

PFLUGERVILLE  
POLICE DEPARTMENT

2021

RACIAL PROFILING ANALYSIS

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## Executive Summary

Article 2.132-2.134 of the Texas Code of Criminal Procedure (CCP) requires the annual reporting to the local governing body of data collected on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to data collection and reporting requirements. Article 2.134 of the CCP directs that “a comparative analysis of the information compiled under 2.133” be conducted, with specific attention to the below areas:

1. evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;
2. examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;
3. evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and
4. information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

The analysis of material and data from the Pflugerville Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE PFLUGERVILLE POLICE DEPARTMENT REGULATIONS, SPECIFICALLY POLICY 2.32 “RACIAL PROFILING POLICY”, SHOWS THAT THE PFLUGERVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE PFLUGERVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE PFLUGERVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

- **THE PFLUGERVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW REGARDING CCP ARTICLES 2.132-2.134.**

## **Introduction**

This report details an analysis of the Pflugerville Police Department's policies, training, and statistical information on racial profiling for the year 2021. This report has been prepared to specifically comply with Article 2.132, 2.133, and 2.134 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of traffic stop data. Specifically, the analysis will address Articles 2.131 – 2.134 of the CCP and make a determination of the level of compliance with those articles by the Pflugerville Police Department in 2021. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

This report is divided into six sections: (1) Pflugerville Police Department's policy on racial profiling; (2) Pflugerville Police Department's training and education on racial profiling; (3) Pflugerville Police Department's complaint process and public education on racial profiling; (4) analysis of Pflugerville Police Department's traffic stop data; (5) additional traffic stop data to be reported to TCOLE; and (6) Pflugerville Police Department's compliance with applicable laws on racial profiling.

For the purposes of this report and analysis, the following definition of racial profiling is used: racial profiling means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas CCP Article 3.05).

## **Pflugerville Police Department Policy on Racial Profiling**

A review of Pflugerville Police Department Policy 2.32 "Racial Profiling Policy" revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix B). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in Policy 2.32. Pflugerville Police Department regulations provide clear direction that any form of bias-based profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including termination. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race or ethnicity. Appendix C lists the applicable statute and corresponding Pflugerville Police Department regulation.

***A COMPREHENSIVE REVIEW OF PFLUGERVILLE POLICE DEPARTMENT POLICY 2.32 SHOWS THAT THE PFLUGERVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.***

## **Pflugerville Police Department Training and Education on Racial Profiling**

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas Peace officers. Documentation provided by Pflugerville Police Department reveals that all officers have received bias-based/racial profiling training.

***A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE PFLUGERVILLE POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.***

## **Pflugerville Police Department Complaint Process and Public Education on Racial Profiling**

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Pflugerville Police Department Policy 2.32 sections on Citizen Complaints and Public Education satisfy this requirement. In addition, Pflugerville Police Department has information regarding how to file a complaint on their website (<https://police.pflugervilletx.gov/divisions/professional-standards-unit>).

***A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.***

## **Pflugerville Police Department Statistical Data on Racial Profiling**

Article 2.132(b) 6 and Article 2.133 requires that law enforcement agencies collect statistical information on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to other information noted previously. Pflugerville Police Department submitted statistical information on all motor vehicle stops in 2021 and accompanying information on the race/ethnicity of the person stopped. Accompanying this data was the relevant information required to be collected and reported by law.

***ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.***

### **Analysis of the Data**

#### Comparative Analysis #1:

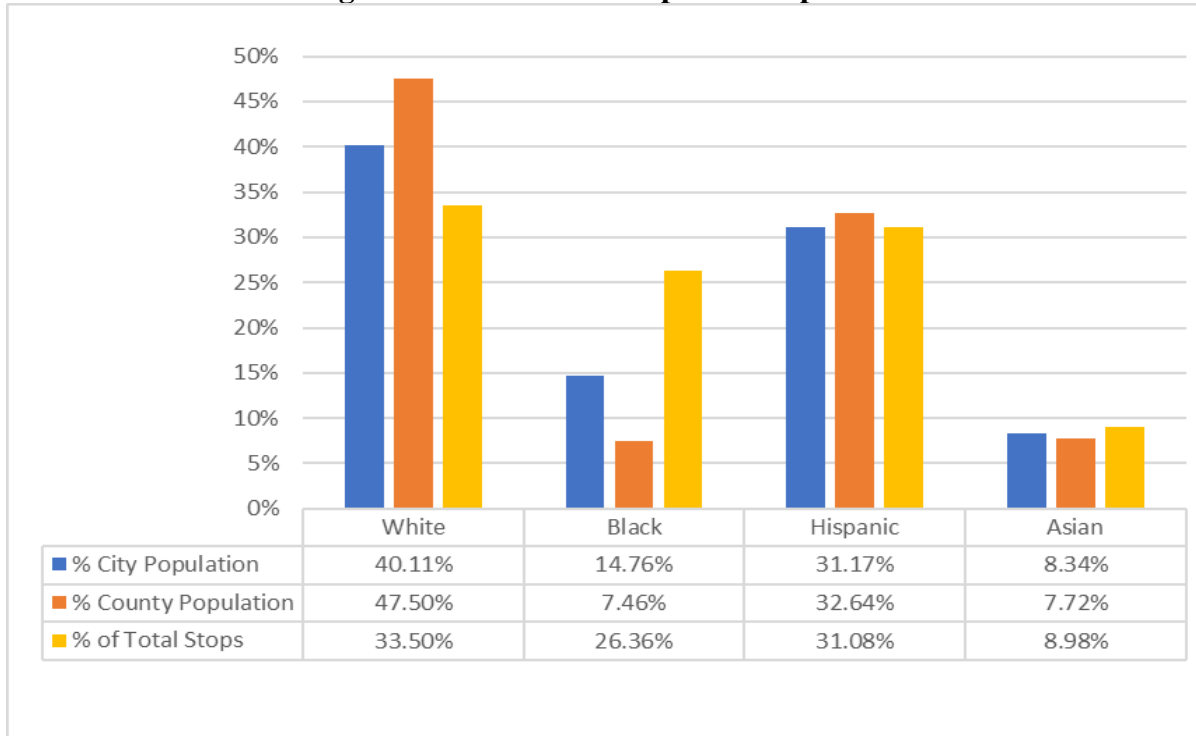
*Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities. Texas Code of Criminal Procedure Article 2.134(c)(1)(A)*

The first chart depicts the percentages of people stopped by race/ethnicity among the total 9,578 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2021.<sup>1</sup>

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<sup>1</sup> There were 7 motor vehicle stops of drivers considered Alaska Native/American Indian. These motor vehicle stops were not charted in the first figure of this report due to the small number of cases relative to the population and the total number of motor vehicle stops among all drivers (9,578).

**Chart 1: Percentage of Motor Vehicle Stops in Comparison to Benchmarks**



*White drivers* constituted 33.50 percent of all drivers stopped, whereas Whites constitute 40.11 percent of the city population, and 47.50 percent of the county population.<sup>2</sup>

*Black drivers* constituted 26.36 percent of all drivers stopped, whereas Blacks constitute 14.76 percent of the city population, and 7.46 percent of the county population.

*Hispanic drivers* constituted 31.08 percent of all drivers stopped, whereas Hispanics constitute 31.17 percent of the city population, and 32.64 percent of the county population.

*Asian drivers* constituted 8.98 percent of all drivers stopped, whereas Asians constitute 8.34 percent of the city population, and 7.72 percent of the county population.

The chart shows that White drivers are stopped at rates lower than the percentage of Whites found in the city and county population. Black drivers are stopped at rates higher than the percentage of Blacks found in the city and county population. Hispanic drivers are stopped at rates slightly lower than the percentage of Hispanics found in the city population, and lower than the percentage of Hispanics in the county population. Asian drivers are stopped at rates higher than the percentage of Asians found in the city and county population.

