

BIG SPRING POLICE DEPARTMENT

2020

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 Big Spring Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE BIG SPRING POLICE DEPARTMENT REGULATIONS, SPECIFICALLY POLICY 2.2 BIAS BASED POLICING “RACIAL PROFILING POLICY” OUTLINING THE DEPARTMENT’S POLICY CONCERNING BIAS BASED PROFILING, SHOWS THAT THE BIG SPRING 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 BIG SPRING POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE BIG SPRING POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

- **THE BIG SPRING 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 Big Spring Police Department's policies, training, and statistical information on racial profiling for the year 2020. This report has been prepared to specifically comply with Article 2.132, 2.133, and 2.134 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of traffic stop data. Specifically, the analysis will address Articles 2.131 – 2.134 of the CCP and make a determination of the level of compliance with those articles by the Big Spring Police Department in 2020. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

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

Big Spring Police Department Policy on Racial Profiling

A review of Big Spring Police Department Bias Based Policing policy 2.2 revealed that the department has adopted policies to be in compliance with Article 2.132 of the Texas CCP (see Appendix B). There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in Policy 2.2. Big Spring Police Department regulations provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including termination. The regulations also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race or ethnicity. Appendix C lists the applicable statute and corresponding Big Spring Police Department regulation.

A COMPREHENSIVE REVIEW OF BIG SPRING POLICE DEPARTMENT POLICY 2.2 REGARDING BIAS BASED POLICING SHOWS THAT THE BIG SPRING POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Big Spring 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 Big Spring Police Department reveals that all officers have received bias-based/racial profiling training. Of note, the department uses a web-based company PMAM HCM (Human Capital Management) to train officers on the racial profiling law, and through this training, officers are given a test in which they must pass. These results and electronic signatures are maintained and archived through the PMAM system.

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

Big Spring 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. Big Spring Police Department Bias Based Policing policy (2.2) Section V Complaints covers this requirement. Specifically, the department has information regarding the complaint process and how to file a complaint on its website (<http://www.mybigspring.com/503/ComplaintCompliment-Procedure>) in addition to a brochure provided to citizens who wish to file a complaint. The departmental website also provides further information on racial profiling (<http://www.mybigspring.com/499/Racial-Profiling>). The website and brochure are clearly written and provide detailed information on the process and how to file a complaint.

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

Big Spring 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. Big Spring Police Department submitted statistical information on all motor vehicle stops in 2020 and accompanying information on the race/ethnicity of the person stopped. Accompanying this data was the relevant information required to be collected and reported by law.

