

BRYAN POLICE DEPARTMENT

2023

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 Bryan Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE BRYAN POLICE DEPARTMENT REGULATIONS, SPECIFICALLY GENERAL ORDER 04-29.5 OUTLINING THE DEPARTMENT’S POLICY CONCERNING BIAS-BASED PROFILING, SHOWS THAT THE BRYAN 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 BRYAN POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE BRYAN POLICE 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 BRYAN POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE BRYAN POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

- **THE BRYAN 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 Bryan Police Department's policies, training, and statistical information on racial profiling for the year 2023. 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 Bryan Police Department in 2023. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

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

Bryan Police Department Policy on Racial Profiling

A review of Bryan Police Department General Order 04-29.5 "Bias Based Profiling" 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 General Order 04-29.5. Bryan Police Department regulations provide clear direction that any form of bias-based profiling is prohibited and that officers found engaging in inappropriate profiling will face corrective action which may include diversity training, counseling, or disciplinary measures up to and including indefinite suspension. 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 Bryan Police Department regulation.

A COMPREHENSIVE REVIEW OF BRYAN POLICE DEPARTMENT GENERAL ORDER 04-29.5 SHOWS THAT THE BRYAN POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Bryan 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 the Bryan Police Department reveals that all officers, except for one officer who is on extended military leave, have received bias-based/racial profiling training.

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

Bryan 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. Bryan Police Department General Order 04-29.5 IV(A) and (B) cover this requirement. In addition, Bryan Police Department has information regarding how to file a complaint on their website (<https://www.bryantx.gov/pdcomplimentsorcomplaints/>). The department has also prepared a brochure on how to file a compliment or complaint, printed in both English and Spanish.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE BRYAN POLICE 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.

Bryan 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. Bryan Police Department submitted statistical information on all motor vehicle stops in 2023 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 BRYAN POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

Analysis of the Data

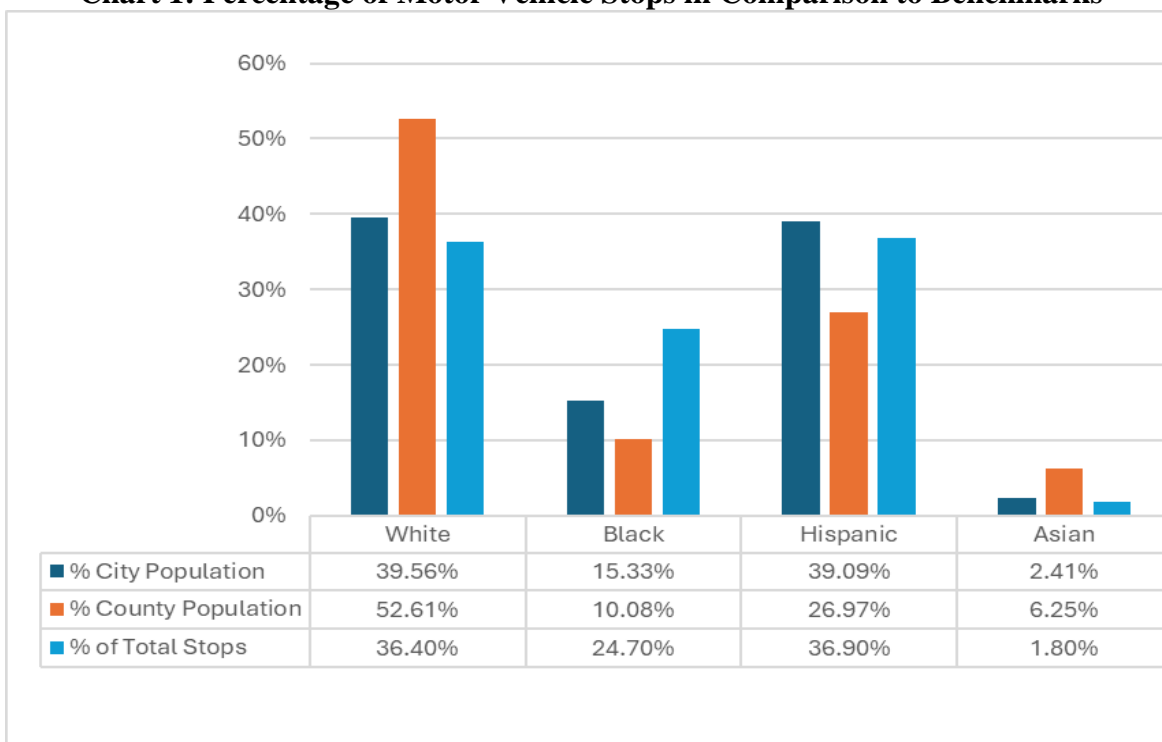
Comparative Analysis #1:

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 13,946 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2023.¹

¹ There were 29 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 in Bryan and relative to the total number of motor vehicle stops among all drivers (13,946).

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



White drivers constituted 36.40 percent of all drivers stopped, whereas Whites constitute 39.56 percent of the city population and 52.61 percent of the county population.²

Black drivers constituted 24.70 percent of all drivers stopped, whereas Blacks constitute 15.33 percent of the city population and 10.08 percent of the county population.

Hispanic drivers constituted 36.90 percent of all drivers stopped, whereas Hispanics constitute 39.09 percent of the city population and 26.97 percent of the county population.

