

PFLUGERVILLE POLICE DEPARTMENT

2020

RACIAL PROFILING ANALYSIS

PREPARED BY:

Eric J. Fritsch, Ph.D.

Chad R. Trulson, Ph.D.

Justice Research Consultants, LLC



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 2020. 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 2020. 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 2.32.04 (Citizen Complaints) and 2.32.07 (Public Education) satisfies 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 2020 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

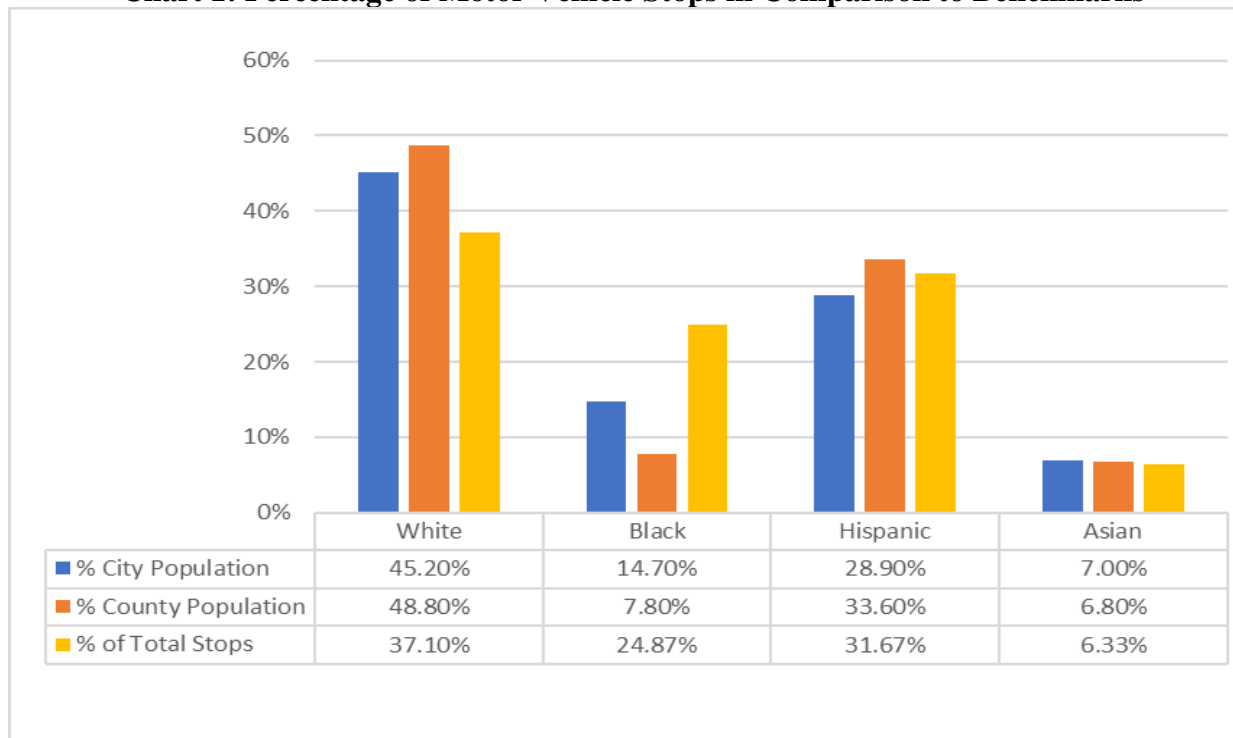
Comparative Analysis #1:

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 8,998 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2020.¹

¹ There were 2 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 (8,998).

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



White drivers constituted 37.10 percent of all drivers stopped, whereas Whites constitute 45.20 percent of the city population, and 48.80 percent of the county population.²

Black drivers constituted 24.87 percent of all drivers stopped, whereas Blacks constitute 14.70 percent of the city population, and 7.80 percent of the county population.

Hispanic drivers constituted 31.67 percent of all drivers stopped, whereas Hispanics constitute 28.90 percent of the city population, and 33.60 percent of the county population.

Asian drivers constituted 6.33 percent of all drivers stopped, whereas Asians constitute 7.00 percent of the city population, and 6.80 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 higher than the percentage of Hispanics found in the city population, but lower than the percentage of Hispanics in the county population. Asian drivers are stopped at rates lower than the percentage of Asians found in the city and county population.

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

² City and County populations were derived from 2019 American Community Survey (ACS) estimates of the U.S. Census Bureau.

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 2019 ACS estimates 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, county, or region 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 4 near the end of this report, of the 8,998 motor vehicle stops in 2020, the officer knew the race/ethnicity of the motorist prior to the stop in 0.87% of the stops (78/8,998). 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.³ 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 2020. 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 searches resulting from stops within the applicable jurisdiction. Texas Code of Criminal Procedure Article 2.134(c)(1)(B)

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

Table 1: Traffic Stops and Outcomes by Race/Ethnicity

Stop Outcomes by Race/Ethnicity	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	3,338	2,238	2,850	570	2	8,998
Result of Stop						
Verbal Warning	0	0	0	0	0	0
Written Warning	2,523	1,786	2,101	448	2	6,860
Citation	727	393	682	118	0	1,920
Written Warning and Arrest	55	37	42	2	0	136
Citation and Arrest	31	19	23	2	0	75
Arrest	2	3	2	0	0	7
Search Conducted						
Yes	123	204	106	9	0	442
No	3,215	2,034	2,744	561	2	8,556

As shown in Table 1, there were a total of 8,998 motor vehicle stops in 2020 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 76 percent of stops resulted in a written warning and roughly 21 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 76 percent of stops involving White motorists (2,523/3,338), Black motorists received a written warning in roughly 80 percent of stops of Black motorists, Hispanic motorists received a written warning in roughly 74 percent of stops of Hispanic motorists, and Asian motorists received a written warning in roughly 79 percent of stops of Asian motorists.