<sup>2</sup> City and County populations were derived from 2020 Decennial Census Redistricting Data (DEC) of the U.S. Census Bureau. City and County populations by gender noted later in this report are based on the most recent 2019 American Community Survey estimates, as the 2020 Decennial Census Redistricting Data (DEC) does not include population counts by gender.

## Methodological Issues

*Upon examination of the data, it is important to note that differences in overall stop rates of a particular racial or ethnic group, compared to that racial or ethnic group's proportion of the population, cannot be used to make determinations that officers have or have not racially profiled any given individual motorist. Claims asserting racial profiling of an individual motorist from the aggregate data utilized in this report are erroneous.*

For example, concluding that a particular driver of a specific race/ethnicity was racially profiled simply because members of that particular racial/ethnic group as a whole were stopped at a higher rate than their proportion of the population—are as erroneous as claims that a particular driver of a specific race/ethnicity could NOT have been racially profiled simply because the percentage of stops among members of a particular racial/ethnic group as a whole were stopped at a lower frequency than that group's proportion of the particular population base (e.g., city or county population). In short, aggregate data as required by law and presented in this report cannot be used to prove or disprove that a member of a particular racial/ethnic group was racially profiled. Next, we discuss the reasons why using aggregate data—as currently required by the state racial profiling law—are inappropriate to use in making claims that any individual motorist was racially profiled.

### Issue #1: Using Group-Level Data to Explain Individual Officer Decisions

The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling” motorists. This methodological error, commonly referred to as the “ecological fallacy,” defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate stop data. **In short, one cannot prove that an individual officer has racially profiled any individual motorist based on the rate at which a department stops any given group of motorists.** In sum, aggregate level data cannot be used to assess individual officer decisions, but the state racial profiling law requires this assessment.

### Issue #2: Problems Associated with Population Base-Rates

There has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. The base-rate serves as the benchmark for comparison purposes. The outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. While this report utilized the most recent 2020 Census as a population base-rate, this population measure can become quickly outdated, can be inaccurate, and may not keep pace with changes experienced in city and county and regional population measures.

In addition, the validity of the benchmark base-rate becomes even more problematic if analyses fail to distinguish between residents and non-residents who are stopped. This is because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures. **In sum, a valid measure of the driving population does not exist. As a proxy, census data is used which is problematic as an indicator of the driving population.** In addition, stopped motorists who are

not residents of the city or county where the motor vehicle stop occurred are not included in the benchmark base-rate.

### Issue #3: Officers Do Not Know the Race/Ethnicity of the Motorist Prior to the Stop

As illustrated in Table 3 near the end of this report, of the 9,578 motor vehicle stops in 2021, the officer knew the race/ethnicity of the motorist prior to the stop in 0.85% of the stops (81/9,578). This percentage is consistent across law enforcement agencies throughout Texas. An analysis of all annual racial profiling reports submitted to the Texas Commission on Law Enforcement, as required by the Texas racial profiling law, found that in 2.9% of the traffic stops in Texas, the officer knew the race/ethnicity of the motorist prior to the stop.<sup>3</sup> The analysis included 1,186 Texas law enforcement agencies and more than 3.25 million traffic stops.

As noted, the legal definition of racial profiling in the Texas Code of Criminal Procedure Article 3.05 is “a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.”

Almost always, Pflugerville PD officers do not know the race/ethnicity of the motorist prior to the stop. This factor further invalidates any conclusions drawn from the stop data presented in Chart 1. If an officer does not know the race/ethnicity of the motorist prior to the stop, then the officer cannot, by legal definition, be racial profiling. Racial profiling is a law-enforcement action based on the race/ethnicity of an individual. If the officer does not know the person's race/ethnicity before the action (in this case, stopping a vehicle), then racial profiling cannot occur.

Based on this factor, post-stop outcomes are more relevant for a racial profiling assessment, as presented later in this report, in comparison to initial motor vehicle stop data disaggregated by race/ethnicity. Once the officer has contacted the motorist after the stop, the officer has identified the person's race/ethnicity and all subsequent actions are more relevant to a racial profiling assessment than the initial stop data.