Asian drivers constituted 1.80 percent of all drivers stopped, whereas Asians constitute 2.41 percent of the city population and 6.25 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 county population but lower than the percentage of Hispanics in the city population. Asian drivers are stopped at rates lower than the percentage of Asians found in the city and county population.

² 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 2019 American Community Survey estimates.

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 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 13,946 motor vehicle stops in 2023, the officer knew the race/ethnicity of the motorist prior to the stop in 2.0% of the stops (277/13,946). 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, Bryan police 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 Bryan Police Department in 2023. 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

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.

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 13,946 motor vehicle stops in 2023 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 50 percent of stops resulted in a verbal warning (7,033/13,946), roughly 36 percent resulted in a citation (5,051/13,946), and roughly 7 percent resulted in a written warning (935/13,946). These actions accounted for roughly 93 percent of all stop actions and will be the focus of the below discussion.

Specific to **verbal warnings**, White motorists received a verbal warning in roughly 54 percent of stops involving White motorists (2,746/5,076), Black motorists received a verbal warning in roughly 50 percent of stops of Black motorists (1,735/3,444), Hispanic motorists received a verbal warning in roughly 46 percent of stops of Hispanic motorists (2,370/5,146), and Asian motorists received a verbal warning in roughly 65 percent of stops of Asian motorists (162/251).

Specific to **citations**, White motorists received a citation in roughly 32 percent of stops involving White motorists (1,629/5,076), Black motorists received a citation in roughly 32 percent of stops of Black motorists (1,093/3,444), Hispanic motorists received a citation in roughly 44 percent of stops of Hispanic motorists (2,249/5,146), and Asian motorists received a citation in roughly 28 percent of stops of Asian motorists (71/251).

Specific to **written warnings**, White motorists received a written warning in roughly 10 percent of stops involving White motorists (527/5,076), Black motorists received a written warning in roughly 6 percent of stops of Black motorists (190/3,444), Hispanic motorists received a written warning in roughly 4 percent of stops of Hispanic motorists (206/5,146), and Asian motorists received a written warning in roughly 5 percent of stops of Asian motorists (12/251).

As illustrated in Table 1, of the 13,946 total stops, 927 **arrests** [written warning and arrest (9), citation and arrest (80) and sole arrests (838)] were made in 2023, and this accounts for 6.6 percent of all stops. White motorists were arrested in roughly 3 percent of stops involving White motorists (174/5,076), Black motorists were arrested in roughly 12 percent of stops involving Black motorists (426/3,444), Hispanics were arrested in roughly 6 percent of stops involving Hispanic motorists (321/5,146), and Asian motorists were arrested in roughly 2 percent of stops of Asian motorists (6/251).

Overall, arrests were most commonly based on a **violation of the penal code** (45.1%; 418/927) or an **outstanding warrant** (41.2%; 382/927) as illustrated in Table 1.

Finally, as presented in Table 1, **physical force resulting in bodily injury** occurred in two stops in 2023 out of 13,946 motor vehicle stops. Of the two stops where physical force resulted in bodily injury, the injury occurred to both the officer and suspect.

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	5,076	3,444	5,146	251	29	13,946
Gender						
Female	2,207	1,484	1,874	71	4	5,640
Male	2,869	1,960	3,272	180	25	8,306
Reason for Stop						
Violation of Law	63	61	74	0	0	198
Preexisting Knowledge	9	12	13	0	0	34
Moving Traffic Violation	3,101	1,794	3,054	164	13	8,126
Vehicle Traffic Violation	1,903	1,577	2,005	87	16	5,588
Result of Stop						
Verbal Warning	2,746	1,735	2,370	162	20	7,033
Written Warning	527	190	206	12	0	935
Citation	1,629	1,093	2,249	71	9	5,051
Written Warning and Arrest	2	4	3	0	0	9
Citation and Arrest	14	37	28	1	0	80
Arrest	158	385	290	5	0	838
Arrest Based On						
Violation of Penal Code	79	160	177	2	0	418
Violation of Traffic Law	26	59	39	2	0	126
Violation of City Ordinance	0	1	0	0	0	1
Outstanding Warrant	69	206	105	2	0	382
Physical Force Resulting in Bodily Injury Used?						
No	5,075	3,444	5,145	251	29	13,944
Yes	1	0	1	0	0	2

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 2023, a total of 1,031 **searches** of motorists were conducted, or roughly 7 percent of all stops resulted in a search (see Table 2). Among searches within each racial/ethnic group, White motorists were searched in roughly 4 percent of all stops of White motorists (188/5,076), Black motorists were searched in roughly 13 percent of all stops of Black motorists (464/3,444), Hispanic motorists were searched in roughly 7 percent of all stops of Hispanic motorists (372/5,146), and Asian motorists were searched in roughly 2 percent of all stops of Asian motorists (6 total searches out of 251 stops of Asian motorists).

As illustrated in Table 2, the most common reason for a search was probable cause (61.3%; 632/1,031). Among **searches based on probable cause** within each racial/ethnic group, White motorists were searched based on probable cause in roughly 55 percent of all searches of White motorists (104/188), Black motorists were searched based on probable cause in roughly 68 percent of all searches of Black motorists (314/464), Hispanic motorists were searched based on probable cause in roughly 56 percent of all searches of Hispanic motorists (210/372), and Asian motorists were searched based on probable cause in 50 percent of all searches of Asian motorists (3 searches based on probable cause out of 6 total searches of Asian motorists).