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

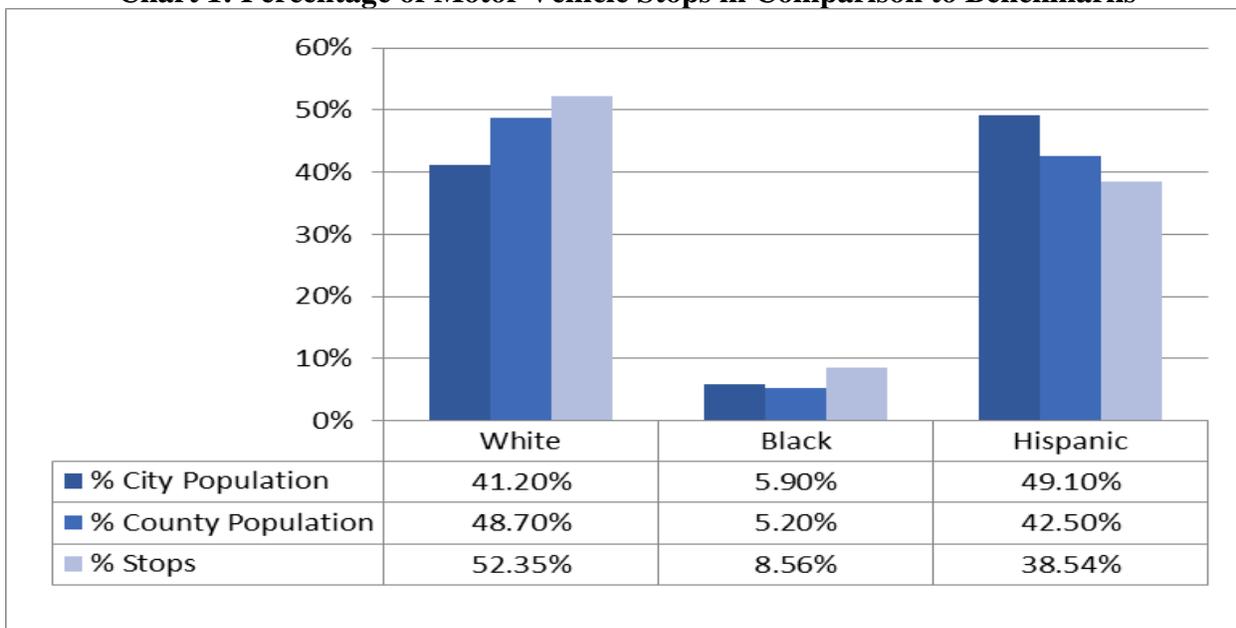
Analysis of the Data

Comparative Analysis #1:

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

The first chart depicts the percentages of people stopped by race/ethnicity among the total 3,469 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2020.¹

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



White drivers constituted 52.35 percent of all drivers stopped, whereas Whites constitute 41.20 percent of the city population and 48.70 percent of the county population.²

Black drivers constituted 8.56 percent of all drivers stopped, whereas Blacks constitute 5.90 percent of the city population and 5.20 percent of the county population.

Hispanic drivers constituted 38.54 percent of all drivers stopped, whereas Hispanics constitute 49.10 percent of the city population and 42.50 percent of the county population.

¹ There were 11 motor vehicle stops of drivers considered Asian/Pacific Islander and 8 stops of drivers considered Alaska Native/American Indian. These motor vehicle stops were not charted in the first figure of this report due to the small number of cases relative to the population and the total number of motor vehicle stops among all drivers (3,469).

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

The chart shows that White drivers are stopped at rates higher 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 lower than the percentage of Hispanics found in the city and county population.

Methodological Issues

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

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

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

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

Issue #2: Problems Associated with Population Base-Rates

There has been considerable debate as to what the most appropriate population "base-rate" is in determining whether or not racial/ethnic disparities exist. The base-rate serves as the benchmark for comparison purposes. The outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. While this report utilized the most recent 2019 ACS 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.

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 Big Spring Police Department in 2020. Table 1 and associated analyses are utilized to satisfy the comparative analyses as required by Texas law, and in specific, Article 2.134 of the CCP.

Comparative Analysis #2:

Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction. Texas Code of Criminal Procedure Article 2.134(c)(1)(B)

As shown in Table 1, there were a total of 3,469 motor vehicle stops in 2020 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 69 percent of stops resulted in a written warning (2,380/3,469) and roughly 30 percent resulted in a citation. Together, these actions constituted roughly 99 percent of all result of stop actions and will be of focus in the below discussion.

Relative to the result of the stop within each racial/ethnic group, **verbal warnings** did not occur in 2020, nor did **sole arrests**. **Written warnings and arrest** (32) and **citation and arrest** (26) were rare among all racial/ethnic groups, comprising roughly 2 percent of all stop outcomes (58 total arrests/3,469 total stops). As illustrated in Table 1, most arrests were based on an **outstanding warrant** (44.83%; 26/58) or a **violation of the penal code** (43.10%; 25/58).

Specific to **written warnings**, White motorists received a written warning in roughly 72 percent of stops involving White motorists (1,305/1,816), Black motorists received a written warning in roughly 60 percent of stops of Black motorists, and Hispanic motorists received a written warning in roughly 66 percent of stops of Hispanic motorists.

White motorists received a **citation** in roughly 27 percent of stops involving White motorists (485/1,816), Black motorists received a citation in roughly 39 percent of stops of Black motorists, and Hispanic motorists received a citation in roughly 32 percent of stops of Hispanic motorists.

Finally, as presented in Table 1, **physical force resulting in bodily injury** was not used in 2020. Of the 3,469 total stops, no stops involved physical force resulting in bodily injury.

