

## Racial Profiling Report 2018

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### **ALAMO HEIGHTS POLICE DEPARTMENT Police Contact Data Annual Report January 1, 2018 through December 31, 2018**

In accordance with the Texas Racial Profiling Law, Art. 2.134 CCP, the Alamo Heights Police Department has collected police contact data to comply with the law. There are a number of changes regarding the required collection of data as required by Senate Bill No. 1849 (Sandra Bland Act) passed by the 85<sup>th</sup> Legislature of Texas in May 2017. Senate Bill No. 1849 made sweeping changes to the Code of Criminal Procedure, Occupations Code, Education Code and Government Code. Specific to the required annual racial profiling report the racial profiling laws in the Code of Criminal Procedure, Article 2.131 thru Article 2.134, were modified to enhance the collection of data required for the 2018 Racial Profiling Report.

Compared to previous year's reports there will be a noticeable increase in the number of traffic and pedestrian contacts resulting in a court citation and/or arrest. This increase is due to a new requirement that data is also collected on all contacts resulting in a warning citation and/or arrest. Also new, the 2018 Racial Profiling Report will require additional data is gathered regarding:

- gender of the person contacted;
- the initial reason for the contact;
- whether the officer conducted a search as a result of the contact and, if so, did the person detained consent to the search;
- whether any contraband or other evidence was discovered;
- a description of the contraband or evidence;
- whether an officer made an arrest and include a statement of whether the arrest was based on a violation of the Penal Code, a violation of traffic law or ordinance, or an outstanding warrant as well as a statement of the offense charged;
- the roadway type or approximate location of the stop;
- whether the officer issued a verbal or written warning or a citation as a result of the stop; and,
- whether the officer used physical force that resulted in bodily injury during the stop.

Prior to the passage of Senate Bill No. 1849 the newly required information was not required if an agency had mobile video camera systems installed in police vehicles. Throughout the past year, the police department has worked to ensure that the data collected, via citations, warning citations and arrest reports, was as accurate as possible. The purchase of the electronic ticket writers have been proven to be a valuable tool for the collection of the required data. They are programmed to not allow the completion of a warning or court citation unless all the required information is gathered and made a part of the electronic contact record.

As a part of the 2018 Racial Profiling Report package there is included Alamo Heights Police Department Policy 2.2 providing background information on the rationale and objectives of the Texas Racial Profiling Law and a statement prohibiting the practice of racial profiling among its officers and providing for a complaint system should a person contacted feel they were unjustly detained. Also included is Alamo Heights Police Department Policy 7.34 requiring the use of video or voice recordings on all traffic and pedestrian stops. A final exhibit is Alamo Heights Police Department Policy 2.4 detailing the internal investigation process on how to file a complaint and the investigative process when citizen complaints are received.

The first component of this report (Exhibit 1) provides the required statistical data relevant to the public contacts made during the period of 1/1/2018 and 12/31/2018. Other exhibits compare searches and arrests to the total number of traffic stops conducted over the listed time period and census comparisons to police activities. This data captured in Exhibit 4 has been analyzed and compared to the U.S. Census data (2010) concerning the population demographics of the City of Alamo Heights, San Antonio and Bexar County.

It is important to point out there are limitations as to the interpretation and extrapolation of "information" from this data. We feel confident that our analysis is as correct and relevant as any model that could be used to evaluate the data we have collected. The comparative analysis models, both required and devised, are only a few models that could have been used. Again, this points to the limitations of the way these numbers are extrapolated and evaluated, which is a big warning sign on the validity issues surrounding this entire process.

**Assessment of the Data Analysis:** The City of Alamo Heights is located north and immediately outside of the downtown area of the City of San Antonio, Bexar County, Texas. The areas immediately surrounding the San Antonio downtown area are primarily historic districts. In the immediate area of Alamo Heights include a growing San Antonio entertainment/retail/housing district, numerous public and private schools, two major universities, Olmos Park, Brackenridge Park, Witte Museum, San Antonio Zoo, two municipal golf courses, Ft. Sam Houston Military Base, San Antonio Military Medical Center, the City of Terrell Hills and the City of Olmos Park.