The second most common reason for searches (see Table 2) was incident to arrest (23.9%; 246/1,031). Among **searches incident to arrest** within each racial/ethnic group, White motorists were searched incident to arrest in roughly 24 percent of all searches of White motorists (45/188), Black motorists were searched incident to arrest in roughly 23 percent of all searches of Black motorists (105/464), Hispanic motorists were searched incident to arrest in 25 percent of all searches of Hispanic motorists (93/372), and Asian motorists were searched incident to arrest in 50 percent of all searches of Asian motorists (3 searches incident to arrest out of 6 total searches of Asian motorists).

The third most common reason for searches (see Table 2) was consent (11.3%; 117/1,031), which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (13,946), discretionary consent searches occurred in 0.84 percent of stops (117 total consent searches). Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in roughly 18 percent of all searches of White motorists (34/188), Black motorists were searched based on consent in roughly 8 percent of all searches of Black motorists (36/464), Hispanic motorists were searched based on consent in roughly 13 percent of all searches of Hispanic motorists (47/372), and Asian motorists were not searched based on consent in 2023.

Of the searches that occurred in 2023, and as shown in Table 2, **contraband was discovered** in 535 or roughly 52 percent of all searches (535/1,031 total searches). Overwhelmingly, the contraband discovered in searches was drugs; 70.8% of the contraband discovered (379/535 contraband discoveries). Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 74% of the time (395/535 contraband discoveries).

Table 2: Searches and Outcomes by Race/Ethnicity

Search Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Search Conducted						
Yes	188	464	372	6	1	1,031
No	4,888	2,980	4,774	245	28	12,915
Reason for Search						
Consent	34	36	47	0	0	117
Contraband in Plain View	2	5	18	0	0	25
Probable Cause	104	314	210	3	1	632
Inventory	3	4	4	0	0	11
Incident to Arrest	45	105	93	3	0	246
Was Contraband Discovered						
Yes	96	238	198	2	1	535
No	92	226	174	4	0	496
Description of Contraband						
Drugs	70	189	118	1	1	379
Weapons	3	10	5	0	0	18
Currency	0	0	0	0	0	0
Alcohol	11	22	56	0	0	89
Stolen Property	0	0	0	0	0	0
Other	12	17	19	1	0	49
Did Discovery of Contraband Result in Arrest?						
Yes	77	181	136	1	0	395
No	19	57	62	1	1	140

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 2023, internal records indicate that the Bryan Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling (see Table 3).

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 2023, 13,946 motor vehicle stops were made by the Bryan Police Department. Of these stops, 5,640 or roughly 40 percent were female drivers (5,640/13,946), and roughly 60 percent were male drivers (8,306/13,946) (see Table 1).

According to 2019 American Community Survey (ACS) city and county population estimates of the U.S. Census Bureau, the City of Bryan was composed of 51.3 percent females and 48.7 percent males. County population 2019 ACS estimates indicate that females accounted for 50 percent of the county population and males accounted for 50 percent of the county population.

Overall, in 2023, 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 2023 by the Bryan Police Department. The data are required to be collected by the Bryan Police Department under the Texas Code of Criminal Procedure Article 2.133.

As previously noted, the Bryan Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling in 2023. Furthermore, as previously discussed, of the 13,946 motor vehicle stops in 2023, the officer knew the race/ethnicity of the motorist prior to the stop in 2.0% of the stops (277/13,946).

Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	277
No	13,669
Approximate Location of Stop	
City Street	12,250
US Highway	72
County Road	26
State Highway	1,590
Private Property/Other	8
Number of Complaints of Racial Profiling	0
Resulted in Disciplinary Action	0
Did Not Result in Disciplinary Action	0

Analysis of Racial Profiling Compliance by Bryan Police Department

The foregoing analysis shows that the Bryan 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 Bryan Police Department in 2023, 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 Bryan 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

BRYAN POLICE DEPARTMENT GENERAL ORDER	REVISION DATE May 28, 2020	NUMBER 04-29.5	
CATEGORY Law Enforcement Operations	INDEXED AS Bias Based Profiling	CALEA 1.2.9a 1.2.9b 1.2.9c 41.3.8a 41.3.8b 41.3.8c	TBP 2.01
SUBJECT Bias Based Profiling			
AUTHORIZING SIGNATURE 			

I. PURPOSE

The practice of bias based profiling by law enforcement personnel undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. It may alienate citizens and foster distrust of law enforcement within the community. This directive strictly prohibits the use of bias based profiling by employees of the Bryan Police Department. The directive content identifies specific acts that would be considered bias based profiling, and outlines procedures to address requirements of [Chapter 2, Article 2.131 through 2.135 of the Texas Code of Criminal Procedure](#). [\(2.01\)](#)

This directive does not prohibit police personnel from stopping or detaining individuals if a specific report exists in which an individual's race, national origin, citizenship, religion, ethnicity, age, gender or sexual orientation is a factor in determining the existence of probable cause for taking police action.

II. DEFINITIONS

Arrest – To deprive a person of his/her liberty by legal authority.

