

UNIVERSITY OF TEXAS SYSTEM POLICE

2019

RACIAL PROFILING ANALYSIS

PREPARED BY:

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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 University of Texas System Police revealed the following:¹

- **A COMPREHENSIVE REVIEW OF THE UNIVERSITY OF TEXAS SYSTEM POLICE BIAS-BASED PROFILING AND RACIAL PROFILING POLICY SHOWS THAT THE UNIVERSITY OF TEXAS SYSTEM POLICE 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 UNIVERSITY OF TEXAS SYSTEM POLICE 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 UNIVERSITY OF TEXAS SYSTEM POLICE 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 UNIVERSITY OF TEXAS SYSTEM POLICE IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**

¹ This report covers the entire University of Texas System and its campuses, including Arlington, Austin, Dallas, El Paso, Galveston, Houston, HSC San Antonio, HSC Tyler, Permian Basin, Rio Grande Valley, San Antonio, SMC Dallas, and Tyler.

- **THE UNIVERSITY OF TEXAS SYSTEM POLICE IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**
- **THE UNIVERSITY OF TEXAS SYSTEM POLICE IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW REGARDING CCP ARTICLES 2.132-2.134.**

Introduction

This report details an analysis of the University of Texas System Police policies, training, and statistical information on racial profiling for the year 2019. This report has been prepared to specifically comply with Articles 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 University of Texas System Police in 2019. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

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

University of Texas System Police Policy on Racial Profiling

A review of the University of Texas System Police Bias-Based and Racial Profiling policy 201, in addition to policy 204 on Complaint Investigation, indicates the University of Texas System Police are 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 covered in the University of Texas System Police Bias-Based Profiling and Racial Profiling Policy 201 and policy 204 on Complaint Investigation. University of Texas System Police policies provide clear direction that any form of bias-based or racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including termination. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. It should also be noted that each campus under the umbrella of the University of Texas System Police also have information concerning racial profiling on their departmental websites. Appendix C lists the applicable statute and corresponding University of Texas System Police regulations.

A COMPREHENSIVE REVIEW OF THE UNIVERSITY OF TEXAS SYSTEM POLICE RACIAL PROFILING POLICY SHOWS THAT THE UNIVERSITY OF TEXAS SYSTEM POLICE IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

University of Texas System Police 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. Information provided by University of Texas System Police reveals that all but 6 of 561 commissioned officers requiring

racial profiling training have received this training. These 6 officers are new hires and their racial profiling training is being scheduled.

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

University of Texas System Police 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. University of Texas System Police Bias-Based and Racial Profiling policy 201, along with policy 204 on Complaint Investigation cover this requirement. In specific, policy 201 notes that information on the compliment and complaint process will be advertised to the public by utilizing various forms of news media (e.g., social media and institution department websites), service or organization presentations, campus meetings, and on the University of Texas System Police Office of the Director of Police web page.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE UNIVERSITY OF TEXAS SYSTEM POLICE REVEALS THAT THE UNIVERSITY OF TEXAS SYSTEM POLICE IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

University of Texas System Police 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. University of Texas System Police submitted statistical information on all motor vehicle stops in 2019 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 UNIVERSITY OF TEXAS SYSTEM POLICE 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)

Table 1: Traffic Stops by Race/Ethnicity

Stops by Race/Ethnicity	White	African-American	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	7,709	3,686	8,234	2,615	108	22,352
Percent of Stops	34.49%	16.49%	36.84%	11.70%	0.48%	100%

As shown in Table 1, there were a total of 22,352 motor vehicle stops in 2019 in which a ticket, citation, warning and/or arrest occurred. Overall, 36.84% of the motor vehicle stops were of Hispanic motorists, 34.49% were of White motorists, 16.49% were of African-American motorists, 11.70% were of Asian motorists, and 0.48% were of Alaska Native/American Indian motorists.

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 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.

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 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.

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)

As illustrated in Table 2 below, the most common result of stop action was a verbal warning. Of the 22,352 motor vehicle stops in 2019, 8,928 resulted in a verbal warning (39.94%).² The second most common result of stop action was a citation. Of the 22,352 motor vehicle stops in 2019, 7,301 resulted in a citation (32.66%). Of the 22,352 motor vehicle stops in 2019, 6,132 resulted in a written warning (27.43%). Arrests were rare as a traffic stop outcome with only 490 arrests out of all motor vehicle stops (2.19%). The result of stop action numbers are provided in Table 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)

As illustrated in Table 3 below, a total of 605 **searches** of motorists were conducted, or roughly 3 percent of all stops resulted in a search in 2019 (605/22,352 total stops). Regarding searches, it should be further noted that only 45 out of the 605 searches (see Table 3), or 7.44 percent of all searches, were based on consent, which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (22,352), discretionary consent searches occurred in 0.20 percent of stops.

Of the searches that occurred in 2019, and as shown in Table 3, **contraband** was discovered in 261 or roughly 43 percent of all searches (261/605 total searches). Among the searches in which contraband was discovered (261), roughly 77 percent of the time the contraband discovered was drugs.³

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 2019, internal records indicate that the University of Texas System Police received 1 complaint alleging that a peace officer employed by the agency engaged in racial profiling. Upon internal investigation, this complaint was unfounded.

Additional Information Required to be Reported to TCOLE

Tables 2-4 provide additional information relative to motor vehicle stops in 2019 by the University of Texas System Police. These data are required to be collected by the University of Texas System Police under the Texas Code of Criminal Procedure Article 2.133.

² Note that the number of stops (22,352) is less than the number of “Result of Stop” actions (22,851). This discrepancy occurs because more than one outcome can occur per stop. For example, in one stop, a person could receive a verbal warning, a written warning, and be arrested.

³ Note that the number of searches in which contraband was discovered equals 261, but the “Description of Contraband” total equals 265. This discrepancy occurs because more than one item of contraband can be discovered in a single stop/search.