Table 1: Traffic Stops and Outcomes by Race/Ethnicity

Stop Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	1,816	297	1,337	11	8	3,469
Gender						
Female	687	94	484	4	3	1,272
Male	1,129	203	853	7	5	2,197
Reason for Stop						
Violation of Law	66	9	52	0	0	127
Preexisting Knowledge	16	6	8	0	0	30
Moving Traffic Violation	1,126	181	887	10	6	2,210
Vehicle Traffic Violation	608	101	390	1	2	1,102
Result of Stop						
Verbal Warning	0	0	0	0	0	0
Written Warning	1,305	177	882	8	8	2,380
Citation	485	116	427	3	0	1,031
Written Warning and Arrest	15	2	15	0	0	32
Citation and Arrest	11	2	13	0	0	26
Arrest	0	0	0	0	0	0
Arrest Based On						
Violation of Penal Code	11	2	12	0	0	25
Violation of Traffic Law	2	0	3	0	0	5
Violation of City Ordinance	0	0	2	0	0	2
Outstanding Warrant	13	2	11	0	0	26
Physical Force Resulting in Bodily Injury Used?						
No	1,816	297	1,337	11	8	3,469
Yes	0	0	0	0	0	0

Comparative Analysis #3:

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

In 2020, a total of 253 **searches** of motorists were conducted, or roughly 7 percent of all stops resulted in a search. Among searches within each racial/ethnic group, White motorists were searched in roughly 7 percent of all stops of White motorists (133/1,816), Black motorists were searched in roughly 9 percent of all stops of Black motorists, and Hispanic motorists were searched in roughly 7 percent of all stops of Hispanic motorists.

Regarding searches, it should be further noted that 102 out of 253 searches (see Table 2) were based on consent, which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (3,469), discretionary consent searches occurred in 2.94 percent of all stops.

Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in roughly 47 percent of all searches of White motorists (63/133), Black motorists were searched based on consent in roughly 39 percent of all searches of Black motorists, and Hispanic motorists were searched based on consent in roughly 30 percent of all searches of Hispanic motorists.

Of the searches that occurred in 2020, and as shown in Table 2, **contraband was discovered** in 134 or roughly 53 percent of all searches (134/253 total searches). Among the searches in which contraband was discovered (134), 58 percent of the time the contraband discovered was drugs. Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 28% of the time (38/134).

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	133	28	92	0	0	253
No	1,683	269	1,245	11	8	3,216
Reason for Search						
Consent	63	11	28	0	0	102
Contraband in Plain View	4	0	3	0	0	7
Probable Cause	39	9	39	0	0	87
Inventory	7	2	4	0	0	13
Incident to Arrest	20	6	18	0	0	44
Was Contraband Discovered						
Yes	67	18	49	0	0	134
No	66	10	43	0	0	119
Description of Contraband						
Drugs	38	11	29	0	0	78
Weapons	2	1	4	0	0	7
Currency	0	1	2	0	0	3
Alcohol	5	1	4	0	0	10
Stolen Property	2	0	5	0	0	7
Other	20	4	5	0	0	29
Did Discovery of Contraband Result in Arrest?						
Yes	18	3	17	0	0	38
No	49	15	32	0	0	96

Comparative Analysis #4:

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

In 2020, internal records indicate that the Big Spring Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling.

Additional Analysis:

Statistical analysis of motor vehicle stops relative to the gender population of the agency's reporting area.

In 2020, 3,469 motor vehicle stops were made by the Big Spring Police Department. Of these stops, 1,272 or roughly 37 percent were female drivers (1,272/3,469), and roughly 63 percent were male drivers (see Table 1).

According to 2019 American Community Survey (ACS) city and county population estimates of the U.S. Census Bureau, the City of Big Spring was composed of 44 percent females and 56 percent males. County population 2019 ACS estimates indicate that females accounted for 44.6 percent of the county population and males accounted for 55.4 percent of the county population.

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

Additional Information Required to be Reported to TCOLE

Table 3 provides additional information relative to motor vehicle stops in 2020 by the Big Spring Police Department. These data are required to be collected by the Big Spring Police Department under the Texas Code of Criminal Procedure Article 2.133.