Bias Based Profiling – 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. This also includes, but is not limited to, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

Detention – Any restriction upon a person's liberty imposed by a peace officer, based upon reasonable suspicion. If the individual is not free to go, the individual will be considered detained.

Pedestrian Stop – An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Race or Ethnicity — Of a particular descent, including Alaska Native/American Indian, Asian/Pacific Islander, Black, White, or Hispanic/Latino. [\(2.01\)](#)

Seizure – Any taking of property from an individual without the individual’s consent or any restriction of an individual’s liberty without the individual’s consent. A detention will be considered a seizure, as will an arrest.

Motor Vehicle Stop – An occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

III. POLICY

Members of the Bryan Police Department will not engage in any activities that are discriminatory or indicative of the practice of bias based profiling. Personnel will focus on the conduct of individual and/or specific suspect information in taking police action. Individuals will not be targeted for enforcement action, detention, field contacts, asset seizure and forfeiture efforts, or interdiction solely on the basis of race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Any officer found to have engaged in bias based profiling, following complete investigation, will face appropriate corrective action, which may include diversity training, counseling, or disciplinary measures up to and including indefinite suspension. [\(1.2.9a\)](#) [\(2.01\)](#)

IV. PROCEDURES

A. Data Collection

1. The Department will maintain a database of information related to All motor vehicle contacts as prescribed by TCOLE, including information relating to:
 - a. Gender of detained individual;
 - b. The race or ethnicity of the individual detained;
 - c. Was the race or ethnicity known prior to the traffic stop;
 - d. Reason for the traffic stop;
 - e. Street type of the stop;
 - f. Whether a search was conducted; Reason of the search;
 - g. Was contraband discovered;
 - h. Description of contraband;
 - i. Result of stop;
 - j. If arrest made the reason for the arrest;
 - k. Was physical force used;

B. Annual Data Report [\(1.2.9c\)](#)

1. An independent consultant shall prepare an annual report of agency practices based on the data collection in section IV.A and shall submit it to the Chief of Police for administrative review. This report will not contain information specific to the officers involved or to the individuals who were stopped. The purpose of the report shall be:
 - a. To identify any possible existence of bias based profiling by police officers within the Bryan Police Department.
 - b. To examine the disposition of motor vehicle stops identified in IV.A above.
 - c. To compile information relating to each complaint filed with the agency alleging that an officer has engaged in bias based profiling.

2. By March 1st of each calendar year, the Chief of Police will submit the annual report to:
 - a. The City Manager and City Council
 - b. The Texas Commission on Law Enforcement [\(1.2.9c\)](#)
3. The Chief of Police will present the Annual Report to the Citizen Advisory Committee. Comments and concerns from the citizen advisory meeting will be documented for future review and referral.

C. Video and Audio Equipment

1. Each motor vehicle regularly used to make motor vehicle stops will be equipped with video camera and transmitter-activated equipment.
2. Each motorcycle used to make motor vehicle stops will be equipped with transmitter-activated equipment.
3. Each motor vehicle and pedestrian stop capable of being recorded will be recorded in its entirety. [\(41.3.8a\)](#)
4. Video/Audio media will be handled, labeled, and stored as outlined in General Order 08-10 (Mobile Video & Audio Management). [\(41.3.8bc\)](#) [\(41.3.8c\)](#)

D. Responsibilities

1. Officers
 - a. Officers will follow procedures for traffic stops as outlined in [General Order 06-01 \(Traffic Enforcement\)](#) and [General Order 06-02 \(Traffic Stops\)](#).
 - b. Officers are responsible for ensuring mobile video/audio recording equipment is fully operational throughout their tour of duty. Any equipment failure or repairs needed should be immediately reported to the on duty shift supervisor.
 - c. Issue written information on how to file a compliment or complaint to the driver stopped in the traffic contact. [\(2.01\)](#)
2. Crime Analyst: The Crime Analyst will maintain and report the data collected for purposes of this directive.
3. Training Coordinator: The Training Coordinator will provide annual biased based profiling training, to include legal aspects, to personnel as determined appropriate by the Texas Commission on Law Enforcement. [\(1.2.9b\)](#)
4. Public Information Officer
 - a. The Public Information Officer will periodically provide education to the public concerning the professional standards complaint process. The education will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of the Department has engaged in bias based profiling with respect to the individual. The P.I.O. will document any citizen concerns or comments expressed.

- b.** Public education concerning the Department's complaint process may be provided in one or more of the following ways:

- (1)** Television interview/report
- (2)** Newspaper interview/articles
- (3)** Public Forums

5. Professional Standards Division

- a.** The Professional Standards Division will be responsible for investigating any complaints of bias based profiling filed against any member of the Bryan Police Department.
- b.** If a video or audio recording is made of an incident which is the basis of a complaint, the Professional Standards Division will provide a copy of the recording to the officer who is the subject of the complaint upon the officer's written request. The request is to be made in memo form and routed through the chain of command to the Professional Standards Division.
- c.** The Professional Standards Division will conduct an audit, at least annually, of video/audio recordings with the intent to determine if supervisors are conducting random video/audio reviews in compliance with this directive.
- d.** The PSD will review all video recordings in which a complaint of bias-based profiling is alleged.