Table 2: Data on Traffic Stops and Arrests

Stop Table	Frequency
Number of Stops	22,352
Reason for Stop	
Violation of Law	158
Preexisting Knowledge	49
Moving Traffic Violation	16,002
Vehicle Traffic Violation	6,143
Result of Stop	
Verbal Warning	8,928
Written Warning	6,132
Citation	7,301
Written Warning and Arrest	0
Citation and Arrest	0
Arrest	490
Arrest Based On	
Violation of Penal Code	272
Violation of Traffic Law	38
Violation of City Ordinance	0
Outstanding Warrant	180

Table 3: Data on Searches Pursuant to Traffic Stops

Search Table	Frequency
Search Conducted	
Yes	605
No	21,747
Reason for Search	
Consent	45
Contraband in Plain View	21
Probable Cause	269
Inventory	107
Incident to Arrest	163
Was Contraband Discovered	
Yes	261
No	344
Description of Contraband	
Drugs	202
Currency	0
Weapons	8
Alcohol	42
Stolen Property	1
Other	12

Table 4: Additional Data on Traffic Stops

Additional Information	Frequency
Gender	
Male	12,920
Female	9,432
Race/Ethnicity Known Prior to Stop	
Yes	234
No	22,118
Was Physical Force Resulting in Bodily Injury Used During Stop	
Yes	10
No	22,342
Approximate Location of Stop	
City Street	20,564
US Highway	137
County Road	29
State Highway	310
Private Property/Other	1,312

Analysis of Racial Profiling Compliance by University of Texas System Police

The foregoing analysis shows that the University of Texas System Police 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, an education and training process, a formalized complaint process, and the collection of data in compliance with the law.

In addition to providing summary reports and analysis of the data collected by the University of Texas System Police in 2019, 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 University of Texas System Police as well as police agencies across Texas.

**University of Texas System Police
TCOLE Reporting Forms**

University of Texas System Police

For the year: 2019

Reporting Period: 01/01/2019 to 12/31/2019

Completed by: Ruben Puente/Assistant Director of Police
NAME/TITLE

EMAIL: rpuente@utsystem.edu

Contact Phone Number: 512-499-4686

Submitted by: _____
(if different than above) NAME/TITLE

EMAIL: _____

Contact Phone Number: _____

Total stops: 22352

1. Gender

CCP 2.133(b)(1)(a)

1.1	Female	9432
1.2	Male	<u>12920</u>

2. Race or ethnicity

CCP 2.132(a)(3), 2.132(b)(6)(A), 2.133(b)(1)(B)

2.1	Black	3686
2.2	Asian or Pacific Islander	<u>2615</u>
2.3	White	<u>7709</u>
2.4	Hispanic or Latino	8234
2.5	Alaska Native or American Indian	<u>108</u>

3. Was race or ethnicity known prior to stop?

CCP 2.132(b)(6)(C)

3.1	Yes	234
3.2	No	<u>22118</u>

4. Reason for stop?

CCP 2.132(b)(6)(F), 2.133(b)(2)

4.1	Violation of law:	158
4.2	Preexisting knowledge:	<u>49</u>
4.3	Moving traffic violation:	<u>16002</u>

4.4 Vehicle traffic violation: 6143

5. Street address or approximate location of the stop

CCP 2.132(b)(6)(E), 2.133(b)(7)

5.1 City street: 20564
5.2 US highway: 137
5.3 County road: 29
5.4 State highway: 310
5.5 Private property or other: 1312

6. Was a search conducted?

CCP 2.132(b)(6)(B), 2.133(b)(3)

6.1 Yes 605
6.2 No 21747

7. Reason for Search?

7.1 Consent: 45 CCP 2.132(b)(6)(B), 2.133(b)(3)
7.2 Contraband in plain view: 21 CCP 2.133(b)(5)(A)
7.3 Probable cause: 269 CCP 2.133(b)(5)(B)
7.4 Inventory: 107 CCP 2.133(b)(5)(C)
7.5 Incident to arrest: 163 CCP 2.133(b)(5)(C)

8. Was Contraband discovered?

CCP 2.133(b)(4)

8.1 Yes 261
8.2 No 344

9. Description of contraband

CCP 2.133(b)(4)

9.1 Drugs: 202
9.2 Currency: 0
9.3 Weapons: 8
9.4 Alcohol: 42
9.5 Stolen property: 1
9.6 Other: 12

10. Result of the stop

10.1	Verbal warning:	8928	CCP 2.133(b)(8)
10.2	Written warning:	<u>6132</u>	CCP 2.133(b)(8)
10.3	Citation:	<u>7301</u>	CCP 2.133(b)(8)
10.4	Arrest	<u>490</u>	CCP 2.133(b)(4)
10.5		<u> </u>	
10.6		<u> </u>	

Arrest Total: 490

11. Arrest based on

CCP 2.133(b)(6)

11.1	Violation of Penal Code:	272
11.2	Violation of Traffic Law:	<u>38</u>
11.3	Violation of City Ordinance:	<u>0</u>
11.4	Outstanding Warrant:	<u>180</u>

12. Was physical force resulting in bodily injury used during stop?

CCP 2.132(b)(6)(D), 2.133(b)(9)

12.1	Yes	10
12.2	No	<u>22342</u>

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

University of Texas System Police Bias-Based and Racial Profiling Policy



**OFFICE OF THE DIRECTOR OF POLICE
THE UNIVERSITY OF TEXAS SYSTEM
POLICY AND PROCEDURE MANUAL**



Subject			Policy Number
BIAS-BASED PROFILING AND RACIAL PROFILING			201
Effective Date	Revision Date	Reevaluation Date	Number of Pages
February 24, 2011	February 12, 2019	Annually	6
Reference Standards		Replaces or Amends Policy Number	
TPCA: 2.01.1 CALEA: 1.2.9 IACLEA: 4.1.3		C-1 dated September 1, 2004	

I. PURPOSE

The purpose of this policy is to reaffirm the commitment of the University of Texas System Police to unbiased policing in all encounters between a police officer and any person; to reinforce procedures that ensure public confidence and mutual trust by providing services in a fair and equitable fashion; and to protect police officers from unwarranted accusations of misconduct when they act within the dictates of this policy and the law.

II. POLICY

It is the policy of the University of Texas System Police ("UT System Police") to police in a proactive manner and to investigate suspected violations of law. Within that mandate, UT System Police officers shall actively enforce local, state, and federal laws in a responsible and professional manner, without unlawful regard to race, gender, sexual orientation, ethnicity, or national origin. Moreover, the UT System Police strictly prohibits its officers from engaging in bias-based profiling or racial profiling as those terms are defined in this policy.

Two of the fundamental rights guaranteed by the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. Accordingly, UT System Police officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Finally, bias-based profiling and racial profiling, in particular, are unacceptable policing tactics and are strictly prohibited.

This policy shall not preclude police officers from offering assistance, such as when they observe a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost, or confused. Nor does this policy prohibit an officer from stopping a person suspected of a crime based upon observed actions and/or information received about the person.

This policy applies to all police officers commissioned under the authority of the Board of Regents of The University of Texas System and the Director of Police, and to all other employees of UT

institution police departments. Moreover, this policy applies to police officers' actions with respect to all persons, whether those persons are drivers, passengers or pedestrians.