In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are stopped in order to determine whether or not racial profiling exists within a given jurisdiction.

Table 1 reports the summaries for the total number of motor vehicle stops in which a ticket, citation, or warning was issued, and to arrests made as a result of those stops, by the Pflugerville Police Department in 2021. Table 1 and associated analyses are utilized to satisfy the comparative analyses as required by Texas law, and in specific, Article 2.134 of the CCP.

### Comparative Analysis #2:

*Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any*

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<sup>3</sup> Winkler, Jordan M. (2016). *Racial Disparity in Traffic Stops: An Analysis of Racial Profiling Data in Texas*. Master's Thesis. University of North Texas.



*searches resulting from stops within the applicable jurisdiction.* Texas Code of Criminal Procedure Article 2.134(c)(1)(B)

As shown in Table 1, there were a total of 9,578 motor vehicle stops in 2021 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 73 percent of stops resulted in a written warning and roughly 24 percent resulted in a citation. These actions accounted for roughly 97 percent of all stop actions and will be the focus of the below discussion.

Specific to **written warnings**, White motorists received a written warning in roughly 75 percent of stops involving White motorists (2,400/3,209), Black motorists received a written warning in roughly 76 percent of stops of Black motorists, Hispanic motorists received a written warning in roughly 67 percent of stops of Hispanic motorists, and Asian motorists received a written warning in roughly 78 percent of stops of Asian motorists.

Specific to **citations**, White motorists received a citation in roughly 23 percent of stops involving White motorists (741/3,209), Black motorists received a citation in roughly 19 percent of stops of Black motorists, Hispanic motorists received a citation in roughly 30 percent of stops of Hispanic motorists, and Asian motorists received a citation in roughly 20 percent of stops of Asian motorists.

Relative to all arrest totals [**Written Warning and Arrest** (86) + **Citation and Arrest** (113) + **Arrest** (109)], White motorists were arrested in roughly 2 percent of stops involving White motorists (68/3,209), Black motorists were arrested in roughly 5 percent of stops involving Black motorists, Hispanic motorists were arrested in roughly 4 percent of stops involving Hispanic motorists, and Asian motorists were arrested in roughly 1 percent of stops of Asian motorists.

Overall, arrests were most commonly based on **violation of the penal code** (82.8%; 255/308) or an **outstanding warrant** (13.9%; 43/308) as illustrated in Table 1.

Finally, as presented in Table 1, **physical force resulting in bodily injury** was not used in 2021. Of the 9,578 total stops, none involved physical force resulting in bodily injury.

**Table 1: Traffic Stops and Outcomes by Race/Ethnicity**

Stop Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	3,209	2,525	2,977	860	7	9,578
<b>Gender</b>						
Female	1,287	940	1,021	311	3	3,562
Male	1,922	1,585	1,956	549	4	6,016
<b>Reason for Stop</b>						
Violation of Law	99	76	122	36	1	334
Preexisting Knowledge	22	14	29	5	0	70
Moving Traffic Violation	2,284	1,776	2,138	638	4	6,840
Vehicle Traffic Violation	804	659	688	181	2	2,334
<b>Result of Stop</b>						
Verbal Warning	0	0	0	0	0	0
Written Warning	2,400	1,911	1,983	675	6	6,975
Citation	741	491	889	173	1	2,295
Written Warning and Arrest	20	40	22	4	0	86
Citation and Arrest	22	37	48	6	0	113
Arrest	26	46	35	2	0	109
<b>Arrest Based On</b>						
Violation of Penal Code	60	102	85	8	0	255
Violation of Traffic Law	0	3	0	0	0	3
Violation of City Ordinance	0	1	6	0	0	7
Outstanding Warrant	8	17	14	4	0	43
<b>Physical Force Resulting in Bodily Injury Used?</b>						
No	3,209	2,525	2,977	860	7	9,578
Yes	0	0	0	0	0	0