6. Supervisors

- a.** Traffic enforcement will be accomplished by consistent, ongoing supervisory oversight to ensure officers do not go beyond the parameters of reasonableness in conducting such activities.
- b.** Supervisors will ensure that officers use video/audio equipped vehicles, unless circumstances deem otherwise.
- c.** Supervisors will randomly review the video/audio recordings of their subordinates in order to assess officer performance and ensure compliance with this and other applicable directives.

E. Complaint Process

- 1.** Citizens may lodge a compliment or a complaint of bias based profiling in the same manner as any other complaint against a Department employee:
 - a.** Telephone: Professional Standards Division, 911 Dispatch Center, Intake Specialist, on duty supervisor, or department employee.
 - b.** Mail: Bryan Police Department (Attn: Professional Standards Division), P.O. Box 1000, Bryan, TX 77805
 - c.** E-mail: Professional Standards Investigator via City of Bryan website
 - d.** BPD Web Site: www.bryantx.gov
 - e.** In person

Public Education: The Department maintains brochures (*Compliments or Complaints Against Department Employees*) for the public that detail the process of lodging a compliment or complaint against Department employees and the investigative process.

Upon enactment, this directive will rescind and supersede any and all previous directives pertaining to this subject.



CITY OF BRYAN POLICE DEPARTMENT

OFFICER TRAINING BULLETIN

JUNE 26, 2023

BIAS BASED PROFILING

GUIDELINES FOR COMPILING AND REPORTING DATA UNDER SENATE BILL 1074

BACKGROUND

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

The Bryan Police Department has been in compliance with the applicable standards since Senate Bill 1074 became effective and has gone through many evolutions of how we capture and retain the required data. In 2019, the department had two formal complaints of racial profiling and both were

determined to be unfounded. In 2020, there were no complaints of racial profiling. In 2021, the department had one formal racial profiling complaint that was determined to be unfounded. In 2022 the Department had three racial profiling complaints and those three complaints were determined to be unfounded. All complaints of racial profiling are classified as Class I level violations.

RACIAL PROFILING TRAINING

Since 2002, all Bryan Police Officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements.

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.

BRYAN POLICE DEPARTMENT GENERAL ORDER	REVISION DATE May 28, 2020	NUMBER 04-29.5	
CATEGORY Law Enforcement Operations	INDEXED AS Bias Based Profiling	CALEA 1.2.9a 1.2.9b 1.2.9c 41.3.8a 41.3.8b 41.3.8c	TBP 2.01
SUBJECT Bias Based Profiling			
AUTHORIZING SIGNATURE 			

I. PURPOSE

The practice of bias based profiling by law enforcement personnel undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. It may alienate citizens and foster distrust of law enforcement within the community. This directive strictly prohibits the use of bias based profiling by employees of the Bryan Police Department. The directive content identifies specific acts that would be considered bias based profiling, and outlines procedures to address requirements of [Chapter 2, Article 2.131 through 2.135 of the Texas Code of Criminal Procedure](#). [\(2.01\)](#)

This directive does not prohibit police personnel from stopping or detaining individuals if a specific report exists in which an individual's race, national origin, citizenship, religion, ethnicity, age, gender or sexual orientation is a factor in determining the existence of probable cause for taking police action.

II. DEFINITIONS

Arrest – To deprive a person of his/her liberty by legal authority.

Bias Based Profiling – 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. This also includes, but is not limited to, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

Detention – Any restriction upon a person's liberty imposed by a peace officer, based upon reasonable suspicion. If the individual is not free to go, the individual will be considered detained.

Pedestrian Stop – An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Race or Ethnicity — Of a particular descent, including Alaska Native/American Indian, Asian/Pacific Islander, Black, White, or Hispanic/Latino. (2.01)

Seizure – Any taking of property from an individual without the individual's consent or any restriction of an individual's liberty without the individual's consent. A detention will be considered a seizure, as will an arrest.

Motor Vehicle Stop – An occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

III. POLICY

Members of the Bryan Police Department will not engage in any activities that are discriminatory or indicative of the practice of bias based profiling. Personnel will focus on the conduct of individual and/or specific suspect information in taking police action. Individuals will not be targeted for enforcement action, detention, field contacts, asset seizure and forfeiture efforts, or interdiction solely on the basis of race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Any officer found to have engaged in bias based profiling, following complete investigation, will face appropriate corrective action, which may include diversity training, counseling, or disciplinary measures up to and including indefinite suspension. (1.2.9a) (2.01)

IV. PROCEDURES

A. Data Collection

1. The Department will maintain a database of information related to All motor vehicle contacts as prescribed by TCOLE, including information relating to:
 - a. Gender of detained individual;
 - b. The race or ethnicity of the individual detained;
 - c. Was the race or ethnicity known prior to the traffic stop;
 - d. Reason for the traffic stop;

- e. Street type of the stop;
- f. Whether a search was conducted; Reason of the search;
- g. Was contraband discovered;
- h. Description of contraband;
- i. Result of stop;
- j. If arrest made the reason for the arrest;
- k. Was physical force used;

B. Annual Data Report [\(1.2.9c\)](#)

1. An independent consultant shall prepare an annual report of agency practices based on the data collection in section IV.A and shall submit it to the Chief of Police for administrative review. This report will not contain information specific to the officers involved or to the individuals who were stopped. The purpose of the report shall be:
 - a. To identify any possible existence of bias based profiling by police officers within the Bryan Police Department.
 - b. To examine the disposition of motor vehicle stops identified in IV.A above.
 - c. To compile information relating to each complaint filed with the agency alleging that an officer has engaged in bias based profiling.
2. By March 1st of each calendar year, the Chief of Police will submit the annual report to:
 - a. The City Manager and City Council
 - b. The Texas Commission on Law Enforcement [\(1.2.9c\)](#)
3. The Chief of Police will present the Annual Report to the Citizen Advisory Committee. Comments and concerns from the citizen advisory meeting will be documented for future review and referral.