As illustrated in Table 3, of the 3,469 motor vehicle stops in 2020, the officer knew the race/ethnicity of the motorist prior to the stop in 1.44% of the stops (50/3,469). 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, Big Spring PD officers do not know the race/ethnicity of the motorist prior to the stop. This factor further invalidates any conclusions drawn from the stop data presented in Chart 1. If an officer does not know the race/ethnicity of the motorist prior to the stop, then the officer cannot, by legal definition, be racial profiling. Racial profiling is a law-enforcement action based on the race/ethnicity of an individual. If the officer does not know the person's race/ethnicity before the action (in this case, stopping a vehicle), then racial profiling cannot occur.

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.

Based on this factor, post-stop outcomes are more relevant for a racial profiling assessment, as presented throughout 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.

Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	50
No	3,419
Approximate Location of Stop	
City Street	2,657
US Highway	293
County Road	22
State Highway	452
Private Property/Other	45
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 Big Spring Police Department

The foregoing analysis shows that the Big Spring 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 Big Spring Police Department in 2020, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Big Spring 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

	BIG SPRING POLICE DEPARTMENT	
	Policy 2.2 Bias Based Policing “Racial Profiling Policy”	
	Effective Date: 9/18/17	Replaces: V1
	Approved:  _____ Chief of Police	
	Reference: TBP 2.01	

I. POLICY

The Big Spring Police Department is committed to respect for constitutional rights in the performance of our duties. Our success is based on the respect we give to our community, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, national origin, ethnicity, age, or religion. All people carry biases: in law enforcement, however, the failure to control our biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of our department. Most importantly, actions guided by bias destroy the trust and respect essential for our mission to succeed. We live and work in communities very diverse in population: respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions, particularly stops of individuals (for traffic and other purposes), investigative detentions, arrests, searches and seizures of persons or property, shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

All departmental orders are informed and guided by this policy. Nothing in this policy limits non-enforcement or consensual contacts between officers and the public.

II. PURPOSE

The purpose of this policy is to provide general guidance on reducing the presence of bias in law enforcement actions, to identify key contexts in which bias may influence these actions, and emphasize the importance of the constitutional guidelines within which we operate.

III. DEFINITIONS

These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

- A. **Bias:** Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.
- B. **Biased policing:** Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- C. **Ethnicity:** A cluster of characteristics which may include race but also cultural characteristics or traits which are shared by a group with a common experience or history.
- D. **Gender:** Unlike sex, a psychological classification based on cultural characteristics or traits.
- E. **Motor Vehicle Stop:** Means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.
- F. **Probable cause:** Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.
- G. **Race:** A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
- H. **Racial 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.
 - 1. Examples of racial profiling include but are not limited to the following:
 - a. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.
 - b. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possesses that specific make or model of vehicle.

- c. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.
- I. **Reasonable suspicion:** Articulable, objective facts which lead an officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."
- J. **Sex:** A biological classification, male or female, based on physical and genetic characteristics.
- K. **Stop:** The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is an investigative detention.

IV. PROCEDURES

A. General responsibilities

1. Officers are prohibited from engaging in bias based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. (TBP: 2.01)
2. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
3. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
 - a. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.

- b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
4. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect promotes a future willingness to cooperate with law enforcement.
5. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel should thank him or her for cooperating.
6. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their departmental employee number, name of the immediate supervisor, or any other reasonable information.
7. All personnel are accountable for their actions. Personnel shall justify their actions when required.
8. All personnel shall courteously accept, document, and forward to the Chief of Police via the chain of command any complaints made by an individual against the department as per Policy 2.4 Internal Investigation Process.

B. Reports required for motor vehicle stops in compliance of Art. 2.132 CCP

1. Officers who stop a motor vehicle for an alleged violation of a law or ordinance, which result in either a citation being issued, written warning being issued or to arrests being made as a result of the motor vehicle stop, shall report to the Big Spring Police Department on a citation or warning either paper or electronic form the following information relating to the stop;
 - 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 (means physical pain, illness, or any impairment of physical condition), during the stop.

- i. The location of the stop; and
 - ii. The reason for the stop
- e. A law enforcement agency shall review the data collected to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

C. Supervisory responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
2. Supervisors shall provide information on the complaint process and shall give copies of “Complaint / Compliment Procedure” information forms when appropriate.
3. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
4. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
5. Supervisors are reminded that biased enforcement of the laws promotes not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
6. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
7. Supervisors will ensure officers of this department are recording their motor vehicle stops. A recording of each officer will be reviewed at least once every ninety (90) days.