III. DEFINITIONS

- A. Bias — the selection of an individual based solely on a common trait of a group, including, but not limited to, race, ethnicity, gender, sexual orientation, religion, economic status, age, and/or cultural background.
- B. Bias-Based Profiling — a law enforcement-initiated action, detention or interdiction based solely on a trait common to a group of people, rather than on the individual's behavior and/or information tending to identify the individual as having engaged in criminal activity.
- C. 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.
- D. Motor Vehicle Stop — means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.
- E. Police Officer — any person licensed by the Texas Commission on Law Enforcement and commissioned as a peace officer under the authority of the Board of Regents of The University of Texas System and the Director of Police who is (1) otherwise qualified, pursuant to Section 51.203 of the Texas Education Code, and (2) defined as a peace officer under Article 2.12 of the Texas Code of Criminal Procedure.
- F. Race or Ethnicity — means of a particular descent, including Alaskan Native or American Indian, Asian or Pacific Islander, Black, Caucasian/White, or Hispanic/Latino.
- G. Racial Profiling — a law enforcement-initiated action based solely on an individual's race, ethnicity, and/or national origin, rather than on the individual's behavior and/or information tending to identify the individual as having engaged in criminal activity.
- H. UT System Police — a dedicated, full-service law enforcement agency authorized by the State of Texas. The UT System Police includes all UT institution police departments, as well as The University of Texas System, Office of the Director of Police. The UT System Police is a single state law enforcement agency, as defined and recognized by the Texas Commission on Law Enforcement. The agency head chief administrator is the Director of Police.

IV. PROHIBITION

- A. The use of bias-based and/or racial profiling by police officers in any law enforcement encounters with persons viewed as suspects and/or potential suspects in criminal activities is strictly prohibited. The encounters to which this prohibition applies include, but are not limited to, motor vehicle stops, field contacts, and asset seizure and forfeiture operations.
- B. The prohibition against bias-based profiling and racial profiling does not preclude the UT System Police from using race, ethnicity, or national origin as factors in a detention decision. For instance, a suspect's race, ethnicity, or national origin may be legitimate factors in deciding whether to detain the suspect when those factors are used as of a physical description of a specific suspect for whom a police officer is searching.

Detaining a person and inquiring into that person's activities solely because of that person's race, ethnicity, or national origin, or solely because of bias, is prohibited bias-based profiling or racial profiling.

Examples of racial profiling include, but are not limited to, the following:

1. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding, solely because of the cited driver's race, ethnicity, or national origin.
2. Detaining the driver of a vehicle solely based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possess that specific make or model of vehicle.
3. Detaining a person solely based on the determination that a person of that race, ethnicity, or national origin does not belong in a specific geographic area or a specific place.

V. TRAINING

- A. A police officer shall complete the Texas Commission on Law Enforcement ("TCOLE") training and education program on racial profiling not later than (1) the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or (2) the date the officer applies for an intermediate proficiency certificate, whichever is earlier.
- B. As needed, the UT System Police may schedule and require police officers to attend in-service training on bias-based profiling.

VI. COMPLAINT INVESTIGATION

- A. The UT System Police shall accept complaints from any person who believes that a UT System Police officer has engaged in bias-based profiling or racial profiling with respect to him or her. No person shall be discouraged, intimidated, or coerced from filing a complaint, nor discriminated against because he or she files such a complaint.
- B. In addition, any UT System Police officer or UT institution police department employee who receives an allegation of bias-based profiling or racial profiling shall record the name, address and telephone number of the person who lodges the allegation, and shall (1) forward the complaint to the Chief of Police or his/her designee, or (2) direct the person how to do so. To direct the person on the filing of such a complaint, the officer or employee shall provide the person a copy of the complaint form (DP-42) and describe the process for filing a complaint.

All UT System Police officers and UT institution police department employees shall report any allegations of bias-based profiling or racial profiling to their respective superiors prior to the end of their shifts.

- C. In processing and investigating any complaint alleging that a UT System Police officer has engaged in bias-based profiling or racial profiling, the UT System Police shall follow UT System Office of the Director of Police Policy 204 – Complaint Investigation.
- D. At the commencement of the investigation into the complaint, the appropriate institution police department shall determine whether there is a video and/or audio recording of the event upon which the complaint is based. If a recording exists, the department shall promptly provide a copy of it to the police officer who is the subject of the complaint on his or her written request.

- E. At the conclusion of the investigation, the department shall forward all findings and/or disciplinary action, retraining, or policy changes to the Director of Police.
- F. If a bias-based profiling or racial profiling complaint is sustained against a UT System Police officer and in violation of this policy, that officer shall be subject to corrective action, which may include reprimand; diversity, sensitivity or other appropriate training or counseling; paid or unpaid suspension; termination of employment, or other appropriate action as determined by the institution Chief of Police.

VII. PUBLIC EDUCATION OF THE UT SYSTEM POLICE COMPLIMENT AND COMPLAINT PROCESS

The UT System Police will 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.

The UT System Police compliment and complaint process will be advertised by utilizing the news media, service or organization presentations, the Internet (to include, but not limited to, social media and institution police department websites), campus meetings, and/or the UT System Police Office of the Director of Police web page whose internet link is "<http://www.utsystem.edu/offices/police>".

VIII. COLLECTION, ANALYSIS, AND REPORTING OF INFORMATION

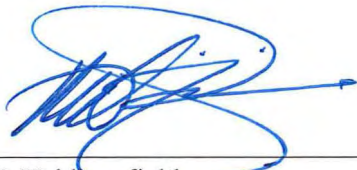
- A. PARTIAL EXEMPTION -- The UT System Police shall collect information relating to (1) motor vehicle stops in which a citation (or warning) is issued and (2) arrests made as a result of these stops. The information collected shall include:
 - 1. The race or ethnicity of the person detained as stated by the person or as determined by the standard of any reasonable police officer to the best of his/her ability and whether the officer knew or did not know the race or ethnicity of the person detained before the detention occurred;
 - a) The race or ethnicity of the individual includes (as reflected in DP #48 for use after December 31, 2017):
 - (1) Alaskan Native or American Indian
 - (2) Asian or Pacific Islander
 - (3) Black
 - (4) Caucasian/White
 - (5) Hispanic/Latino

2. The number of Contacts, Total Searches (combination of Consensual and Probable Cause Searches), Consensual Searches, Probable Cause Searches, Custodial Arrests, Racial Profiling Complaints received, and complaint outcomes to include: Sustained, Not Sustained, Unfounded, Exonerated (as reflected in DP #48 for use after December 31, 2017)
 3. Whether a search was conducted and whether the individual consented to the search
 4. Whether the officer made an arrest.
 5. Whether the officer issued a ticket, citation, or warning
 6. Whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code (“means physical pain, illness, or any impairment of physical condition), during the stop;
 7. The location of the stop.
 8. The reason for the stop.
- B. Not later than February 1 of each year, the Chief of Police of each institution police department shall submit to the Director of Police a report containing the information required by Paragraph A that his or her police department compiled during the previous calendar year.
- C. After receiving the information described in Paragraph B, the Director of Police shall compile and analyze the information contained in each report. Not later than March 1 of each year, the Director of Police shall submit a report of the information collected under Paragraph A to TCOLE and to The University of Texas System Board of Regents.
- D. The report required by Paragraph B shall not include identifying information about the peace officer who makes a motor vehicle stop or about the person who is stopped or arrested by the peace officer. However, this subsection does not affect the duty of UT System Police officers to collect the information required by Paragraph A.