C. Video and Audio Equipment

1. Each motor vehicle regularly used to make motor vehicle stops will be equipped with video camera and transmitter-activated equipment.
2. Each motorcycle used to make motor vehicle stops will be equipped with transmitter-activated equipment.
3. Each motor vehicle and pedestrian stop capable of being recorded will be recorded in its entirety. [\(41.3.8a\)](#)
4. Video/Audio media will be handled, labeled, and stored as outlined in General Order 08-10 (Mobile Video & Audio Management). [\(41.3.8bc\)](#)
[\(41.3.8c\)](#)

D. Responsibilities

1. Officers

- a. Officers will follow procedures for traffic stops as outlined in [General Order 06-01 \(Traffic Enforcement\)](#) and [General Order 06-02 \(Traffic Stops\)](#).
 - b. Officers are responsible for ensuring mobile video/audio recording equipment is fully operational throughout their tour of duty. Any equipment failure or repairs needed should be immediately reported to the on duty shift supervisor.
 - c. Issue written information on how to file a compliment or complaint to the driver stopped in the traffic contact. [\(2.01\)](#)
2. Crime Analyst: The Crime Analyst will maintain and report the data collected for purposes of this directive.
3. Training Coordinator: The Training Coordinator will provide annual biased based profiling training, to include legal aspects, to personnel as determined appropriate by the Texas Commission on Law Enforcement. [\(1.2.9b\)](#)
4. Public Information Officer
 - a. The Public Information Officer will periodically provide education to the public concerning the professional standards complaint process. The education will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of the Department has engaged in bias based profiling with respect to the individual. The P.I.O. will document any citizen concerns or comments expressed.
 - b. Public education concerning the Department's complaint process may be provided in one or more of the following ways:
 - (1) Television interview/report
 - (2) Newspaper interview/articles
 - (3) Public Forums
5. Professional Standards Division
 - a. The Professional Standards Division will be responsible for investigating any complaints of bias based profiling filed against any member of the Bryan Police Department.
 - b. If a video or audio recording is made of an incident which is the basis of a complaint, the Professional Standards Division will provide a copy of the recording to the officer who is the subject of the complaint upon the officer's written request. The request is to be made in memo form and routed through the chain of command to the Professional Standards Division.
 - c. The Professional Standards Division will conduct an audit, at least annually, of video/audio recordings with the intent to determine if supervisors are conducting random video/audio reviews in compliance with this directive.

- d. The PSD will review all video recordings in which a complaint of bias-based profiling is alleged.

6. Supervisors

- a. Traffic enforcement will be accomplished by consistent, ongoing supervisory oversight to ensure officers do not go beyond the parameters of reasonableness in conducting such activities.
- b. Supervisors will ensure that officers use video/audio equipped vehicles, unless circumstances deem otherwise.
- c. Supervisors will randomly review the video/audio recordings of their subordinates in order to assess officer performance and ensure compliance with this and other applicable directives.

E. Complaint Process

1. Citizens may lodge a compliment or a complaint of bias based profiling in the same manner as any other complaint against a Department employee:
 - a. Telephone: Professional Standards Division, 911 Dispatch Center, Intake Specialist, on duty supervisor, or department employee.
 - b. Mail: Bryan Police Department (Attn: Professional Standards Division), P.O. Box 1000, Bryan, TX 77805
 - c. E-mail: Professional Standards Investigator via City of Bryan website
 - d. BPD Web Site: www.bryantx.gov
 - e. In person

Public Education: The Department maintains brochures (*Compliments or Complaints Against Department Employees*) for the public that detail the process of lodging a compliment or complaint against Department employees and the investigative process.

Upon enactment, this directive will rescind and supersede any and all previous directives pertaining to this subject.

BIAS BASED PROFILING

Definition: The targeting of an individual(s) for enforcement action, detention, or interdiction based solely on a trait common to a group of people. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or other identifiable group.

Policy: Members of the Bryan Police Department will not engage in any activities that are discriminatory or indicative of the practice of bias based profiling. Personnel will focus on the conduct of individual and/or specific suspect information in taking police action. Individuals will not be targeted for enforcement action, detention, field contacts, asset seizure and forfeiture efforts, or interdiction solely on the basis of race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or other identifiable group. Any officer found to have engaged in bias based profiling following complete investigation will face appropriate corrective action, which may include diversity training, counseling, or disciplinary measures up to and including indefinite suspension.

DEPARTMENT POLICY

The public has the right to expect efficient, fair and impartial law enforcement. Therefore, any misconduct by Department personnel must be detected, thoroughly investigated and properly adjudicated to assure the maintenance of these qualities.

