MISSOURI CITY POLICE DEPARTMENT

2013

RACIAL PROFILING ANALYSIS

PREPARED BY:

Eric J. Fritsch, Ph.D.
Chad R. Trulson, Ph.D.

Professional Development Institute
University of North Texas

Executive Summary

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested for traffic violations and whether or not those individuals were searched. Since the law provides no clear instruction to a governing body on how to review such data, the Missouri City Police Department requested this analysis and review to assist the City Council in reviewing the data.

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

- **A COMPREHENSIVE REVIEW OF THE MISSOURI CITY POLICE DEPARTMENT'S BIAS BASED RACIAL PROFILING POLICY AND PROFESSIONAL STANDARDS POLICY SHOWS THAT THE MISSOURI CITY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**

- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT 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 ANALYSIS OF STATISTICAL INFORMATION FROM MISSOURI CITY POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**

- **THE MISSOURI CITY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**

- **THE MISSOURI CITY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

Introduction

This report details an analysis of the Missouri City Police Department's policies, training, and statistical information on racial profiling for the year 2013. This report has been prepared to specifically comply with Article 2.132 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of racial profiling data. Specifically, the analysis will address Articles 2.131 – 2.135 of the CCP and make a determination of the level of compliance with those articles by the Missouri City Police Department in 2013. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into six analytical sections: Missouri City Police Department's bias based racial profiling policy and professional standards policy; Missouri City Police Department's training and education on racial profiling; Missouri City Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; analysis of Missouri City Police Department's compliance with applicable laws on racial profiling; and a final section which includes completed data and information reporting forms required to be sent to TCOLE beginning in 2011.

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).

Missouri City Police Department Policy on Racial Profiling

A review of Missouri City Police Department's "Bias Based Racial Profiling" policy (30-20) and "Professional Standards" policy (40-12) revealed that the department has adopted policies 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 Missouri City Police Department's bias based racial profiling policy/professional standards policy. Missouri City Police Department policies 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 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. Appendix C lists the applicable statute and corresponding Missouri City Police Department regulation.

A COMPREHENSIVE REVIEW OF MISSOURI CITY POLICE DEPARTMENT'S BIAS BASED PROFILING POLICY SHOWS THAT THE MISSOURI CITY POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Missouri City 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 Missouri City Police Department reveals that racial profiling training and certification

is current for all but nine officers in 2013. These officers are scheduled to attend the next available training.

Missouri City 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. Missouri City Police Department's Bias Based Racial Profiling Policy Section V and the agency's Professional Standards policy covers this requirement. The Missouri City Police Department also has an easily accessible website (http://www.missouricitytx.gov/index.aspx?nid=111) which provides clear contact information for citizens who wish to file a complaint. Missouri City Police Department Professional Standards policy (40-12) also clearly encourages citizens to bring legitimate grievances concerning misconduct by employees or volunteers. It is also noted in the policy that department members shall receive complaints courteously and are obligated to explain to inquiring citizens the departmental complaint procedure.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT 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.

Missouri City Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic citations and arrests pursuant to traffic stops with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also collected. Missouri City Police Department submitted statistical information on all citations in 2013 and accompanying information on the race of the person cited. Accompanying this data was the relevant information on searches and arrests.