IX. USE OF VIDEO AND AUDIO EQUIPMENT

- A. The policy of the UT System Police is that all UT System Police vehicles and motorcycles regularly used by a police officer to make motor vehicle stops shall be equipped with a video camera and transmitter-activated equipment. If possible, officers may be equipped with body worn cameras. (See UT System Office of the Director of Police Policy 413 – Body Worn Camera Program)
- B. Each motor vehicle stop made by a police officer shall be recorded by video and audio equipment or audio equipment.
- C. Each UT institution police department shall retain the video and audio recording or audio recording of each motor vehicle stop.
- D. If a complaint is filed alleging that a police officer has engaged in bias-based profiling or racial profiling with respect to a motor vehicle stop, the institution police department shall retain the video and audio recording or audio recording of the stop until final disposition of the complaint.

- E. Supervisors shall ensure that police officers record all motor vehicle stops and the institution Chief of Police or his designee shall periodically conduct reviews of a randomly selected sampling of video/audio recordings to determine if patterns of biased based profiling exist.
- F. If the equipment used to record motor vehicle stops is malfunctioning or otherwise not operable, the officer making the stop shall report the malfunction to his/her supervisor immediately and manually collect the data and properly record and report the information as required by this policy and Article 2.133, Texas Code of Criminal Procedure, "Reports Required for Motor Vehicle Stops". Repairs deemed necessary should be made as soon as practicable.



Michael J. Heidingsfield
Director of Police

Changes/Amendments since last publication:

Revisions made throughout to reflect requirements of The Sandra Bland Act (SB 1849, 85th Texas Legislative Session, 2017)

Throughout - Changed reference from TCLEOSE to TCOLE, February 12, 2014

Paragraph VIII. A. - Revised Tier 1 Reporting requirements to reflect information required in revised DP #48 form, February 12, 2014

Paragraph V III. B. — Deleted references to Full Report — Tier 2 Reporting, February 12, 2014

Paragraph IX. A. — Deleted reference to interim reporting requirements for police departments not equipped with video camera and transmitter-activated equipment. February 12, 2014 Paragraph IX. B — Deleted phrase "that is capable of being recorded". February 12, 2014



**OFFICE OF THE DIRECTOR OF POLICE
THE UNIVERSITY OF TEXAS SYSTEM
POLICY AND PROCEDURE MANUAL**



Subject COMPLAINT INVESTIGATION			Policy Number 204
Effective Date October 4, 2012	Revision Date February 12, 2019	Reevaluation Date Annually	Number of Pages 14
Reference Standards TPCA: 2.04.1 CALEA: 26.2.1, 26.2.2, 26.2.3, 26.2.4, 26.3.1, 26.3.2, 26.3.3, 26.3.5, 26.3.6, 26.3.8 IACLEA: 4.2		Rescinds or Amends Policy Number B-9	

I. PURPOSE

The purpose of this policy is to provide a specific procedure for processing and resolving a complaint by any person regarding the conduct of a law enforcement officer or civilian employee of the University of Texas System Police (UTSP) and to insure an impartial and unbiased investigation. This Policy should be read in conjunction with ODOP Policy 208 -Discipline and Appeal Procedure and ODOP Policy 205 - Grievance Procedure.

It is important to note that our philosophy is to train officers to be successful and recognize that mistakes will be made from time to time. Disciplinary sanctions are only one of many alternatives available to UTSP leadership to ensure we have a 21st century gold standard university law enforcement agency.

Throughout these procedures the rights of the individual police officer or employee and the citizen must be acknowledged and not compromised.

II. POLICY

It is the policy of the University of Texas System Police to accept, investigate and resolve complaints concerning the conduct of law enforcement officers and civilian employees of the University of Texas System Police.

Effective law enforcement depends on a relationship of trust and confidence between the University of Texas System Police and the university; employees must be free to exercise their own judgment and take enforcement action in a reasonable, lawful, and impartial manner without fear of reprisal.

Likewise, it is also important to establish a disciplinary process that enables the University of Texas System Police to initiate positive, corrective action for improper conduct.

It is the responsibility of the Chief of Police to ensure that this policy and the impact it may have on personnel processes are shared with your respective Human Resources counterpart.

III. SCOPE

- A. This procedure is established to provide an orderly, effective, and efficient process for receiving and investigating complaints and to properly report the results of such investigations. A complaint against a police officer or civilian employee may be lodged by any person.
- B. This procedure does not apply to:
 - 1. Routine corrective action by a supervisor that would not result in disciplinary action. Corrective action, counseling, coaching and mentoring are primary duties of a supervisor and are not considered complaints subject to this policy.
 - 2. Concerns regarding quality of service or minor performance shortcomings that would not result in discipline.
- C. The investigation of allegations of improper actions other than illegal acts by UTSP police officers or civilian employee shall be considered a Class I or Class II complaint investigation. Nothing in this policy shall preclude a separate and completely independent criminal investigation of a police officer or civilian employee who is the subject of an administrative complaint investigation. When there is reason to believe that a crime has been committed, the affected police officer or civilian employee's Chief shall decide if the administrative complaint investigation should continue. The affected police officer or civilian employees' Chief of Police shall notify the Office of the Director of Police (ODOP) and request that a criminal investigation be conducted. The final decision to whether a criminal investigation will be conducted rest with the Director of Police.

IV. DEFINITIONS

For the purposes of this policy, the following definitions apply:

- A. **Administrative Leave with Pay:** When an employee is the subject of a disciplinary investigation and it is determined by the Chief of Police that the employee should be relieved from regular duties.
- B. **Complaint:** An allegation(s) against an employee of the University of Texas System Police, which if proven true, could result in disciplinary action as the result of a Class I or II complaint and that alleges one or more of the following:
 - 1. An infraction of the University of Texas System Police Code of Conduct, Policies and Procedures issued by the Director of Police or the rules, regulations, or policies of an institution police department, or the rules, regulations, or policies of an institution's handbook of operating procedures;
 - 2. An illegal act; and/or
 - 3. An infraction of rules and regulations of the Board of Regents of The University of Texas System.
- C. **Chief or Chief of Police:** The Chief of Police for a University of Texas System institution.
- D. **Class I Complaint:** See Appendix A. All Class I complaints will be investigated by the Internal Affairs investigator.