Major thoroughfares in Alamo Heights include Loop 368 (Austin Hwy and Broadway), both of which provide direct access to the center of downtown San Antonio, a large tourist and convention area as well as a growing housing/office/retail town center development. Additionally, Broadway is a direct route to the San Antonio International Airport and connects with Loop 410 to the north and IH 35 to the south. Loop 368 (Austin Hwy) is a direct connect to the IH35N / Loop 410 corridor to the northeast. North New Braunfels Avenue borders the City of Alamo Heights connecting to Loop 410 on the north and terminating as a public access roadway at the north gates to Fort Sam Houston. Finally, US Hwy 281N borders the City of Alamo Heights on the west.

The aforementioned all contribute to a large volume of commuter traffic passing through the City of Alamo Heights to areas in San Antonio. This large volume of commuter traffic contributes to a high percentage of traffic enforcement and, in some cases, arrests subsequent to traffic enforcement. A high ratio of minority commuters who reside in the surrounding areas or work in the downtown areas are also subject to enforcement actions when violations are observed.

The total number of traffic enforcement stops where court citations or warning citations were issued and/or arrests were made was 5,841. This number does not indicate the number of charges but only the number of drivers detained. It is possible to file multiple charges on a person, either by any combination of warning citations, court citations or arrest, during a stop, but only counts as one stop for the purposes of this report. As a reminder, previous year's racial profiling reports did not capture data related to contacts resulting in a warning citation only.

When compared to the 2010 US Census data for the City of Alamo Heights it would appear the Alamo Heights Police Department may be enforcing the traffic laws of this city and state more stringently on some percentages of the population. For example, persons of Hispanic origin represent 16.3% of the Alamo Heights population but accounted for 28.5% of enforcement actions. This would appear to be contrary to the ethnic ratio for persons of Hispanic origin living in Alamo Heights. However, this would appear to be a low ratio when compared to the City of San Antonio US Census data (2010) where persons of Hispanic origin represent 63.2% of the population. Given the large volume of transient commuter traffic who actually reside in the City of San Antonio it is reasonable to compare enforcement activities to US Census data for the City of San Antonio and Bexar County. See Exhibit 4 for a comparative analysis of the population ratios of Alamo Heights, San Antonio, and Bexar County.

## **Summary Statement**

The findings in the 2018 Racial Profiling Report suggest that the Alamo Heights Police Department does not currently experience a problem regarding racial profiling practices by its officers.

**ALAMO HEIGHTS POLICE DEPARTMENT**  
**Police Contact Data**  
**Annual Report**  
**January 1, 2018 - December 31, 2018**  
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**II. Background Information**

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**Police Department Background**

The Alamo Heights Police Department (AHPD) is made up of 21 commissioned officers and 13 staff members. The AHPD officers are committed to performing their jobs in a professional manner while serving the community members and its surrounding areas. This commitment can be found in the AHPD mission statement, vision statement, core values, and goals and reinforced through the issuance of pocket cards to every officer commonly used as a reference during discussions between administrative, supervisory and line personnel.

The department promotes to all its members a philosophy of community-policing practices in order to provide quality service to all residents of the community. In 2002, the Alamo Heights Police Department adopted a policy, in accordance with Texas law on Racial Profiling, prohibiting racial profiling practices by AHPD officers. This policy was updated in 2011, 2015 and 2018 to meet accreditation standards for the Texas Police Chiefs Association Best Practices Recognition Program.

**Mission Statement of the Alamo Heights Police Department**

The Alamo Heights Police Department is committed to developing a community partnership with an emphasis on integrity, fairness and professionalism to positively impact the quality of life and promote a safe environment by resolving problems, enforcing the law and preserving the peace.

### **Vision Statement of the Alamo Heights Police Department**

A community environment where the public has full faith and confidence in its police department; it is an environment wherein citizens of the community believe that they are safe and secure in their homes and businesses; it is an environment wherein the criminal element does not feel safe and secure in its activities.

### **Core Values of the Alamo Heights Police Department**

Integrity – We are committed to uphold our positions of trust by maintaining the highest ethical standards as set forth in the law enforcement code of ethics.