Comparative Analysis #3:

*Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches. Texas Code of Criminal Procedure Article 2.134(c)(1)(C)*

In 2021, a total of 526 **searches** of motorists were conducted, or roughly 5 percent of all stops resulted in a search (526/9,578). Among searches within each racial/ethnic group, White motorists were searched in roughly 4 percent of all stops of White motorists (117/3,209), Black motorists were searched in roughly 9 percent of all stops of Black motorists, Hispanic motorists were searched in roughly 6 percent of all stops of Hispanic motorists, and Asian motorists were searched in roughly 2 percent of all stops of Asian motorists.

As illustrated in Table 2, the most common reason for a search was probable cause (70.5%; 371/526). Among **searches based on probable cause** within each racial/ethnic group, White motorists were searched based on probable cause in roughly 64 percent of all searches of White motorists (75/117), Black motorists were searched based on probable cause in roughly 75 percent of all searches of Black motorists, Hispanic motorists were searched based on probable cause in roughly 70 percent of all searches of Hispanic motorists, and Asian motorists were searched based on probable cause in 72 percent of all searches of Asian motorists.

Regarding searches, it is further noted that 90 of the 526 searches (see Table 2), or roughly 17 percent of all searches, were based on consent, which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (9,578), discretionary **consent searches** occurred in 0.94 percent of stops. Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in 21.4 percent of all searches of White motorists (25/117), Black motorists were searched based on consent in 15.9 percent of all searches of Black motorists, Hispanic motorists were searched based on consent in 16.4 percent of all searches of Hispanic motorists, and Asian motorists were searched based on consent in 11.1 percent of all searches of Asian motorists (2 consent searches of Asian motorists).

Of the searches that occurred in 2021, and as shown in Table 2, contraband was discovered in 335 or roughly 64 percent of all searches (335/526 total searches). Among the searches in which contraband was discovered (335), the majority of the time the contraband discovered was drugs (91.3%; 306/335). Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 92% of the time (309/335).

**Table 2: Searches and Outcomes by Race/Ethnicity**

Search Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
<b>Search Conducted</b>						
Yes	117	220	171	18	0	526
No	3,092	2,305	2,806	842	7	9,052
<b>Reason for Search</b>						
Consent	25	35	28	2	0	90
Contraband in Plain View	3	4	0	0	0	7
Probable Cause	75	164	119	13	0	371
Inventory	2	1	7	1	0	11
Incident to Arrest	12	16	17	2	0	47
<b>Was Contraband Discovered</b>						
Yes	75	133	114	13	0	335
No	42	87	57	5	7	191
<b>Description of Contraband</b>						
Drugs	66	125	105	10	0	306
Weapons	1	4	1	0	0	6
Currency	0	0	0	0	0	0
Alcohol	6	1	5	3	0	15
Stolen Property	1	1	0	0	0	2
Other	1	2	3	0	0	6
<b>Did Discovery of Contraband Result in Arrest?</b>						
Yes	68	123	105	13	0	309
No	7	10	9	0	7	26

**Comparative Analysis #4:**

*Information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. Texas Code of Criminal Procedure Article 2.134(c)(2)*

In 2021, internal records indicate that the Pflugerville Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling.

### Additional Analysis:

*Statistical analysis of motor vehicle stops relative to the gender population of the agency's reporting area.* This analysis is presented in the report based on a December 2020 email sent from TCOLE to law enforcement executives in Texas.

In 2021, 9,578 motor vehicle stops were made by the Pflugerville Police Department. Of these stops, 3,562 or roughly 37 percent were female motorists (3,562/9,578), and roughly 63 percent were male motorists (see Table 1).

According to 2019 American Community Survey (ACS) city and county population estimates of the U.S. Census Bureau, the City of Pflugerville was composed of 52.2 percent females and 47.8 percent males. County population 2019 ACS estimates indicate that females accounted for 49.5 percent of the county population and males accounted for 50.5 percent of the county population.