D. Disciplinary consequences

1. Actions prohibited by this policy shall be cause for disciplinary action, up to and including termination.

E. Training (TBP: 2.01)

1. Officers shall complete all training required by state law regarding bias based profiling.

V. COMPLAINTS

- A. The department shall publish “Complaint / Compliment Procedure” information on the Big Spring Police Department website and in the common area of the Big Spring Police Department lobby.
- B. Complaints alleging incidents of bias based profiling will be fully investigated as described under Policy 2.4 Internal Investigation Process.
- C. The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.
- D. Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the persons name, address and telephone number, and forward the complaint through the appropriate channel or direct the individual(s). Any employee contacted shall provide to that person a copy of a complaint form or the department process for filing a complaint. All employees will report any allegation of racial profiling to their superior before the end of their shift.
- E. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer’s comments or conclusions shall be filed with the Chief of Police. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the Chief of Police.
- F. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.
- G. If there is a department video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.
- H. Complainants will be notified of the results of the investigations when such investigation is completed.

VI. RECORD KEEPING

- A. The department will maintain all required records on traffic stops where a citation or written warning is issued or where an arrest is made subsequent to a traffic stop pursuant to state law.
- B. The information collected above will be reported to the city council and TCOLE annually.



COMPLAINT/COMPLIMENT
PROCEDURE

FILING A COMPLAINT OR COMPLIMENT

A person who has a complaint or compliment on or against the City of Big Spring Police Department or a City of Big Spring Police Officer may contact the police department.

The Police Department is located at:
3613 West Highway 80
Big Spring, TX 79720
www.bigspringpd.net

You can call (432)264-2559 or
e-mail Chief Chad Williams at
cwilliams@bigspringpd.net

A complaint (including a complaint with respect to each ticket, citation, or warning issued by a peace officer) must be submitted in writing and be notarized. The complainant will be asked to fill out a statement detailing the events leading to the complaint which will be forwarded to the appropriate investigating officer (i.e. Patrol, Investigations, Animal Control, etc.).

The assigned investigator will use any and all evidence available to resolve the complaint. If a solution cannot be reached, the complaint will be submitted through the chain of command. The Chief of Police will determine whether to order an Internal Affairs Investigation and will decide on the appropriate action.

WHAT IF YOU ARE NOT SATISFIED WITH THE DECISION?

If the complaint remains unresolved after exhausting the departmental complaint process within the Police Department or if the complainant presents reasons deemed sufficient by the City Council to circumvent the departmental process, the City Council shall, within twenty (20) days of receipt of a written request from the complainant, appoint a Citizens Advisory Board to conduct a hearing. A request for the appointment of a Citizens Advisory Board must be made in writing to the City Secretary.

The determination by the Citizen's Advisory Board is final.

The Big Spring Police Department is interested in the welfare of all citizens and in taking action where its employees have proven derelict in their duties. If it becomes necessary for you to make a complaint, you can be assured it will be given a fair and thorough investigation.

FALSE COMPLAINTS

Please note that intentionally making a false complaint to the Police Department is a crime punishable by up to 10 years in prison and a \$10,000.00 fine.

This information is not intended to intimidate complainants or prevent valid complaints but is provided to caution against making false complaints as retaliation or revenge against officers.

Complaint/Compliment Procedure

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Contact Us

Police Department

Physical Address

[View Map](#)

3613 W Highway 80

Big Spring, TX 79720

[Directions](#)

Phone: 432-264-2559

Fax: 432-264-2552

Emergency: 911

Appendix C: Racial Profiling Laws and Corresponding Standard Operating Procedures

Texas CCP Article	BIG SPRING POLICE DEPARTMENT Policy 2.2 Bias Based Policing
2.132(b)1	Section III Definitions
2.132(b)2	Section I Policy & Section IV Procedures
2.132(b)3	Section V Complaints & Website & Brochure
2.132(b)4	Section V Complaints & Website & Brochure
2.132(b)5	Section IV (D) Disciplinary Consequences
2.132(b)6	Section IV (B)
2.132(b)7	Section VI Record Keeping