- E. Class II complaint: See Appendix A. Depending on the complexity of the complaint, a Class II complaint may be investigated by the affected officer's supervisor or the Internal Affairs investigator as determined by the Chief of Police.
- F. Employee: Any full-time, part-time, or temporary paid member of the UTSP, to include police officers, public safety officers, telecommunication officers, security guards, shuttle drivers, administrative staff, access control personnel, parking personnel, budget analyst, and any and all civilian employees that report to the chief of police.
- G. Director of Police: The Director of Police, chief administrative officer for ODOP, the Agency Administrator for the UTSP, and chief law enforcement officer for the University of Texas System.
- H. Performance Concern: Information received from citizens regarding quality of service or minor rules violations that can be addressed through supervisory documentation and does not rise to the level that necessitates a complaint.
- I. Performance Folder: A temporary log of performance issues that have been corrected.

V. COMPLAINT PROCEDURE

- A. Performance Concern: Some concerns are very minor and should be resolved at the minimum supervisory level without requiring DP-42 documentation. Supervisors are encouraged to mediate a minor concern that can be resolved at the initial contact with the complainant when both parties can be satisfied with the outcome. Minor performance concerns will be documented and placed in the employee's performance folder.

Within 14 days of receipt of the complaint, supervisors will:

1. Evaluate the information.
2. Contact the citizen to discuss the information.
3. Discuss the issue(s) with the affected officer(s).
4. Explain the citizen's perception of the officer(s) behavior.
5. Discuss alternative approaches for improving public satisfaction with service.
6. Document the briefing in the employee's performance folder.

- B. Class I and Class II Complaints

Personnel Complaint Form DP-42 (Appendix B -hereinafter Form DP-42) will be used to record Class I or Class II complaints received and/or initiated by UTSP personnel. Form DP-42 will contain not only the alleged improper action, but will also include the policy, rule, or regulation allegedly violated. All DP-42 forms will be forwarded through the chain of command to the affected employee's Chief as soon as practicable after initiation and a copy will be forwarded to the Director of Police.

- C. Processing Class I and Class II Complaints

1. In Person

A person desiring to make a complaint will be furnished the name and contact information of the person to whom the complaint should be directed.

Individuals filing complaints against commissioned peace officers should be advised that Texas law requires complaints to be submitted in written form with the complainant's signature affixed (*Texas Government Code* Section 614.022).

2. Written Complaint

In the event a complaint is communicated by letter, affidavit or other written document, a supervisor will complete a Form DP-42, specifying the policy, rule, law or regulation at issue and attach the complainant's original written document.

3. By E-Mail

Any department employee receiving a complaint by e-mail shall forward it through their supervisor to his or her Chief who will determine investigative responsibility.

4. By Telephone

When a complaint is received by phone the caller will be advised of the statutory requirement as described above and request that the complaint be submitted in writing.

5. Complaint Not In Writing

- a) If the complainant refuses to put the complaint in writing, it should be explained that this will not necessarily prevent an investigation from being conducted, but that failure to submit the allegation(s) in writing could cause the complaint to be more difficult to investigate.
- b) In instances when a complaint is not received in written form, the initiating supervisor will record the complaint on Form DP-42 and affix his/her signature.

6. Anonymous Complaints

Anonymous complaints will be investigated regardless of the manner in which the complaint is received.

7. Complaints Initiated or Received by Supervisor

Supervisory or command personnel will initiate a Form DP-42 when they have firsthand knowledge or reliable information regarding a Class I or Class II violation.

Supervisory or command personnel receiving or initiating a complaint involving an employee not subject to their immediate supervision will initiate and forward a Form DP-42 to the affected employee's supervisor or commander as soon as practical.

D. Documentation

The following information, if available, will be included in the complaint:

1. The complainant's and witnesses' names, addresses, telephone numbers.
2. Date, time, and place of alleged misconduct.
3. Identification of the employee(s) involved.
4. Nature of the complaint.
5. Any action taken in an attempt to resolve the complaint.

E. Routing of Complaints

Class I and II complaints will be forwarded through the chain of command to the affected employee's Chief who will review the allegations and assign the complaint-if warranted-to the appropriate supervisor or Internal Affairs investigator.

F. Time Limit on Accepting Complaints

Personnel complaints will not be accepted more than thirty (30) days after the alleged incident, with the following exceptions:

1. When the complaint involves a criminal violation, the criminal statute of limitations will prevail. These limitations will not prevent the department from taking action deemed necessary to preserve the integrity of the department.
2. When the complainant can show good cause for not making the complaint within the specified time limit, the Chief of Police may waive this requirement.
3. When the Chief of Police or the Director of Police deem necessary.

G. Notifications Class I and II Complaints

1. To Complainant:

- a) After completing the DP-42, the complainant will be provided a copy of the document which will serve as the complainant's receipt.
- b) The investigating officer will provide the complainant periodic status reports on the progress of the investigation.
- c) Upon conclusion of the investigation, the complainant will be notified of the results of the investigation.

2. To Affected Employee:

- a) A copy of the completed Form DP-42 should be provided to the affected employee by his or her supervisor or assigned investigator as soon as practicable after the complaint is received. This must be done before any disciplinary action may be taken against the employee. The employee shall be advised to refrain from contacting the complainant regarding the complaint or subsequent investigation.
- b) The employee must be advised of and furnished copies of the complaint procedure and the supervisor or assigned investigator must obtain a timed and dated receipt of acknowledgement from the officer.

3. Employee Right to Respond

- a) At the time the employee is furnished a copy of the complaint, the employee may be compelled to respond to the allegations.
- b) If, during the course of an investigation, additional Class I or Class II violations are discovered, the affected employee will be afforded the opportunity to respond to these allegations in the same manner as the original complaint.

H. Administrative Leave with Pay

In situations involving aggravated or serious circumstances, the affected officer's Chief may immediately place the employee on administrative leave with pay subject to the investigation.

1. Administrative leave with pay:

- a) If allegations involve serious misconduct, the affected employee's Chief may immediately place the employee on Administrative Leave with Pay.
- b) Examples of serious misconduct include, but are not limited to, criminal offenses of the felony grade, Class A or B misdemeanors, direct insubordination, and conduct which would indicate that the employee is no longer fit for duty. Administrative leave may only be imposed by the affected employees' Chief or designee and shall not exceed thirty (30) calendar days in length unless extended as hereinafter provided and such shall be communicated in writing to the employee. The administrative leave will expire when administrative action is taken against the employee or a finding of exonerated or non-sustained is made.