Overall, in 2021, males were stopped at rates higher than their proportion of the city and county populations.

### **Additional Information Required to be Reported to TCOLE**

Table 3 below provides additional information relative to motor vehicle stops in 2021 by the Pflugerville Police Department. The data are required to be collected by the Pflugerville Police Department under the Texas Code of Criminal Procedure Article 2.133.

As previously noted, the Pflugerville Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling. Furthermore, as previously discussed, of the 9,578 motor vehicle stops in 2021, the officer knew the race/ethnicity of the motorist prior to the stop in 0.85% of the stops (81/9,578).

**Table 3: Additional Information**

<b>Additional Information</b>	<b>Total</b>
<b>Was Race/Ethnicity Known Prior to Stop</b>	
Yes	81
No	9,497
<b>Approximate Location of Stop</b>	
City Street	9,417
US Highway	0
County Road	0
State Highway	113
Private Property/Other	48
<b>Number of Complaints of Racial Profiling</b>	<b>0</b>
Resulted in Disciplinary Action	0
Did Not Result in Disciplinary Action	0

### **Analysis of Racial Profiling Compliance by Pflugerville Police Department**

The foregoing analysis shows that the Pflugerville Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection and reporting of data in compliance with the law.

In addition to providing summary reports and analysis of the data collected by the Pflugerville Police Department in 2021, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Pflugerville Police Department as well as police agencies across Texas.

# **Appendix A: Racial Profiling Statutes and Laws**

## **Texas Racial Profiling Statutes**

### **Art. 3.05. RACIAL PROFILING.**

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

Added by Acts 2001, 77th Leg., ch. 947, Sec. 2, eff. Sept. 1, 2001.

### **Art. 2.131. RACIAL PROFILING PROHIBITED.**

A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

### **Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.**

(a) In this article:

- (1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.
- (2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.
- (3) "Race or ethnicity" means the following categories:
  - (A) Alaska native or American Indian;
  - (B) Asian or Pacific Islander;
  - (C) black;
  - (D) white; and
  - (E) Hispanic or Latino.

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

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;



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

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

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

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

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

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

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

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for the stop; and

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

(A) the Texas Commission on Law Enforcement; and

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

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

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

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

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

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

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 25, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.05, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 173 (H.B. 3051), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.01, eff. September 1, 2017.

**Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.**

(a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a).

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

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

(A) the person's gender; and

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

(2) the initial reason for the stop;

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

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

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

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

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

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

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

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

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 26, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.02, eff. September 1, 2017.

**Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.**

(a) In this article:

(1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).

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

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

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

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

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;

(B) examine the disposition of motor vehicle stops made by officers employed by the agency,

categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

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

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

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

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

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

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 27, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.06, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.03, eff. September 1, 2017.

**Art. 2.136. LIABILITY.**

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

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

**Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.**

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

- (1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;
- (2) smaller jurisdictions; and
- (3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using video and audio equipment and body worn cameras for those purposes.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.04, eff. September 1, 2017.

**Art. 2.138. RULES.**

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

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

**Art. 2.1385. CIVIL PENALTY.**

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an amount not to exceed \$5,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

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

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 29, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.05, eff. September 1, 2017.

# **Appendix B: Agency Policy**



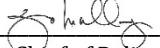


**PFLUGERVILLE POLICE DEPARTMENT  
GENERAL ORDER**

Racial Profiling Policy

NUMBER: 2.32

EFFECTIVE: 03-03-2020

APPROVED:   
Chief of Police

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## **I. POLICY**

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1. It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce state and federal laws in a responsible and professional manner,
2. The Pflugerville Police Department prohibits any profiling based on ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, national origin, or any other identifiable group.
3. This department strictly prohibits officers from engaging in racial profiling. Officers will ensure that the stopping, detaining, arresting, or frisking and/or searching of residents is based upon solid legal principles that conform to their training in arrest, search and seizure. Police action must be based upon credible information known to the officer, which leads him / her to believe that an individual is, has been, or is about to be engaged in activity which is in violation of the law. Any other motivation for such actions is strictly prohibited. Racial profiling is an unacceptable patrol tactic and will not be condoned.
4. This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and or information received about the person.