Community Safety – We are committed to public safety through community partnerships, public education, community watch strategies, and the steadfast enforcement of violations of the law.

Service – We are committed to prompt, professional and courteous service, unbiased and effective in our response to community concerns.

Quality – We are committed to the highest standards of excellence through recruitment, training, teamwork, leadership, innovation, technology and accountability.

### **Goals of the Alamo Heights Police Department**

- Maintain positive interaction with the public and a high degree of visibility within the community.
- Educate the public to the community's role and responsibility in the prevention, detection, and resolution of crime.
- Develop and improve internal systems which assure high quality service to our community while increasing the Department's efficiency.
- Recruit and retain a diverse, highly skilled and motivated law enforcement workforce.
- Provide a rewarding work environment and invest in personnel development.

### **III. Responding to the Texas Racial Profiling Law**

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#### **Educational Campaign:**

In accordance to Senate Bill 1074, the Alamo Heights Police Department has made significant efforts to launch an educational campaign aimed at informing the public on issues relevant to the complaint process. Special emphasis has been placed on informing community members on filing a complaint relevant to racial profiling practices.

The Chief of Police has posted a public statement on the City's web page to inform the public on efforts being made by the police department to continue banning racial profiling practices among its officers. Additionally, the department's complaint system is published on the police department home page on the City's web page.

#### **Filing a Complaint Based on Violations of the Texas Law on Racial Profiling**

A pamphlet has been designed, printed, and distributed that fully explains the Internal Affairs/Complaint system of the department. The following information is extrapolated from the pamphlet, the complaint form, and the procedure for investigation complaints received:

## UNDERSTANDING THE PROCESS

Once an individual has filed a complaint regarding racial profiling, he/she should expect the following process to commence:

### THE INTERVIEW

A police supervisor (rank of sergeant or higher) may interview the individual filing the complaint with the intention of gathering information pertaining to the incident. Through this process it may be possible that the supervisor is able to explain the officer's actions to the complainant's satisfaction.

If the supervisor is not able to satisfactorily answer the citizen's complaint, the supervisor will assist them in filing a formal complaint, if they wish. If the citizen does not wish to be assisted by the supervisor, they will be given a formal complaint pamphlet and given instructions on completing it.

### THE INVESTIGATION

After a formal complaint is filed, the Alamo Heights Police Department will investigate the alleged misconduct. The Chief of Police will assign an investigator experienced in internal investigation procedures who will talk to the complainant, any witnesses, and will visit the site of the incident.

- The Chief of Police receives all formal complaints, reviews them, logs them into the IA log and assigns the investigation to an investigator.
- The complainant will receive a letter from the Chief of Police, regarding the progress of the investigation. Although it is impossible to estimate how long the investigation will take, the complainant is advised they can expect a report as to the outcome of the investigation in about two weeks.
- All officers having knowledge of the incident will be interviewed as well as any identified witnesses.
- A report will then be prepared with conclusions and recommendations.
- The Chief of Police will review the report of investigation to determine if any rule, policy, or regulation has been violated. If it is determined that a violation has occurred it will be decision of the Chief of Police as to the discipline that will be administered.

### THE FINDINGS

The results of a complaint are called "findings". There are four possible findings:

- **Sustained** - The complaint has been supported: The officer(s) involved acted improperly and may be disciplined.
- **Unfounded** - The investigation found no basis to the complaint filed.
- **Exonerated** - The police officer(s) involved acted properly and will not be disciplined; or
- **Not sustained** - There was insufficient evidence to prove the complaint true or false and no further action will be taken.

The Chief of Police will decide on a finding after the complaint has been reviewed and will inform the complainant through an official letter of the final decision.

