, Texas  
Parker County, Texas  
Palo Pinto County, Texas  
Wise County, Texas  
Denton County, Texas

### Region 2: Houston

Chambers County, Texas  
Galveston County, Texas  
Harris County, Texas  
Brazoria County, Texas  
Sabine County, Texas  
Jasper County, Texas

Nacogdoches County, Texas  
Jefferson County, Texas  
Tyler County, Texas  
Orange County, Texas  
Hardin County, Texas  
Newton County, Texas  
Shelby County, Texas  
San Jacinto County, Texas  
Angelina County, Texas  
San Augustine County, Texas  
Trinity County, Texas  
Polk County, Texas  
Houston County, Texas  
Matagorda County, Texas  
Wharton County, Texas  
Montgomery County, Texas  
Austin County, Texas  
Liberty County, Texas  
Fort Bend County, Texas  
Colorado County, Texas  
Waller County, Texas  
Walker County, Texas  
Leon County, Texas  
Brazos County, Texas  
Grimes County, Texas  
Robertson County, Texas  
Burleson County, Texas  
Madison County, Texas  
Washington County, Texas

### Region 3: McAllen

Willacy County, Texas  
Hidalgo County, Texas  
Cameron County, Texas  
Jim Hogg County, Texas  
Real County, Texas  
Uvalde County, Texas  
Edwards County, Texas  
La Salle County, Texas  
Zavala County, Texas  
Starr County, Texas  
Kinney County, Texas  
Zapata County, Texas  
Val Verde County, Texas  
Webb County, Texas  
Maverick County, Texas  
Dimmit County, Texas  
McMullen County, Texas  
Bee County, Texas  
Aransas County, Texas  
Nueces County, Texas

Jim Wells County, Texas  
San Patricio County, Texas  
Kleberg County, Texas  
Live Oak County, Texas  
Duval County, Texas  
Refugio County, Texas  
Brooks County, Texas  
Kenedy County, Texas

### Region 4: El Paso

Pecos County, Texas  
Reeves County, Texas  
Terrell County, Texas  
Mason County, Texas  
Glasscock County, Texas  
Irion County, Texas  
Sterling County, Texas  
Crane County, Texas  
McCulloch County, Texas  
Menard County, Texas  
Kimble County, Texas  
Upton County, Texas  
Winkler County, Texas  
Ector County, Texas  
Martin County, Texas  
Andrews County, Texas  
Dawson County, Texas  
Schleicher County, Texas  
Reagan County, Texas  
Crockett County, Texas  
Midland County, Texas  
Concho County, Texas  
Gaines County, Texas  
Sutton County, Texas  
Tom Green County, Texas  
Howard County, Texas  
Coke County, Texas  
Ward County, Texas  
Borden County, Texas  
Presidio County, Texas  
Hudspeth County, Texas  
Culberson County, Texas  
El Paso County, Texas  
Brewster County, Texas  
Jeff Davis County, Texas

### Region 5: Lubbock

Foard County, Texas  
Hardeman County, Texas  
Montague County, Texas  
Bailey County, Texas  
King County, Texas

Clay County, Texas  
Wilbarger County, Texas  
Jack County, Texas  
Wichita County, Texas  
Young County, Texas  
Archer County, Texas  
Lubbock County, Texas  
Hockley County, Texas  
Lynn County, Texas  
Garza County, Texas  
Lamb County, Texas  
Floyd County, Texas  
Baylor County, Texas  
Terry County, Texas  
Hale County, Texas  
Cochran County, Texas  
Yoakum County, Texas  
Cottle County, Texas  
Dickens County, Texas  
Crosby County, Texas  
Motley County, Texas  
Throckmorton County, Texas  
Armstrong County, Texas  
Donley County, Texas  
Castro County, Texas  
Lipscomb County, Texas  
Moore County, Texas  
Potter County, Texas  
Gray County, Texas  
Roberts County, Texas  
Childress County, Texas  
Randall County, Texas  
Hutchinson County, Texas  
Swisher County, Texas  
Wheeler County, Texas  
Parmer County, Texas  
Oldham County, Texas  
Ochiltree County, Texas  
Hansford County, Texas  
Hall County, Texas  
Hartley County, Texas  
Sherman County, Texas  
Briscoe County, Texas  
Carson County, Texas  
Deaf Smith County, Texas  
Dallam County, Texas  
Collingsworth County, Texas  
Hemphill County, Texas  
Jones County, Texas  
Fisher County, Texas  
Stephens County, Texas  
Eastland County, Texas  
Coleman County, Texas

Taylor County, Texas  
Stonewall County, Texas  
Brown County, Texas  
Kent County, Texas  
Shackelford County, Texas  
Callahan County, Texas  
Haskell County, Texas  
Comanche County, Texas  
Mitchell County, Texas  
Nolan County, Texas  
Runnels County, Texas  
Scurry County, Texas  
Knox County, Texas

**Region 6: San Antonio**

Guadalupe County, Texas  
Gonzales County, Texas  
Calhoun County, Texas  
Victoria County, Texas  
Karnes County, Texas  
Frio County, Texas  
Lavaca County, Texas  
DeWitt County, Texas  
Jackson County, Texas  
Goliad County, Texas  
Bexar County, Texas  
Kerr County, Texas  
Bandera County, Texas  
Gillespie County, Texas  
Comal County, Texas  
Atascosa County, Texas  
Kendall County, Texas  
Wilson County, Texas  
Medina County, Texas  
Burnet County, Texas  
Bastrop County, Texas  
Llano County, Texas  
Caldwell County, Texas  
Fayette County, Texas  
Travis County, Texas  
Lee County, Texas  
Milam County, Texas  
Hays County, Texas  
Blanco County, Texas  
Williamson County, Texas  
Hill County, Texas  
Bosque County, Texas  
Coryell County, Texas  
Lampasas County, Texas  
Bell County, Texas  
Mills County, Texas  
Falls County, Texas  
Freestone County, Texas  
McLennan County, Texas

Hamilton County, Texas  
Limestone County, Texas  
San Saba County, Texas



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The Border Network for Human Rights, founded in 1998, is one of the leading human rights advocacy and border policy reform organizations located at the U.S./Mexico Border. BNHR has over 7,000 members in West Texas and Southern New Mexico.