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

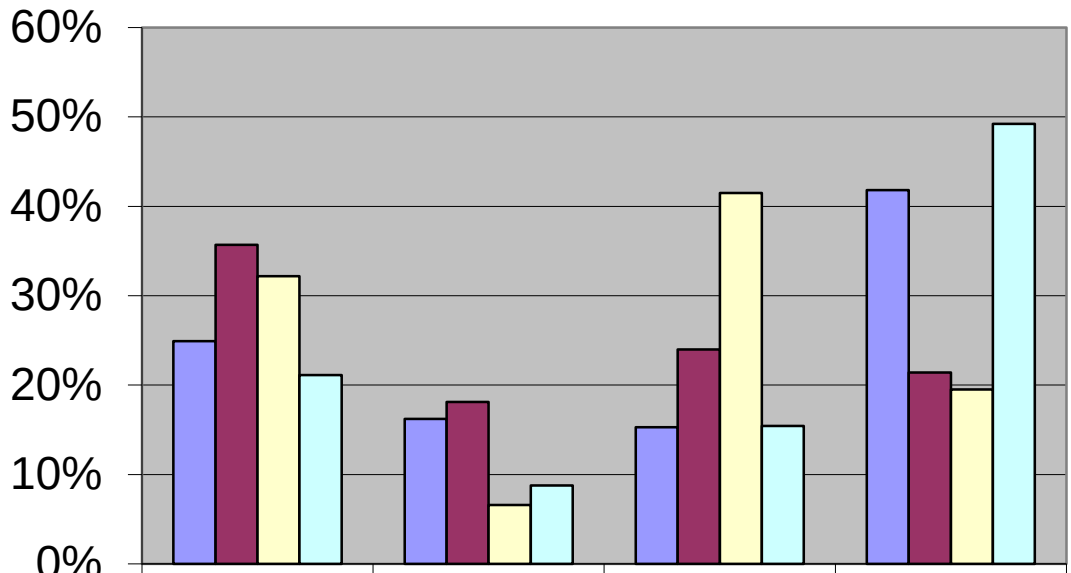
Analysis of the Data

The first chart depicts the percentages of people stopped by race including Whites, African-Americans, and Hispanics.[1] White drivers constituted 21.11 percent of all drivers cited, whereas Whites constituted 24.90 percent of the city population, 35.70 percent of the Fort Bend County population and 32.20 percent of the Harris County population.[2] The chart shows that White drivers

[1] The total number of stops resulting in a citation is 6,056. Including 126 arrests, there were a total of 6,182 actions recorded by Missouri City Police Department in 2013. See the TCOLE forms at the end of this report. American Indian/Alaskan Native, Middle Eastern, "other", and "unknown" racial/ethnic groups were not charted due to the small number of citations relative to the population base. Those groups are noted in later tables of this report as "other", and included 338 total citations.

[2] City and County population figures are derived from the 2010 Census from the U.S. Census Bureau. Because Missouri City is a part of both Fort Bend and Harris County, both population base rates were used.

were cited at a rate that is lower than the percentage of Whites in the city and county populations. African-American drivers constituted 49.22 percent of all drivers stopped, whereas African-Americans constituted 41.80 percent of the city population, 21.40 percent of the Fort Bend County population and 19.50 percent of the Harris County population. African-American drivers were cited at a rate higher than the percentage African-Americans found in the city and county populations. Hispanic drivers constituted 15.42 percent of all drivers cited, whereas Hispanics constituted 15.30 percent of the city population, 24.00 percent of the Fort Bend County population and 41.50 percent of the Harris County population. Hispanics were cited at rates comparable to the city population, but lower than the percentage of Hispanics in the county populations. Asian drivers constituted 8.78 percent of all drivers cited, whereas Asians constituted 16.20 percent of the city population, 18.10 percent of the Fort Bend County population, and 6.60 percent of the Harris County population. Asian drivers were cited at rates lower than their percentage of the city and Fort Bend County population, but higher than their percentage of the Harris County population.



	White	Asian	Hispanic	African-American
% City Population	24.90%	16.20%	15.30%	41.80%
% Fort Bend County	35.70%	18.10%	24.00%	21.40%
% Harris County	32.20%	6.60%	41.50%	19.50%
% of Total Citations	21.11%	8.78%	15.42%	49.22%

As the chart shows, easy determinations regarding whether or not Missouri City police officers have “racially profiled" a given motorist are impossible given the nature of the data that has been collected and presented for this report. 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 incident level 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.

Additional interpretation problems remain in regards to the specific measurement of “racial profiling” as defined by Texas state code. For example, officers are currently forced to make subjective determinations regarding an individual's race based on his or her personal observations because the Texas Department of Public Safety does not provide an objectively-based determination of an individual's race/ethnicity on the Texas driver's license. The absence of any verifiable race/ethnicity data on the driver's license is especially troubling given the racial diversity within Missouri City. The validity of any racial/ethnic disparities discovered in the aggregate level data becomes threatened in direct proportion to the number of subjective "guesses" officers are forced to make when trying to determine an individual's racial/ethnic background.