## **A COMMITMENT TO RESPOND TO THE NEEDS OF THE COMMUNITY**

The Alamo Heights Police Department has made a commitment to its citizens regarding the following:

1. 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.
2. Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall direct the complainant to a supervisor or offer to provide them with a formal complaint packet. Any employee contacted shall provide to any 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.
3. 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. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.
4. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including indefinite suspension (termination).
5. If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

### **Corrective Action**

It is the policy of the Alamo Heights Police Department that any officer who, after an internal investigation, has been found guilty of engaging in racial profiling, that one of the following series of disciplinary measures is taken (as per the recommendation of the chief of police):

1. Officer is retrained in racial sensitivity issues
2. Officer is suspended and as a condition of further involvement with the police department is required to undergo racial sensitivity training
3. Officer is indefinitely suspended (terminated)

### **Data on Corrective Action**

**There were no public complaints made alleging racial profiling by any member of the Alamo Heights Police Department during the 2018 reporting period. There were no internal reports made to the Chief of Police by members of the Alamo Heights Police Department alleging racial profiling by another member of the Alamo Heights Police Department during the 2018 reporting period.**

## Training

In compliance with the Texas Racial Profiling Law, the Alamo Heights Police Department required that all its officers adhere to all Texas Commission on Law Enforcement Officers (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

All officers from the Alamo Heights Police Department have completed a TCOLE training and education program on racial profiling, as required by law, by 08/31/02 or will have completed the required training 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 TCOLE intermediate proficiency certificate, or who had held a peace officer license issued by TCOLE for at least two years, will have completed a TCOLE training and education program on racial profiling not later than September 1, 2003. **The department has met all training requirements mandated by law.**

The Chief of Police, as part of the initial training and continued education for such appointment, attended the Law Enforcement Management Institute of Texas program on racial profiling. This fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Training law.

## Checklist

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**The following requirements must be met by all law enforcement agencies in the State of Texas:**

- Clearly defined act of actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Alamo Heights Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations; Provide public education related to the complaint process
- Adopt a policy on standards for reviewing video and audio documentation of traffic stops.
- Implement disciplinary guidelines for officers found in violation of the Texas Racial Profiling Law
- Collect required data in compliance with Senate Bill No. 1849 (Sandra Bland Act) and the Texas Code of Criminal Procedure
- Produce an annual report on police contacts by March 1, 2019. As a part of this requirement the annual report is presented to the governing body of Alamo Heights and a required data report is provided to the Texas Commission on Law Enforcement (TCOLE) before March 1, 2019. **The required data report was submitted to TCOLE and accepted on January 31, 2019. The required annual report was presented to the Alamo Heights City Council at a regularly scheduled City Council meeting on February 11, 2019.**

**The Alamo Heights Police Department has complied with all requirements of the Texas Racial Profiling Law.**

# Racial Profiling Report | Full report

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<b>Agency Name:</b>	Alamo Heights Police Department
<b>Reporting Date:</b>	01/31/2019
<b>TCOLE Agency Number:</b>	29201
<b>Chief Administrator:</b>	Richard Pruitt
<b>Agency Contact Information:</b>	
<b>Phone:</b>	(210) 822-6433
<b>Email:</b>	rpruitt@alamoheightstx.gov
<b>Mailing Address:</b>	6116 Broadway San Antonio Texas 78209

This Agency filed a full report

Alamo Heights Police Department has adopted a detailed written policy on racial profiling. Our policy:

- 1.) clearly defines acts constituting racial profiling;
- 2.) strictly prohibit peace officers employed by the Alamo Heights Police Department from engaging in racial profiling;
- 3.) implements a process by which an individual may file a complaint with the Alamo Heights Police Department if the individual believes that a peace officer employed by the Alamo Heights Police Department has engaged in racial profiling with respect to the individual;
- 4.) provides public education relating to the agency's complaint process;
- 5.) requires appropriate corrective action to be taken against a peace officer employed by the Alamo Heights Police Department who, after an investigation, is shown to have engaged in racial profiling in violation of the Alamo Heights Police Department'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; 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.