2. Notification of Administrative Leave

The employee will be notified in writing by his or her Chief or designee of administrative leave without undue delay. The written notice shall include the reason(s) in sufficient detail to reasonably enable the officer to respond. The notice will also contain an order informing the employee that he or she is prohibited from performing any job related duties during the period of administrative leave.

3. Surrender of Equipment

While on administrative leave, the employee is required to surrender all department issued equipment to include firearms, identification cards, badge(s) keys, computers, cellular telephones, etc.

4. Notification to Director of Police

When an employee is placed on administrative leave, the Director of Police will be notified immediately, utilizing the Personnel Disciplinary Report DP -32.

5. While on administrative leave, the employee is required to remain readily available by an agreed method to the Chief of Police, and may be summoned to the department on a short notice.

6. Reinstatement of Employee:

An employee who has been placed on administrative leave shall be reinstated if the employee's Chief has exonerated him or her or a finding of non-sustained or unfounded was made.

VI. INVESTIGATION

The affected employee's Chief will be responsible for ensuring a complete, objective, and expeditious investigation of any complaint. If a resignation is received from an employee under investigation, the Chief shall determine whether the investigation should continue.

A. Who Shall Investigate

1. Only the Chief or his designee will investigate Class I complaints and the assigned investigator shall have the ability to report his/her findings directly to the Chief.
2. Class II Complaints may be investigated by the affected employee's supervisor and/or the Internal Affairs investigator.
3. The investigation of alleged misconduct by sworn police officers shall be conducted by a police officer whom the institution Chief has identified or designated as responsible for internal affairs investigations. Any sworn officer so identified or designated must successfully complete a recognized academic course of instruction on how to conduct such investigations which has been approved by the institution police chief. This ensures the investigation meets the relevant legal requirements and standards, reduces the department's exposure to liability or litigation and protects the rights of the police officer being investigated.

B. Purpose of Investigation

The purpose of an investigation is to examine the facts associated with a complaint to ascertain the truth. The investigator shall make every attempt to conduct an investigation in a manner that will prove or disprove the allegations of misconduct rather than leave them unresolved. There is no presumption of guilt associated with the employee against whom the allegation is made.

C. Procedure for Investigation

If the alleged improper act could be a crime or a Class I or Class II violation, the investigation shall include:

1. Personal contact with the complainant by the investigator (when at all possible) to fully discuss the complaint.
2. Personal contact with the accused employee by the investigator, in every instance, to fully discuss the allegations.
3. Personal contact when at all possible with all known witnesses.
4. The investigator has the option of recording interviews with the complainant, witness, and/or accused employee for review and preparation in typed form.
5. The investigator should attempt to obtain statements (written and signed) from complainants, accused employee, and/or witnesses as deemed necessary to support or refute the allegations being investigated. Statements shall be taken on a form approved by ODOP.
6. Obtaining all known relevant legal evidence and/or other documents to support or refute the allegations being investigated. The investigator, with specific authorization by the affected officer's Chief, will be allowed access to all necessary departmental records.
7. Implementation of scientific investigative aids (laboratory services, polygraph, etc.) as deemed necessary by the investigator to support the integrity of the investigation.

8. Investigator submission of a detailed investigation report fully addressing all allegations made, setting forth the facts as determined, including all statements, pertinent matters or items of legal evidence, supporting documentation, and a summary or synopsis of the case including a clear indication of the seriousness of the case and a finding of fact.

D. Interview Techniques

The investigative techniques employed by the internal affairs investigator may include orders to employees to:

1. Conduct a videotape reenactment
2. Be photographed
3. Participate in a physical line-up
4. Submit financial disclosure statements
5. Produce documents reasonably related to an investigation
6. Submit to an instrument for the detection of deception
7. Scientific examinations

E. Cooperation

1. Any employee who is the subject of an administrative complaint investigation shall cooperate fully and answer all questions posed by authorized representatives of the department during the investigation. All department employees questioned concerning their knowledge of a complaint will cooperate fully and truthfully answer all questions.
2. Any employee who refuses to cooperate or answer all questions concerning the administrative complaint investigation shall be subject to disciplinary action. If an employee refuses to answer the questions of the investigator(s) in an administrative complaint investigation on the grounds that he might incriminate himself, the investigator shall discontinue any questioning and his or her Chief shall be advised of the position taken by the employee. The Chief shall make a determination as to whether the employee shall be required to cooperate and answer the questions posed to him or her. If the Chief determines that the employee shall be required to respond, the Chief or his designee shall so advise the employee in writing.
 - a) Police Officer: utilizing a Garrity Warning (see example in Appendix C) setting out the reasons for the decision and the possible consequences of the officer continuing to refuse to respond to the questions. If, after being advised of his or her rights, the officer thereafter refuses to answer questions pertinent to the investigation he or she may be subject to disciplinary action, including termination from employment for insubordination.
 - b) Civilian Employee: A written order to the employee setting out the reasons for the decision and the possible consequences of the employee continuing to refuse to respond to the questions. If, after being advised of his or her rights, the employee thereafter refuses to answer questions pertinent to the investigation he or she may be subject to disciplinary action, including termination from employment for insubordination.

F. Confidentiality

It is prohibited for any departmental employee having knowledge of or engaged in an administrative complaint investigation involving a University of Texas System Police employee to divulge to any person any information regarding the current investigations. The only exceptions will be talking to assigned investigators, supervisory command, clergy, attorney, licensed counselor or physician. No employee shall by writing, speaking, utterance, or any other means commit an act; or cause another person to commit an act, which would hinder or obstruct an administrative investigation.

G. Length of Investigation

Complaint investigations shall be completed, reviewed, and submitted to the affected employee's Chief not later than 30 calendar days following the receipt of such complaint unless additional time is granted by the Chief. If additional time is granted, the Chief of Police will notify ODOP of the extension.

H. Interview of Accused

1. Personnel who are assigned to investigate complaints involving an employee's non-criminal misconduct shall be required to conduct a detailed, timely, and objective interview with the employee accused of the misconduct. The purpose of this interview is to secure from the employee a comprehensive and factual response to the complaint.
2. The results of the interview will be reduced to writing and any statement obtained during this interview will be obtained under oath. Any further response or rebuttal the employee desires to make will be provided to the investigator within five (5) calendar days and included in the investigative report. The accused employee will not be permitted to have counsel present during an interview regarding alleged non-criminal misconduct.

I. Polygraph Examination -from Sec. 614.063 *Texas Government Code*

(a) A peace officer may not be suspended, discharged, or subjected to any other form employment discrimination by the organization employing or appointing the peace officer because the peace officer refuses to submit to a polygraph examination as part of an internal investigation regarding the conduct of the peace officer unless:

- (1) The complainant submits to and passes a polygraph examination; or
- (2) The peace officer is ordered to take an examination under Subsection (d) or (e).