In addition, the data collected for the current report does not allow for an analysis that separates (or disaggregates) the discretionary decisions of officers to stop a motorist from those that are largely non-discretionary. For example, non-discretionary stops of motorists based on the discovery of outstanding warrants should not be analyzed in terms of whether or not "profiling" has occurred simply because the officer who has stopped a motorist as a result of the discovery of an outstanding warrant does not *independently* make the decision to stop, but rather, is required to stop that individual regardless of any determination of race. An officer cannot be determined to be “racially profiling” when organizational rules and state codes compel them to stop regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of stop rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions. In the future, this validity issue could be lessened by the collection of data indicating the initial reason for the traffic stop, whether it be an observed traffic violation, other criminal activity, the existence of an outstanding warrant, or some other reason.

Finally, there has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. As the current analysis shows in regards to the use of city and county population base-rates, the outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. Related, the determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, 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 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 cited in order to determine whether or not racial profiling exists within a given jurisdiction.

The table below reports the summaries for the total number of persons cited and searched subsequent to being stopped by the Missouri City Police Department for traffic offenses in 2013 (6,182). In addition, the table shows the number of individuals who granted consent to search and those drivers who were arrested at the conclusion of the stop. The chart shows that roughly 22 percent of all drivers searched were White (13/60 searches), roughly 58 percent (35/60) were African American, and roughly 17 percent (10/60) were Hispanic. It is clear from the table that the

vast majority of the total number of drivers cited (including White, African-American, and Hispanic groups) were not searched, as roughly 99 percent of all drivers who were stopped were not searched (60/6,182).

Action	White	African-American	Hispanic	Asian	Other	Total
Citations	1,305	3,043	953	543	338	6,182
Searches	13	35	10	1	1	60
Consent Searches	3	15	5	1	1	25
PC Searches	10	20	5	0	0	35
Arrests	25	66	31	2	2	126

The next assessment presents the percentage of drivers that provided consent to search within each racial category. The table above indicates that drivers who were cited were rarely consent searched across the racial categories. In fact, there were only a total of 25 consent searches across more than 6,000 drivers cited, or less than ½ of 1 percent of all drivers were consent searched.

Analysis of Racial Profiling Compliance by Missouri City Police Department

The foregoing analysis shows that the Missouri City 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, a formalized complaint process, and the collection of data in compliance with the law. Finally, internal records indicate that the department received no complaints in reference to racial profiling for the year 2013.

In addition to providing summary reports and analysis of the data collected by the Missouri City Police Department in 2013, 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 Missouri City Police Department as well as police agencies across Texas. The Missouri City Police Department should continue its educational and training efforts within the department on racial profiling. Finally, the department should conduct periodic evaluations to assess patterns of officer decision-making on traffic stops. The final section of this report includes newly required TCOLE reporting information by Texas law enforcement organizations.

Missouri City Police Department TCOLE Reporting Forms

Partial Exemption Racial Profiling Reporting
(Tier 1)

Department Name	Missouri City Police Dept.
Agency Number	201217
Chief Administrator Name	Chief Mike Berezin
Reporting Name	Captain Kevin Williams
Contact Number	281-403-8713
E-mail Addess	kwilliams@missouricitytx.gov

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):

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 complaint process;

(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 citation 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; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; 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 Commission on Law Enforcement Officer Standards and Education; 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.

These polices are in effect

Chief Administrator — Date: 02/05/2014

Partial Exemption Racial Profiling Reporting
(Tier 1)

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):

☒ all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

☐ In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

Michael A. Bu 02/05/2014

Chief Administrator Date

PARTIAL EXEMPTION RACIAL PROFILING REPORTING (TIER 1)

INSTRUCTIONS: Please fill out all boxes. If zero, use 0.

1. **Total on lines 4, 11, 14, and 17 <u>must</u> be equal**
2. **Total on line 20 <u>must</u> equal line 15**

AGENCY NAME: Missouri City Police Department

Number of motor vehicle stops (mark only 1 category per vehicle stop):

1. 6056 Citation only
2. 126 Arrest only
3. 0 Both

4. **6182 (Total of 1-3)**

Race or Ethnicity (mark only 1 category per vehicle stop):

5. 3043 African
6. 543 Asian
7. 1305 Caucasian
8. 953 Hispanic
9. 2 Middle Eastern
10. 6 Native American
    121"Other"
    209 "Unknown"

11. **6182 (Total of 5-10, must be the same as #4)**

Race or Ethnicity known prior to stop?

12. 148 Yes
13. 6034 No

14. **6182 (Total of 12-13, must be the same as #4 and #11)**

Search conducted?