The Department is often evaluated and judged by the conduct of individual members. It is imperative that the entire organization not be subjected to public censure because of the misconduct by a few of its personnel. When an informed public knows that its police department honestly and fairly investigates and adjudicates all allegations of misconduct against its members, this public will be less likely to question the effectiveness of Department investigations of incidents of misconduct.

Employees must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigative process. Personnel who engage in serious acts of misconduct, or who have demonstrated that they are unfit for law enforcement service, must be removed for the protection of the public, the Department, and Department employees.

The Department is constantly seeking to improve its efficiency and the efficiency of its personnel. Occasionally, personnel investigations disclose faulty procedures or policy failures that otherwise would have gone undetected. These procedures can then be improved or corrected.

CITY OF BRYAN POLICE DEPARTMENT

Professional Standards Division

Compliments/ Complaints Against Department Employees

Eric Buske
Police Chief
www.bryantx.gov



COMPLIMENT/COMPLAINT PROCESS

The Bryan Police Department accepts citizens' compliments and also takes citizen complaints very seriously and, investigates complaints that originate from any source.

Complaints are categorized, based on the severity, as either Class I or Class II. Either the employee's immediate supervisor or a Professional Standards Division (PSD) investigator generally investigates complaints, depending on the classification.

Depending on the nature of the complaint, a citizen will normally speak with the employee's immediate supervisor first, who will ask for specific information, such as:

- Your name and contact information
- When the incident occurred
- Where the incident took place
- Names/description of employee(s)
- Names/contact information of any witnesses
- Details of the incident.

Once received and classified, the investigative process is normally concluded within thirty days, at which time you will be notified of the outcome either by letter or telephone.

The employee's supervisors, up to and including the Chief of Police, review complaint investigations and the subsequent findings.

HOW TO FILE A COMPLIMENT/COMPLAINT

A compliment/complaint can be initiated using several methods, including:

Telephone:

Intake	(979) 209-5300
PSD Lieutenant	(979) 209-5319
PSD Clerk	(979) 209-5546
Patrol Sergeant	(979) 209-5301

Mail:

Bryan Police Department
P.O. Box 1000
Bryan, TX 77805

E-mail:

Kyle Halbert, PSD Lieutenant
HalbertK@bryantx.gov

Viki Rosprim, PSD Clerk
vrosprim@bryantx.gov

BPD Web Site:

www.bryantx.gov/pdcomplimentsorcomplaints

In Person:

303 E. 29th Street, Bryan

The method chosen to report the compliment/complaint does not impact the subsequent investigation, as all complaints are investigated. While a delay in reporting allegations will not preclude an investigation, the timeliness of the report may impact our ability to reach a definitive conclusion.

Please provide as complete and accurate details of the event as possible.

WHAT TO EXPECT

You can expect that your complaint will be taken seriously and investigated thoroughly. Because a complaint may result in disciplinary action and/or criminal charges against an employee, you may be required to provide a sworn statement.

You can expect to learn the disposition of your complaint within 30 days or receive an update at least every 30 days.

You can expect your complaint to be investigated fairly without regard to race, gender, religion, past history, sexual orientation, age, etc.

You can expect action to be taken upon the conclusion of the investigation, as appropriate.

BPD EXPECTATIONS

The Bryan Police Department solicits and welcomes citizen feedback concerning employee performance. The Bryan Police Department expects, however, that statements and information provided will be truthful. While we have high expectations of our employees and will impose discipline when appropriate, we will vigorously defend employees when allegations are proven false.

empleados cuando se demuestre que las acusaciones son falsas.

Perfilación Basada en Prejuicios

Definición: El hacer blanco de un individuo para llevar a cabo una acción de ejecución, detención o confrontación basados únicamente en una característica común de un grupo de gente. Esto incluye, pero no se limita a la raza, antecedentes étnicos, género, orientación sexual, religión, posición económica, edad, grupo cultural u otro grupo identificable.

Política: Los miembros del Departamento de Policía de Bryan no tomarán parte en actividades que sean discriminatorias o indicativas de la práctica de la Perfilación Basada en Prejuicios. El personal se enfocará en la conducta individual y/o en información específica que sea sospechosa para tomar acción. Los individuos no serán blanco para una acción de ejecución, de detención, ser contactos de campo, de embargo de bienes, de esfuerzos de confiscación o confrontación, únicamente basándose en la raza, antecedentes étnicos, género, orientación sexual, religión, posición económica, edad, grupo cultural u otro grupo identificable. Cualquier oficial, que después de una investigación completa se encuentre que ha estado involucrado en la Perfilación Basada en Prejuicios estará sujeto a una acción correctiva apropiada, la cual puede incluir entrenamiento de diversidad, consejería u otras medidas disciplinarias hasta e incluyendo la suspensión indefinida.

Políticas del Departamento

El público tiene derecho de esperar una impartición de ley eficiente, justa e imparcial. Por esta razón, la mala conducta de cualquier miembro del personal del Departamento debe ser detectada, investigada a fondo y sancionada apropiadamente, para asegurar el mantenimiento de estas cualidades.