(b) Subsection (a)(I) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) For the purposes of this section, a person passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the matter under investigation.

(d) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if:

- (1) the subject matter of the complaint is confined to the internal operations of the organization employing or appointing the peace officer;
- (2) the complainant is an employee or appointee of the organization employing or appointing the peace officer; and

(3) the complaint does not appear to be invalid based on the information available when the polygraph is ordered.

(e) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if the head of the law enforcement organization considers the circumstances to be extraordinary and the head of the law enforcement organization believes that the integrity of a peace officer of the law enforcement organization is in question. The head of the law enforcement organization shall provide the peace officer with a written explanation of the nature of the extraordinary circumstances and how the integrity of a peace officer or the law enforcement organization is in question.

J. Officials Apprised

The Director of Police and the appropriate institution Vice President will be kept apprised regarding complaint investigations of a very serious nature when:

1. Dismissal of the accused employee appears imminent;
2. Criminal prosecution of the accused employee appears justified;
3. The reputation of the Department is in jeopardy as a result of the action of the accused employee;
4. Publicity may result.

K. Withdrawal of Complaints

1. If a complainant expresses the desire to withdraw a complaint and has no desire for the complaint to be pursued further, the complainant, in the presence of a supervisor, shall be requested to sign a Complaint Waiver Request Form (DP-43) (Attachment D).
2. All Complaint Waiver Request Forms shall be forwarded to the affected employee's Chief as soon as practicable.
3. The fact that a complainant has withdrawn a complaint does not necessarily terminate the investigation. The decision to terminate the investigation rests with the affected employee's Chief.

L. False Information

Whenever a complainant deliberately gives false information causing the University of Texas System Police to conduct an investigation, this information should be presented to the appropriate prosecutor under the appropriate Texas statutes.

VII. DETERMINATION, NOTICE AND DISCIPLINARY ACTION

A. Investigation Review

1. The affected employee's Chief shall be responsible for reviewing the investigation and providing written notification to the employee advising the employee of the findings and whether or not disciplinary action is forthcoming in the case. This notification must be prior to any disciplinary action.
2. The notification should be delivered to the affected employee in person or by certified mail, return receipt requested, to the employee's last known address.

B. Determination Notice

The notice to the employee shall contain a final conclusion for each allegation as determined by his or her Chief. One of the following conclusions will apply:

1. Unfounded: The allegation is false, not factual.
2. Exonerated: The incident occurred but was lawful and proper or was justified.
3. Not sustained: There is insufficient evidence to prove or disprove the allegations.
4. Sustained: The allegation is supported by sufficient evidence.

C. Disciplinary Action

In instances when the affected employee's Chief or designee determines that the complaint is sustained and that disciplinary action resulting in the termination, demotion, or suspension without pay of an employee is appropriate, the procedures outlined in the Discipline and Appeal Procedure, Policy 208 shall be followed.

D. Closing the Complaint Process

The case shall be considered closed upon a determination by the affected employee's Chief that the allegation is unfounded or not sustained or the employee is exonerated or if the complaint is sustained and disciplinary action is imposed on the employee.

E. Complainant Notification

After the investigation is completed and final action taken, it will be the responsibility of the Chief to notify the complainant in writing within ten (10) calendar days of the final results of the investigation and what action, if any, was taken.

VIII. Control of Records

- A. All records of investigations of employee misconduct investigated by Internal Affairs or by supervisors at the direction of Internal Affairs will be permanently filed in Internal Affairs. These files will be segregated from all other department files, will be marked as confidential and will be secured at all times within the Internal Affairs Section and will not be released to unauthorized persons.
- B. Access to files is limited to:
 1. Police Chief, Assistant Chief, and Division Commanders;
 2. Attorneys employed by the University of Texas System;
 3. Personnel permanently assigned to Internal Affairs;
 4. Temporarily assigned investigators may have that access necessary to accomplish their purpose during the time of their temporary assignment only.
 5. The Office of the Director of Police
- C. Review of files by any other personnel either within or outside the Department will be permitted only with the authority of the Chief of Police or as authorized by the Office of General Counsel.
- D. Employees may obtain a copy of the investigative report maintained by Internal Affairs. Redaction may be appropriate based on privacy concerns.

- E. Copies of the DP-42 and all documents pertaining to the investigation will be kept in the affected employee's personnel files in the Internal Affairs Office.
- F. Concerns informally disposed of by supervisors that did not require a Personnel Complaint shall be documented in the employee's performance folder and should be available to the employee. These files are subject to the same confidentiality and access rules as the files specified above. No copies of these records will be placed in an employee's personnel file.
- G. Documents in the files maintained in Internal Affairs above will not be purged except on written authorization of the Police Chief, Office of General Counselor the Director of Police.
- H. Internal Affairs shall have the responsibility of recording, registering and maintaining all complaints against the department and its employees.
- I. The Internal Affairs Investigator and Chief of Police will maintain keys to the Internal Affairs files located in the Internal Affairs Investigator's office.

IX. Notification to Director of Police

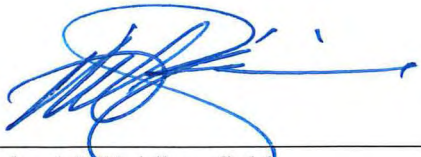
A copy of the results of the investigation of the complaint, including any disciplinary action (detailed on Form DP-32), will be forwarded to the Director of Police and will become a part of the employee's personnel file.

X. Complaint Conference

To ensure uniformity in the treatment of complaints, the Chiefs of Police and Director of Police will meet periodically to review disciplinary action(s) taken on complaints.

XI. Annual Statistical Summaries

Each UT System police department will compile an annual statistical summary based on its records of internal affairs investigations. These summaries will be made available to agency employees and the general public if so requested.