15. 60 Yes
16. 6122 No

17. **6182 (Total of 15-16, must be the same as #4, #11, and #14 above)**

Was search consented?

18. 25 Yes
19. 35 No

20. **60 (Total, must equal #15)**

Partial Exemption Racial Profiling Reporting
(Tier 1)

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

(6) require collection of information relating to motor vehicle stops in which a citation 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; and

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

This report meets the above requirements

Chief Administrator — Date 02/05/2014

Send entire documents electronically to this website

www.tcleose.state.tx.us

Appendix A

Racial Profiling Statutes and Laws

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 of a particular descent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent.

(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 complaint process;

(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 citation 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; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; 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 Commission on Law Enforcement Officer Standards and Education; 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. If a law enforcement agency installs video or audio equipment 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 Commission on Law Enforcement Officer Standards and Education 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.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by: Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2009.

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; and

(8) whether the officer issued a written warning or a citation as a result of the stop.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by: Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2009.

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 Commission on Law Enforcement Officer Standards and Education

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; and

(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

(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 Commission on Law Enforcement Officer Standards and Education, 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 Commission on Law Enforcement Officer Standards and Education 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, Sec. 27, eff. September 1, 2009.

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT.

(a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by: Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2009.

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 as described by Article 2.135(a)(1)(A), 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 as described by Article 2.135(a)(1)(A). 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 as described by Article 2.135(a)(1)(A), 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 as described by Article 2.135(a)(1)(A), 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 installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

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

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 the amount of $1,000 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, Sec. 29, eff. September 1, 2009.

Appendix B

Missouri City Police Department
Racial Profiling Policy

Missouri City Police Department

Policy #: 30-20
Subject: Bias-Based / Racial Profiling
Date Issued: 01-01-2013
Revised: 02-05-2013

Standard: 2.01

I. Purpose

The purpose of this policy is to affirm the Missouri City Police Department's commitment to unbiased policing in all its encounters between officers and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

II. Policy

It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce state, federal and local laws in a responsible and professional manner, without regard to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Officers are strictly prohibited from engaging in bias-based / racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

This policy shall not preclude officers from offering assistance to persons when appropriate, e.g. someone appears ill; person appears lost; person has vehicle problems etc. Additionally, this policy does not prohibit consensual encounters with persons, absent a racial profiling basis. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

III. Definitions

A. Bias-Based Profiling - The selection of an individual based solely on a trait common to a group for enforcement action. This includes, but is not limited to: race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Bias-Based Profiling includes Racial Profiling.

B. 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.

- Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant to witnesses, complainants or other citizen contacts.

- The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision when they are used as part of an actual description of a specific suspect for whom an officer is searching.

- Detaining an individual and conducting and inquiry into that person's activities simply because of that individual's race, ethnicity or national origin constitutes racial profiling. Examples of racial profiling include but are not limited to the following:

  - 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.

  - 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 possess that specific make or model of vehicle.

  - 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.

C. Race or Ethnicity – of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.

D. Pedestrian Stop – an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest. The detention does not originate from a motor vehicle contact.

E. Traffic Stop – a motor vehicle stop by a peace officer for an alleged violation of a law or ordinance regulating traffic.

IV. Training

A. Officers are required to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

B. All officers shall complete TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.

C. The chief of police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

D. An individual appointed or elected as a police chief before September 1, 2001 shall complete the program on racial profiling established under Subsection (j), Section 96.641, Education Code, not later than September 1, 2003.

V. Complaint Investigation

A. The department shall accept complaints from any person who believes he or she has been stopped or searched based on bias-based or racial profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.

B. Any employee who receives an allegation of bias-based / racial profiling, including the officer who initiated the stop, shall address the complaint in conformance with the department's Professional Standards policy, specifically section IV-D.

C. Investigation of a complaint shall be conducted in a thorough and timely manner, consistent with pertinent provisions of the department's Professional Standards policy, which provides procedures for addressing citizen complaints.

D. If a bias-based / racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.

E. If there is a departmental video or audio recording of the event upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and upon written request by the officer made the subject of the complaint, the department shall promptly provide a copy of the recording to the officer.