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## **II. PURPOSE**

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The purpose of this policy is to gather data to comply with racial profiling legislation. This is to reaffirm the Pflugerville Police Departments commitment to unbiased policing in all its encounters between officers and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

### **III. PROCEDURE**

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**Violation of this Policy** - An officer found in violation to this policy shall face disciplinary action up to and including termination.

#### **Citizen Complaints**

1. Employees shall never attempt to dissuade any citizen from lodging a complaint. Employees may attempt to resolve the complaint, but if they cannot readily resolve the complaint, promptly and courteously refer the citizen to the appropriate person or department. Written, verbal and E-mailed complaints will be taken, written complaints are preferred. All employees will report any allegation of racial profiling to their supervisor before the end of their shift.
2. All complaints will be conducted in a thorough and timely manner as prescribed in policy.
3. If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

#### **Use of Video and Audio Equipment**

1. Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment. Officers will utilize this equipment on every call for service including traffic stops, pedestrian stops, arrests, and contacts with the public in their official capacity. Equipment that is inoperable or becomes inoperable on shift shall be immediately reported to a supervisor and the unit will be exchanged for a unit that is fully operational.
2. Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. A supervisor will review a recording of each officer at least once (more reviews are encouraged) every 28 days.
3. This department shall retain the video of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one or our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video of the stop until final disposition of the complaint.

#### **Citation Data Collection and Reporting**

1. An officer is required to collect information relating to traffic stops in which a citation or warning is issued. A Citation, a Warning Citation or a Field Interview Card will be issued on every traffic stop conducted by officers and every stop that is capable of being recorded by video and audio, as appropriate, is recorded, and must include the following information.
  - a. The violators race or ethnicity;

- b. Whether a search was conducted;
  - c. Type of search;
  - d. If the race or ethnicity of the driver was known prior to the stop.
  - e. Was an arrest made;
  - f. Any force used
    - i. Any injury resulted from that force
  - g. Contraband located
  - h. Reason for stop
2. The department shall submit a report to the City Council and Texas Commission on Law Enforcement Officer Standards and Education on or before March 1st for the preceding calendar year of the results of the reported statistics. The report will include:
    - a. A breakdown of stops by race or ethnicity;
    - b. Number of stops that resulted in a search;
    - c. Number of searches that were consensual;
    - d. Number of custodial arrests.
    - e. All data included in above section 2.32.06.01
  3. The Assistant Chief will review stop data on a monthly basis. This includes reviewing a sample of search reporting forms, FCRS entries, citations, and reports. The Assistant Chief will present the information to the Chief of Police.

**Public Education** - This department will inform the public of its policy against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, city newsletters, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available as appropriate in languages other than English.

### **Training**

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.
2. All officers shall complete a TCOLE training and education program on racial profiling as required by law.

### **Search Reporting Form**

1. Every search the officer will complete a field interview entry in our Records Management System.

2. The officer will complete the form and utilizes work flow to forward it to their immediate supervisor.
3. The supervisor will review and proof to make sure the form is completed correctly. After reviewing the supervisor marks, it as complete.

## **IV. STANDARD PRESS RELEASE**

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The standard press release required by law is below. Other variations may exist on other formats.

**Pflugerville Police Department Complies with Texas Code of Criminal Procedure 2.132  
Racial Profiling**

The Pflugerville Police Department supports the Texas Legislature's mandate prohibiting racial profiling in Texas. Our police officers work under a departmental policy that is consistent with all state and federal laws. Pflugerville Police Department Policy strictly prohibits officers from engaging in Racial Profiling. The policy includes provisions for citizens to contact us if they have a conflict with a police officer.

We trust that the vast majority of contacts between citizens and officers are conducted in a positive, professional manner. The relationship between the community and our officers is based on confidence and trust. We cannot be effective without both the community and our officers working together to achieve this goal.