El Departamento frecuentemente es evaluado y juzgado por la conducta individual de sus miembros. Es importante que la organización entera no esté sujeta a la censura pública por la mala conducta de algunos miembros de su personal. Cuando el público está informado sabe que su departamento de policía investiga y juzga honestamente todas las acusaciones de mala conducta en contra de sus miembros, es menos probable que el público cuestione la efectividad de las investigaciones de incidentes de mala conducta del Departamento.

Los empleados deben estar protegidos en contra de acusaciones de mala conducta falsas o sin fundamento. Esto se puede lograr únicamente mediante un proceso constante de investigaciones rigurosas.

El personal que participe en actos de mala conducta serios o que hayan demostrado que no están capacitados para ejercer los servicios de la ejecución de la ley, deben ser destituidos para la protección del público, del Departamento y los empleados del Departamento.

El Departamento está buscando constantemente mejorar su eficiencia y la eficiencia de su personal. Ocasionalmente, las investigaciones del personal revelan procedimientos defectuosos o fallas en sus políticas que de otra manera hubiesen pasado desapercibidas. Estos procedimientos pueden ser mejorados o corregidos.

Ciudad de Bryan Departamento de Policía

*División de Estándares
Profesionales*

Piropos/Quejas en Contra de Empleados del Departamento

Eric Buske
Jefe de la Policía
www.bryantx.gov



Tramite de Quejas/Piropos

El Departamento de Policía de Bryan toma las quejas y piropos de los ciudadanos muy seriamente y acepta e investiga las quejas que se originan de cualquier fuente.

Las quejas son clasificadas, basadas en su gravedad, en cualquiera de estas dos, Clase I o Clase II. El supervisor inmediato o un investigador de la División de Estándares Profesionales (PSD, por sus siglas en Inglés) generalmente investiga las quejas, dependiendo de la clasificación.

Dependiendo de la naturaleza de la queja, un ciudadano normalmente hablará primero con el supervisor inmediato del empleado, quien pedirá información específica, tal como:

- Su nombre e información para contactarle
- Cuando ocurrió el incidente
- Donde ocurrió el incidente
- Nombre(s)/descripción del o los empleado(s)
- Nombre(s)/información para contactar a cualquier testigo
- Detalles del incidente

Una vez recibida y clasificada, el proceso de investigación concluye dentro de treinta días, al tiempo se le notificará de los resultados ya sea por teléfono o por carta.

Los supervisores del empleado, e incluyendo al Jefe de la Policía, examinarán las investigaciones de las quejas y los hallazgos subsecuentes.

Como Presentar una Queja/Piropo

Una queja/piropo puede ser iniciada utilizando varios metodos, incluyendo:

Teléfono:

Intake (Oficina de Recopilación de Datos)
(979) 209-5300

Teniente de la División de Estándares Profesionales (PSD, por sus siglas en Inglés)
(979) 209-5319

Empleado Administrativo de la División de Estándares Profesionales (PSD, por sus siglas en Inglés)
(979) 209-5546

Sargento de Patrullaje (979) 209-5301

Correo:

Departamento de Policía de Bryan
P.O. Box 1000
Bryan, TX 77805

Correo Electrónico:

Teniente de la División de Estándares Profesionales (PSD, por sus siglas en Inglés), Kyle Halbert
halbertk@bryantx.gov

Empleado Administrativo de la División de Estándares Profesionales (PSD, por sus siglas en Inglés), Viki Rosprim
vrosprim@bryantx.gov

Sitio del Departamento de Policía de Bryan en la Red:

www.bryantx.gov/pdpiroposoquejas

En Persona:

303 E 29th St, Bryan

El método escogido para reportar la queja/piropo no afectará la investigación subsecuente, puesto que todas las quejas son investigadas. Aunque un retraso en reportar

las acusaciones no excluirá una investigación, la prontitud del reporte puede agilizar una conclusión definitiva.

Por favor provea detalles del hecho lo más completo y acertado como le sea posible.

Que debe Esperar

Usted puede esperar que su queja se tome seriamente y sea investigada rigurosamente. Puesto que la queja puede tener como resultado una acción disciplinaria, y/o cargos criminales en contra de un empleado, se le pedirá que provea una declaración juramentada.

Usted puede esperar recibir la disposición de su queja dentro de los 30 días o recibir una actualización por lo menos cada 30 días.

Usted puede esperar que su queja sea investigada justamente sin contemplar raza, genero, religion, historial, orientación sexual, edad, etc...

Usted puede esperar que se tome acción una vez concluida la investigación, como sea debido.

Expectativas del Departamento de Policía de Bryan

El Departamento de Policía de Bryan solicita y acepta la retroalimentación de los ciudadanos con respecto al desempeño de sus empleados. Sin embargo El Departamento de Policía de Bryan espera que las declaraciones y la información proveida sean veridicas. Mientras que tenemos altas expectativas para nuestros empleados e impondremos disciplina cuando sea necesario, también defenderemos vigorosamente a nuestros

Appendix C: Racial Profiling Laws and Corresponding Standard Operating Procedures

Texas CCP Article	BRYAN POLICE DEPARTMENT General Order, 04-29.5, Bias Based Profiling
2.132(b)1	Definitions Section
2.132(b)2	Purpose Section
2.132(b)3	Complaint Process Section
2.132(b)4	Public Education Section
2.132(b)5	Policy Section
2.132(b)6	Procedures Section (A) Data Collection
2.132(b)7	Procedures Section (B) Annual Data Report