VI. Public Education

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

VII. Citation Data Collection and Reporting – Tier 1

A. An officer is required to collect information relating to traffic stops in which a citation is issued. On the citation officers must include:

   1. The violator's race or ethnicity;

   2. Whether a search was conducted, and if so, whether the search was consensual (an inventory search or search incident to arrest is not counted as a search for reporting purposes); and

   3. Whether the violator was arrested for a cited violation or any other violation.

B. Not later than March 1 of each year, the department shall submit a report to its governing board that includes the pertinent information collected on the citations from the preceding calendar year. The report will include:

   1. A breakdown of citations by race or ethnicity;

   2. Number of citations that resulted in a search;

   3. Number of searches that were consensual; and

   4. Number of traffic stops that resulted in custodial arrest for a cited violation or any other violation.

C. The first such report shall be submitted by March 1, 2003, for the period beginning January 1, 2002, and ending December 31, 2002.

D. Data Entry of Required Information

   1. Race: Use "unknown" for unoccupied vehicles where a citation is issued, e.g. parking violation.

   2. Search Conducted: Select either "yes" or "no." Do not select "N/A" or "Unknown."

   3. Search Consensual: Correct responses are "yes", "no", or "N/A" if a search was not conducted.

4. Arrested / Instantered: Select either “yes” or “no.” This response pertains only to the driver of the vehicle, whether related to an on-view offense or an outstanding warrant.

VIII. Video and Audio Equipment – Tier 2

A. If a motor vehicle regularly used to make traffic and pedestrian stops is equipped with a mobile video camera, each video recording shall be retained for a minimum of ninety (90) days. If a complaint is filed alleging that a peace officer engaged in racial profiling with respect to a traffic or pedestrian stop, the video recording shall be retained until final disposition of the complaint or expiration of filing deadline for all lawsuits, whichever is later.

B. If a motor vehicle regularly used to make traffic and pedestrian stops is equipped with a mobile video camera, officers shall activate the video and audio recording on all such contacts. Additionally, officers shall, when feasible, adjust the camera as necessary to capture the contact with the citizen.

C. Supervisors will ensure officers of the department are properly using the video and audio recording features by conducting spot checks as appropriate. An officer’s failure to use the video and audio recording features may be grounds for discipline.

D. Supervisors shall audit and review a minimum of five traffic and/or pedestrian contacts as captured on video/audio by each officer under his/her command each calendar month.

   a. Supervisors shall confirm these audits with a written report that indicates the incident number or case number.

   b. These written reports shall be turned into the Patrol Captain, who in turn will forward them to the Compliance Supervisor for storage.

E. In reviewing audio and video recordings, the supervisor shall seek to determine if the officer, who is involved therein, has engaged in an incident or pattern of racial profiling.

F. Patrol officers must check the functionality of the mobile video camera in their assigned squad car at the beginning of their shift. If it is not working properly they must immediately notify their supervisor and request reassignment to a squad car with a properly functioning mobile video camera. Additionally, if their mobile video camera malfunctions anytime during their work shift, they also must contact their supervisor and request reassignment to a squad car with a properly functioning mobile video camera.

G. Patrol supervisors must ensure that all patrol officers operate squad cars equipped with functioning mobile video cameras. This may require:

   1. Reassigning an officer to a reserve squad car; or

   2. Reassigning an officer to a squad currently not in use, although the squad car is normally assigned to another officer.

H. Patrol supervisors must report malfunctioning mobile video cameras to the administrative sergeant immediately to facilitate repair.

Missouri City Police Department
Policy #: 40-12 Subject: Professional Standards Issue Date: 09-01-2012 Revised:
Standards: 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 2.11

I. Policy

A. It is the policy of the Department to accept all complaints concerning official acts or personal behavior of its employees, sworn or non-sworn, or volunteers. The Department will conduct an appropriate investigation into all complaints, protecting the interests of all parties involved.

B. The Department encourages citizens to bring forward legitimate grievances regarding misconduct by employees or volunteers. Department members shall receive complaints courteously and are obligated to explain to inquiring citizens the complaint procedure.

II. Purpose

This policy establishes the procedures for receiving complaints, whether internal or external, against Department employees or volunteers. Additionally, the investigative process and appropriate responsibilities are detailed in this policy.

III. Definitions

A. Administrative Investigation: A detailed investigation into allegations of employee misconduct.

B. Administrative Review: A detailed investigation into an incident to determine if misconduct has occurred. A complaint is not required for an administrative review, but a complaint may result from such review. An administrative review generally originates from the Chief’s office.