Citizens feeling that they have a legitimate concern may make a formal complaint to the Pflugerville Police Department at any time by contacting any member of this department for information on the complaint process. Additional information about this process may be obtained by calling us at (512) 990-6700 and asking for a supervisor or the Professional Standards Unit. Complaints may be submitted via E-mail at [professionalstandards@pflugervilletx.gov](mailto:professionalstandards@pflugervilletx.gov) or via fax to 512-990-6494. Complaints may also be mailed to 1611 E. Pfennig Lane, Pflugerville, Tx 78660. Please visit <https://police.pflugervilletx.gov/divisions/professional-standards-unit/employee-complaints> for additional details.

The Pflugerville Police Department would like to know about positive police contacts. These compliments may be submitted via the same avenue as a complaint or via the online form at <https://police.pflugervilletx.gov/divisions/professional-standards-unit/employee-commendation> - The Officer will be notified about your compliment and a copy will be placed in the their personnel folder.

We are very proud of the relationship the Pflugerville Police Department shares with our community and we look forward to hearing from you.

Jason O'Malley  
Chief of Police  
Pflugerville Police Department

## **El Departamento de Policía de Pflugerville cumple con el Código de Procedimiento Penal de Texas 2.132 Perfil Racial**

El Departamento de Policía de Pflugerville apoya el mandato de la Legislatura de Texas que prohíbe el perfil racial en Texas. Nuestros oficiales trabajan bajo una política que es consistente con todas las leyes estatales y federales. La Política del Departamento de Policía de Pflugerville prohíbe estrictamente que sus oficiales participen en la discriminación racial. Esta política incluye disposiciones para que los ciudadanos puedan ponerse en contacto con nosotros si tienen un conflicto con un oficial de la policía.

Confiamos que la mayoría de los contactos entre ciudadanos y oficiales se llevan a cabo en una manera positiva y profesional. La relación entre la comunidad y nuestros oficiales está basada en confianza. No podemos ser eficaces sin ambos, la comunidad y nuestros oficiales trabajando juntos para lograr esta meta.

Los ciudadanos que sientan que tienen una preocupación legítima pueden presentar una queja formal al Departamento de Policía de Pflugerville en cualquier momento, contactando a cualquier miembro de este departamento para obtener información sobre el proceso de quejas. Puede pedir información adicional sobre este proceso llamándonos al (512) 990-6700 y pida un supervisor o la Unidad de Estándares Profesionales. Las quejas se pueden enviar por correo electrónico a [professionalstandards@pflugervilletx.gov](mailto:professionalstandards@pflugervilletx.gov) o por fax al 512-990-6494. Las quejas se pueden enviar por correo a 1611 E. Pfennig Lane, Pflugerville, Texas 78660. Por favor visite <https://police.pflugervilletx.gov/divisions/professional-standards-unit/employee-complaints> para más detalles.

El Departamento de Policía de Pflugerville quisiera saber de los contactos positivos. Estos cumplidos pueden enviarse por la misma vía de una queja o por el formulario en línea en <https://police.pflugervilletx.gov/divisions/professional-standards-unit/employee-commendation> El Oficial será notificado del cumplido y una copia estará colocada en el archivo personal del oficial.

Estamos muy orgullosos de la relación que el Departamento de Policía de Pflugerville comparte con nuestra comunidad y nos gustaría oír de ustedes.

Jason O'Malley  
Chief of Police  
Pflugerville Police Department

# Appendix C: Racial Profiling Laws and Corresponding Standard Operating Procedures

<b>Texas CCP Article</b>	<b>PFLUGERVILLE POLICE DEPARTMENT Policy 2.32 “Racial Profiling Policy”</b>
2.132(b)1	Purpose and Policy Section
2.132(b)2	Policy Section
2.132(b)3	Citizen Complaints Section
2.132(b)4	Public Education Section
2.132(b)5	Violation of This Policy Section
2.132(b)6	Citation Data Collection and Reporting Section
2.132(b)7	Citation Data Collection and Reporting Section