Michael J. Heidingsfield
Director of Police

Changes/Amendments since last publication:

Addition of language to Paragraph VI. F. to clarify prohibitions regarding disclosure of or interference with an administrative investigation. October 8, 2018

Changes throughout to clarify the applicability of this policy to both sworn officers and civilian police employees. July 18, 2013

Addition of language to Paragraph II to make it the responsibility of the Chief of Police to share this policy with their respective Human Resources counterpart. July 18, 2013

Renumbering of Paragraphs to make INVESTIGATION, Paragraph VI. March 25, 2013

Addition of Paragraph VI. A. 3 to mandate that sworn officers identified or designated as responsible for internal affairs investigations complete a recognized academic course on how to conduct investigations that has been approved by the Institution police chief. March 25, 2013

APPENDIX A

Class I Complaints

(Include, but are not limited to)

General Categories

Abuse of Authority

Criminal activity

Death of any person in police custody

Excessive use of force

Serious misconduct

Specific Standards

Abuse of Position

Abuse of Process/Withholding Evidence

Failure to Aid Fellow Officer

Association

Attempts and Conspiracy

Conformance to Laws

Departmental Reports, Truthfulness

Dereliction of Duty

Detectable Level of Drugs

Disclosure of Information

Discrimination

Evidence/Property

Fitness for Duty

Fraudulent Employment

Harassment

Immoral Conduct

Insubordination

Interference with Cases

Interference with Judicial Process

Personal Involvement in Cases

Sexual Harassment

Theft/Unauthorized Use

Treatment of Persons in Custody

Unauthorized Arrest or Search

Unbecoming Conduct/Conduct Prejudicial to Good Order

Inappropriate use of computers

Use of Force

Inappropriate use of Information Systems

Unlawful use or Possession of Drugs

Unauthorized Membership

Truthfulness

APPENDIX A (cont.)

Class II Complaints

(Include, but are not limited to)

General Categories

Discourtesy

Failure to Take Prompt and/or Effective Police Action

Improper Police Procedures

Inappropriate Behavior

Specific Standards

Alcohol on University of Texas Premises

Attention to Duty

Citizen Complaints

Conflicting Orders

Courtesy

Criticism

Employment Outside Department

Failure to Respond

Fictitious Illness or Injury Reports

Financial disclosure

Gambling

Horseplay/Rough Play

Identification

Officer in Charge

Payment of Debts

Personal Appearance

Personal Business

Reporting Absence

Reporting for Work

Requests for Assistance

Responding to Calls for Service

Telephone and Address

Unauthorized Absence

Use of Alcohol on duty

Use of Alcohol off Duty

Violation of Rules

Visiting Prohibited Establishment

APPENDIX B

University of Texas System Police

DP Form #42
(Rev. 10/18)

Personnel Complaint

Date:

Category of Complaint (check one box)

Class I Class II

Police Department Name:		Internal Complaint Number:	
Complainant's Full Name (Print or Type):	Telephone No.:	Date of Birth:	
Complainant's Address:			
Day & Date of alleged incident(s):		Approximate time of alleged incident(s):	
Location where incident occurred:			
If a person was arrested print name of arrested person:	Arrested person's address:	Telephone No.:	
Name of other identifying information relating to the employee against whom the allegation(s) is/are being made:			
-Witness or Witnesses (if any)-			
Name of witness:	Address of witness:	Telephone No.:	
Nature of Complaint(s) Clearly indicate the nature of your complaint. (Use reverse side of the form if more space is needed.)			

**APPENDIX B (cont.)
University of Texas System Police**

DP Form #42
(Rev. 10/18)

List Specific Violation(s):

Complainant Signature Witnessed by:

Copy Received:	Signature of Complainant	Date
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Employee Signature	Date
--------------------	------

- Complainant refused to affix signature
 Other (explain)

Response Waived:

Employee Signature	Date
--------------------	------

By signing the above, I acknowledge receipt of this complaint as well as the guiding policy regarding the confidentiality of this administrative investigation:

ODOP Policy 204, Complaint Investigations, VI. Investigation, F:

It is prohibited for any departmental employee having knowledge of or engaged in an administrative complaint investigation involving a University of Texas System Police employee to divulge to any person any information regarding the current investigations. The only exceptions will be talking to assigned investigators, supervisory command, clergy, attorney, licensed counselor or physician. No employee shall by writing, speaking, utterance, or any other means commit an act; or cause another person to commit an act, which would hinder or obstruct an administrative investigation.

Government Code

Section 614.022. Complaint to be in Writing and Signed by Complainant

To be considered by the head of a state agency or by the head of a fire department or local law enforcement agency, the complaint must be:

- (1) in writing; and
- (2) signed by the person making the complaint.

Section 614.023. Copy of Complaint to be Given to Officer or Employee

(a) A copy of a signed complaint against a law enforcement officer of this state or a fire fighter, detention officer, county jailer, or peace officer appointed or employed by a political subdivision of this state shall be given to the officer or employee within a reasonable time after the complaint is filed.

(b) Disciplinary action may not be taken against the officer or employee unless a copy of the signed complaint is given to the officer or employee.

(c) In addition to the requirement of Subsection (b), the officer or employee may not be indefinitely suspended or terminated from employment based on the subject matter of the complaint unless:

- (1) the complaint is investigated; and
- (2) there is evidence to prove the allegation of misconduct

APPENDIX C

GARRITY WARNING

You are required to respond to all questions asked of you in this administrative investigation. Further, you are required to assist investigators with any information they should request. If you fail or refuse to forthrightly answer any and all questions asked, you may be subject to disciplinary action up to and including termination from employment with the University of Texas System Police.

However, in accordance with the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967); your statement, as well as any information gained through your statement cannot be used against you in any criminal proceeding.

You are further ordered not to discuss this internal investigation with anyone other than your chain of command or attorney, including but not limited to witnesses or prospective witnesses. A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you up to and including termination from employment with the University of Texas System Police.

Your signature below declares that you have read and understood this warning prior to the initiation of any investigatory interrogation.

Signed this ____ day of _____, 20__

Officer's Signature

Officer's Printed Name

Witness

Witness

APPENDIX E

THE UNIVERSITY OF TEXAS SYSTEM POLICE

DP Form #32

AT _____

PERSONNEL DISCIPLINARY REPORT

Name:
Date and Time of Incident:
Date and Time Reported:

Complete Statement of Facts Concerning Misconduct:

Use Extra Sheet If Necessary

Employee's Comments:

Use Extra Sheet If Necessary

Section, Memorandum Number or Common Name of Infraction:

Penalty Imposed or Recommended:
--

Signature of Person Disciplined

Supervisor's Signature

Reviewed By

Chief of Police

Appendix C

Racial Profiling Laws and Corresponding University of Texas System Police Policies

Texas CCP Article	UNIVERSITY OF TEXAS SYSTEM POLICE Bias-Based Profiling and Racial Profiling Policy 201 & 204 Complaint Investigation
2.132(b)1	Section III Definitions
2.132(b)2	Section II Policy & IV Prohibition
2.132(b)3	Section VI Complaint Investigation and Policy 204
2.132(b)4	Section VII Public Education of the UT System Compliment and Complaint Process
2.132(b)5	Section VI Complaint Investigation and Policy 204
2.132(b)6	Section VIII Collection, Analysis, and Reporting of Information
2.132(b)7	Section VIII Collection, Analysis, and Reporting of Information