C. Adopted Complaint: A complaint not formalized by a citizen but deemed worthy of investigation by the Chief; thus the Chief “adopts” the complaint and a written

complaint is generated as required by state law and/or policy.

D. Complaint: A formal written allegation against a member of the Department, which could result in disciplinary action up to and including termination. The complaint may originate from within the Department or outside the Department. A complaint is required for all administrative investigations and it must allege, in general, a violation of City or Department rules, regulations, or policies; and/or an illegal act.

E. Chief: The Chief of Police of the Missouri City Police Department. In his absence or at his direction the Assistant Chief of Administrations may act in his stead pursuant to the responsibilities contained within this policy.

F. Department: The Missouri City Police Department.

G. Employee: A full time worker, part time worker or volunteer worker, sworn or non sworn, assigned to the Missouri City Police Department.

IV. Procedures

A. Professional Standards Management

1. The Administrative Captain shall have responsibility for oversight and management of all Professional Standards issues, unless directed otherwise by the Chief’s office.

2. The Administrative Captain shall manage the database for all records and provide training to supervisors in the proper use of the database.

3. The Administrative Captain shall maintain records of all Professional Standards investigations.

4. The Administrative Captain shall classify all complaints in conformance with this policy and assign all complaints for investigation as warranted.

5. The Administrative Captain shall develop a standardized report format for all assigned investigators to use in administrative investigations.

6. The Administrative Captain shall review all administrative investigation reports for accuracy, thoroughness, and overall quality. He may return reports for additional investigation or corrections as deemed appropriate.

7. The Administrative Captain shall render judgment on all completed investigations, consulting with the assigned investigator as necessary. He shall document his decision in a report and submit it and the assigned investigator's report to the Chief's office for final approval via the Assistant Chief of Administration.

8. The Administrative Captain shall draft the appropriate disposition notices as directed by the Chief's office.

B. Classification of Complaints

1. Class I: Class I allegations center around violations of federal, state or local laws, use of force, or incidents of potential public concern / outcry. Class I incidents include, but are not limited to, the following:

   a. Serious misconduct or criminal misconduct.

   b. Discharge of a firearm, other than pre-approved discharges related to animal issues or firearms training.

   c. Complaints in the form of a notice of intent to sue (if no specific allegation is asserted, the notice of intent to sue may be classified as a Class III for administrative review).

   d. Use of force complaints related to use of control techniques, impact weapons, chemical agents, firearm, and other authorized means.

   e. An allegation of sexual harassment, racial profiling (biased policing), or civil rights violations.

2. Class II: Class II allegations revolve around violations of department procedures, often referred

to as “conduct and behavior” complaints. Class II incidents include, but are not limited to:

a. Allegations of rudeness/discourtesy.

b. Allegations of inadequate/incomplete case investigation.

c. Allegations of improper tactics/procedures.

3. Class III: Class III investigations center around incidents where a complaint has not been lodged but the circumstances are such that a detailed review of the incident is warranted. A Class III investigation may be ordered by the Chief’s office, or initiated by a division level supervisor. Class III incidents include, but are not limited to:

a. Passive death of a prisoner

b. Death or serious bodily injury of any person as a result of any police action.

c. Incidents generating a public outcry / negative media attention.

4. Class IV: Class IV investigations are miscellaneous in nature and may cover a wide array of circumstances. They may revolve around a complaint from a party that lacks any personal knowledge of the incident complained on; or, they may revolve around an "informal" complaint wherein the complainant does not wish to provide a signed statement and the Chief does not believe the complaint merits adoption; but he does believe the issue warrants a cursory review as a safety measure. This is a catch all category designed to provide "documentation" on actions taken on an assortment of circumstances.

C. Assignment of Cases

1. The administrative captain shall have responsibility for assigning supervisors to investigate complaints.

2. Class I investigations, when possible, should not be handled by supervisors in the same division as the officer/employee under investigation.

3. Class II investigations may be handled by same division supervisor, including the first line supervisor of the officer/employee under investigation.

4. Class III investigations, when possible, should be handled by supervisors assigned to the administrative division.

5. Class IV investigations will be assigned at the discretion of the Administrative Captain.

D. Receiving Complaints - External

1. Complaints can be received in person, by mail, or by phone. As part of the follow up investigation, persons making complaints by mail or phone should be interviewed and a complaint form completed. Anonymous complaints shall be followed up to the extent possible as determined by the administrative captain.