White motorists received a **citation** in roughly 22 percent of stops involving White motorists (727/3,338), Black motorists received a citation in roughly 18 percent of stops of Black motorists, Hispanic motorists received a citation in roughly 24 percent of stops of Hispanic motorists, and Asian motorists received a citation in roughly 21 percent of stops of Asian motorists.

Finally, arrests were rare in 2020. Of the 8,998 total stops, only 218 arrests [written warning and arrest (136), citation and arrest (75), and arrest only (7)] were made in 2020. This accounts for roughly 2 percent of all stops.

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 2020, a total of 442 **searches** of motorists were conducted, or roughly 5 percent of all stops resulted in a search (442/8,998). Among searches within each racial/ethnic group, White motorists were searched in roughly 4 percent of all stops of White motorists (123/3,338), Black motorists were searched in roughly 9 percent of all stops of Black motorists, Hispanic motorists were searched in roughly 4 percent of all stops of Hispanic motorists, and Asian motorists were searched in roughly 2 percent of all stops of Asian motorists.

Of the 442 total searches in 2020, most were **probable cause searches** (68.10%; 301/442). Regarding searches, it should be further noted that only 64 searches (see Table 3) were based on consent, which are regarded as discretionary as opposed to non-discretionary searches such as those based on probable cause. Relative to the total number of stops (8,998), discretionary **consent searches** occurred in 0.71 percent of stops.

Of the searches that occurred in 2020, and as shown in Table 3, contraband was discovered in 257 or roughly 58 percent of all searches (257/442 total searches). Almost always, the contraband seized was drugs (94.55%; 243/257).

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 2020, 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 2020, 8,998 motor vehicle stops were made by the Pflugerville Police Department. Of these stops, 3,618 or roughly 40 percent were female motorists (3,618/8,998), and roughly 60 percent were male motorists (see Table 4 below).

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 2020, males were stopped at rates higher than their proportion of the city and county populations.

Additional Information Required to be Reported to TCOLE

Tables 2-4 provide additional information relative to motor vehicle stops in 2020 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.

Table 2: Data on Traffic Stops and Arrests

Stop Table	Frequency
Number of Stops	8,998
Reason for Stop	
Violation of Law	155
Preexisting Knowledge	45
Moving Traffic Violation	6,849
Vehicle Traffic Violation	1,949
Result of Stop	
Verbal Warning	0
Written Warning	6,860
Citation	1,920
Written Warning and Arrest	136
Citation and Arrest	75
Arrest	7
Arrest Based On	
Violation of Penal Code	184
Violation of Traffic Law	12
Violation of City Ordinance	0
Outstanding Warrant	22

Table 3: Data on Searches Pursuant to Traffic Stops

Search Table	Frequency
Search Conducted	
Yes	442
No	8,556
Reason for Search	
Consent	64
Contraband in Plain View	14
Probable Cause	301
Inventory	15
Incident to Arrest	48
Was Contraband Discovered	
Yes	257
No	185
Description of Contraband	
Drugs	243
Currency	0
Weapons	5
Alcohol	9
Stolen Property	0
Other	0

Table 4: Additional Data on Traffic Stops

Additional Information	Frequency
Gender	
Female	3,618
Male	5,380
Race/Ethnicity Known Prior to Stop	
Yes	78
No	8,920
Was Physical Force Resulting in Bodily Injury Used During Stop	
Yes	3
No	8,995
Approximate Location of Stop	
City Street	7,956
US Highway	0
County Road	735
State Highway	307
Private Property/Other	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 2020, 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

2.32 RACIAL PROFILING POLICY

2.32.01 PURPOSE

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.

2.32.02 POLICY

- .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.

2.32.03 VIOLATION OF THIS POLICY - An officer found in violation to this policy shall face disciplinary action up to and including termination.

2.32.04 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.

2.32.05 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.

2.32.06 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.
 - .01 The violators race or ethnicity;
 - .02 Whether a search was conducted;
 - .03 Type of search;
 - .04 If the race or ethnicity of the driver was known prior to the stop.
 - .05 Was an arrest made;
 - .06 Any force used
 - .01 Any injury resulted from that force
 - .07 Contraband located
 - .08 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:
 - .01 A breakdown of stops by race or ethnicity;
 - .02 Number of stops that resulted in a search;
 - .03 Number of searches that were consensual;
 - .04 Number of custodial arrests.
 - .05 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.

2.32.07 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.

2.32.08 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.

2.32.09 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.

2.32.10 Public Education/Press Release

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

**Pflugerville Police Department and Texas Law Enforcement Agencies
Complies with Senate Bill 1074
Racial Profiling**

The Pflugerville Police Department supports the 77th 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. The policy includes provisions for citizens to contact us if they have a conflict with a police officer.

The Pflugerville Police Department realizes that there will be disagreements, from time to time, with individuals that come in contact with our officers. We realize that confusion, different perceptions or possibly the timeliness of information could result in information that may produce different accounts of the same incident. These disagreements between citizens and officers need to be addressed. 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 by accessing our department via E-mail at www.pflugervilletx.gov/police.

The Pflugerville Police Department would like to know about positive police contacts. Please write or E-mail the Chief a letter or note to let him know about a positive contact with our officers. The Chief will let the officer know about your letter and a copy will be placed in the officer's 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.

Jessica Robledo
Chief of Police
Pflugerville Police Department

Appendix C: Racial Profiling Laws and Corresponding Standard Operating Procedures

Texas CCP Article	PFLUGERVILLE POLICE DEPARTMENT Policy 2.32 “Racial Profiling Policy”
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