2. All employees shall make every effort to facilitate the convenient, courteous and prompt receipt of citizen complaints. An employee of the Department who interferes with, discourages, or unduly delays the filing of such complaints shall be subject to disciplinary action.

3. Before a complaint may be considered, the complaint must be reduced to writing and signed by the complainant as mandated by the Texas Government Code § 614.022.

4. If a complainant refuses to provide a written signed complaint, the Chief may adopt the complaint. Adopting a complaint is solely at the Chief’s discretion. If the Chief adopts a complaint, he shall cause a signed written complaint to be completed for delivery to the officer / employee under investigation.

5. A preliminary complaint form shall be filled out on all complaints.

6. A Department control number shall be obtained in relation to all formal professional standards investigations.

7. If a complainant presents himself at the police station to file a complaint, he should be directed as follows:

   a. To an administration division supervisor, Monday through Friday between 8:00 a.m. and 4:00 p.m. The supervisor will conduct the preliminary interview, complete a preliminary complaint form and secure a statement as appropriate. If neither are available, any police supervisor can handle the complaint.

   b. At all other times the complainant should be directed to a patrol supervisor when possible. The supervisor shall conduct the preliminary interview with the complainant and complete the preliminary complaint form. Additionally, the supervisor shall complete a short summary memo to the administrative captain and forward it and the complaint form to the administrative captain for review and assignment.

8. If a complainant does not wish to wait for a supervisor, he may be given a complaint brochure to take with him for completion and ultimate submission.

9. If a citizen approaches a patrol officer seeking to file a complaint, the officer shall assist the citizen in contacting a supervisor. If a supervisor is not available the officer shall take the preliminary complaint and forward it and a summary memo to the administrative captain. The officer also may give the complainant a complaint brochure if he doesn’t want to wait.

10. Complaints received via U.S. mail shall be forwarded to the administrative captain.

11. Supervisors / officers may delay taking complaints from citizens when the citizen is under the influence of intoxicants to the extent his mental faculties are significantly impaired; or when the complainant is suffering obvious mental impairment. Any other delay must be explained and approved by the administrative captain.

E. Internal Complaints

1. A co-worker, an employee’s supervisor, or management personnel also may file complaints against an employee.

2. Minor procedural violations that normally would result only in counseling, a verbal reprimand or remedial training are exempt from this policy and may be handled at the first line supervisor’s level.

3. Complaints that are likely to result in a minimum of a written reprimand must be processed in conformance with this policy.

4. Internal complaints can be filed by co-workers and supervisors by completing a preliminary complaint form and submitting it to:

   a. The administrative captain when generated by a sergeant or higher ranking officer.

   b. The complaining employee’s first line supervisor when generated by a civilian employee or officer below the rank of sergeant. The first line supervisor will forward the complaint to the administrative captain’s office for processing.

5. Sexual harassment complaints are governed by city policy, as set forth in the City Personnel Manual.

F. Notifications

1. Supervisors assigned to conduct professional standards investigations shall notify the complainant of said assignment within three (3) work days, providing contact information to the complainant and arranging for an interview and statement as appropriate.

2. Supervisors conducting professional standards investigations shall promptly provide the officer / employee under investigation with formal written notice of the investigation, including:

   a. Investigating officer’s name and contact information.

   b. A copy of the written complaint;

   c. Related case number or ticket number;

d. Professional standards incident number; and

e. Alleged charges as best understood at time of notification.

3. The notification requirement in #2 above also applies to all anonymous complaints. If a formal investigation is not initiated based on an anonymous complaint, the administrative captain shall, by memo or verbally, inform the pertinent employee of the complaint.

4. The notification requirement in #2 above may be suspended by the administrative captain when deemed necessary for investigative purposes.

5. At the conclusion of the investigation the complainant and the officer/employee under investigation shall receive a written notice of disposition regarding the complaint.

6. A copy of any officer/employee notification shall be provided to the pertinent supervisor of the officer/employee.

V. Case Investigation

A. Professional standards investigations are confidential; only pertinent employees may be apprised of the investigation status or conclusion, e.g. officer/employee under investigation and their supervisors, and command staff.

B. Professional standards investigators shall adhere to basic evidentiary rules regarding all evidence associated with the investigation. All collected evidence shall be properly tagged and submitted to Identification as professional standards evidence with the investigator’s name, date submitted, and item description.

C. Professional standards investigations are generally “administrative” in nature, i.e. directed toward policy or procedural violations. If possible criminal conduct is discovered during a professional standards investigation, the administrative captain will decide proper investigative responsibilities. The subsequent criminal investigation will be conducted according to standard investigative protocol and the investigating officer will

submit his report to the appropriate district attorney's office for consideration of charges.

D. All Department employees are required to cooperate in professional standards investigations related to administrative issues and must provide a written response to the complaint. Failure to cooperate, including failing to respond to all pertinent questions and obey direct orders, will subject the employee to disciplinary action, up to and including termination.

E. Information gathered in an administrative professional standards investigation is generally not admissible in criminal procedures.

F. Officers/employees under investigation may be required to submit to medical and laboratory examination as deemed appropriate, e.g. drug test, alcohol test (BAC) etc.

G. Officers/employees under investigation may be required to submit to a physical line up for identification purposes, or their picture may be used in a photo line up for identification purposes.

H. Officers/employees under investigation may be required to make financial disclosures related to investigations.

I. Officers/employees under investigation may be required to submit to a polygraph test(s) related to the investigation.

J. All administrative professional standards investigations, including the taking of all disciplinary action, shall be completed and submitted for review no later than forty-five (45) days after date assigned to a supervisor for investigation.

K. The investigating officer may request a time extension of fifteen (15) days when necessary. The Chief must approve all time extensions and may grant consecutive extensions as deemed warranted.

VI. Discovered Violations

A. When non-reported/complained of policy and procedure violations are discovered during the course of a professional standards investigation, the following procedures apply:

1. A second notice (or first notice if a different employee) detailing the alleged violation(s) shall be sent to the pertinent officer / employee and their supervisor.

2. An initial or second interview may be scheduled as warranted on the additional allegations and the officer/employee under investigation shall provide a written response to the additional allegations.

3. The discovered violation(s) will be cleared in normal fashion and made a part of the original case, or filed as a separate case if appropriate.

VII. Adjudication of Complaints

A. Completed professional standards investigations shall be classified as follows:

1. Unfounded - The investigation revealed the misconduct as alleged did not occur.

2. Exonerated - The investigation revealed the actions alleged did occur, but they are lawful and proper.

3. Not Sustained - The investigation revealed facts were insufficient to either prove or disprove the allegation(s).

4. Sustained - The allegation(s) of misconduct are true and correct based on the "finding of fact" on the totality of the circumstances.

5. Complaint Withdrawn – complainant withdraws complaint.

6. Fail To Cooperate – complainant’s refusal to cooperate in the investigation prevents proper investigation. Also applies to failure to provide written statement of complaint.

7. No action taken – review only.

B. Complaints with multiple allegations may have more than one clearance, e.g. some allegations may be unfounded, some not sustained or some exonerated etc.

C. Officers/employees/volunteers may appeal the complaint disposition utilizing the City grievance policy/procedure.

VIII. Records

A. Professional standards reports shall be maintained in a secure environment, accessible only to authorized personnel.

B. No record of a complaint will be placed in an employee's personnel file unless the complaint was sustained, and then the notice of disposition only will go in the personnel file of the officer/employee under investigation.

C. All professional standards reports will be maintained, at a minimum, in conformance with appropriate retention statutes.

IX. Criminal Investigations

A. Some incidents, such as use of deadly force, require a criminal investigation in addition to the professional standards investigation at the outset of the incident.

B. The officer/employee under investigation in such investigations is entitled to all constitutional protections afforded any citizen.

C. The criminal and professional standards investigation may be conducted at the same time, but not by the same officer.

Appendix C

Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	**MISSOURI CITY POLICE DEPARTMENT Racial Profiling Policy 30-02 and Professional Standards Policy 40-12**
2.132(b)1	Section III (A) Definitions
2.132(b)2	Section II Policy
2.132(b)3	Section V (A-E) Complaint Investigation and Professional Standards Policy
2.132(b)4	Section VI Public Education
2.132(b)5	Section V (D) Complaint Investigation
2.132(b)6	Section VII (A) Citation Data Collection and Reporting
2.132(b)7	Section VII (B-C) Citation Data Collection and Reporting