**Executed by:** Richard Pruitt

Chief Administrator

**Alamo Heights Police Department**

**Date:** 01/31/2019

# Total stops: 5841

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## Gender

**Female:** 2491

**Male:** 3350

## Race or ethnicity

**Black:** 412

**Asian/Pacific Islander:** 110

**White:** 3584

**Hispanic/Latino:** 1662

**Alaska Native/American Indian:** 73

## Was race or ethnicity known prior to stop?

**Yes:** 21

**No:** 5820

## Reason for stop?

**Violation of law:** 110

**Pre existing knowledge:** 25

**Moving traffic violation:** 4282

**Vehicle traffic violation:** 1424

## Street address or approximate location of the stop

**City street:** 5700

**US highway:** 0

**State highway:** 95

**County road:** 0

**Private property or other:** 46

## Was a search conducted?

**Yes:** 390

**No:** 5451

## Reason for Search?

**Consent:** 4

**Contraband:** 4

**Probable cause:** 75

**Inventory:** 298

**Incident to arrest:** 9

## Was Contraband discovered?

**Yes:** 131

**No:** 259

## Description of contraband

**Drugs:** 89

**Currency:** 1

**Weapons:** 8

**Alcohol:** 26

**Stolen property:** 1

**Other:** 6

## Result of the stop

**Verbal warning:** 0

**Written warning:** 2761

**Citation:** 2990

**Written warning and arrest:** 13

**Citation and arrest:** 77

**Arrest:** 0

## Arrest Total

**Total:** 12

## Arrest based on

**Violation of Penal Code:** 29

**Violation of Traffic Law:** 12

**Violation of City Ordinance:** 0

**Outstanding Warrant** 49

## Was physical force resulting in bodily injury used during stop

**Yes:** 6

**No:** 5835

Submitted electronically to the



The Texas Commission on Law Enforcement

Alamo Heights Police Department  
 2018 Racial Profiling Report (Del Carmen)  
 Exhibit #2

**Table 1: Motor Vehicle Contacts Including Citations and Warnings**

	Citation	Written Warning	Citation & Arrest	Warning & Arrest	Total
<b>A</b>	52	58	0	0	<b>110</b>
<b>B</b>	227	175	9	1	<b>412</b>
<b>H</b>	980	636	42	4	<b>1,662</b>
<b>I</b>	42	31	0	0	<b>73</b>
<b>W</b>	1,689	1,861	26	8	<b>3,584</b>
<b>Total</b>	<b>2,990</b>	<b>2,761</b>	<b>77</b>	<b>13</b>	<b>5,841</b>

**Table 2: Motor Vehicle Searches and Arrests**

	Searches		Consensual Searches		Total
	No Search	Search Conducted	Non-Consent / No Search	Consensual Search	
<b>A</b>	107	3	110	0	<b>110</b>
<b>B</b>	360	52	412	0	<b>412</b>
<b>H</b>	1,452	210	1,659	3	<b>1,662</b>
<b>I</b>	70	3	73	0	<b>73</b>
<b>W</b>	3,462	122	3,583	1	<b>3,584</b>
<b>Total</b>	<b>5,451</b>	<b>390</b>	<b>5,837</b>	<b>4</b>	<b>5,841</b>

**Table 3: Search Data**

	Searches		Contraband		Arrest	Total
	No Search	Search Conducted	Evid. Not Found	Evid. Found		
<b>A</b>	107	3	109	1	0	<b>110</b>
<b>B</b>	360	52	387	25	10	<b>412</b>
<b>H</b>	1,452	210	1,599	63	46	<b>1,662</b>
<b>I</b>	70	3	73	0	0	<b>73</b>
<b>W</b>	3,462	122	3,542	42	34	<b>3,584</b>
<b>Total</b>	<b>5,451</b>	<b>390</b>	<b>5,710</b>	<b>131</b>	<b>34</b>	<b>3,584</b>

- A Asian / Pacific Islander
- B Black
- H Hispanic
- I American Indian / Alaskan native
- W White

# ALAMO HEIGHTS POLICE DEPARTMENT

## 2018 Racial Profiling Report

**Census Comparisons - 2010 Census Report**  
**Exhibit #3**

<b>Race/Ethnicity</b>	<b>Alamo Heights</b>	<b>San Antonio</b>	<b>Bexar County</b>
<b>2010 Census Population</b>	7031	1,327,407	1,714,773
Caucasian	94.4% (a)	72.6% (a)	72.9% (a)
African American	0.7% (a)	6.9% (a)	7.5% (a)
Hispanic	16.3% (b)	63.2% (b)	58.7% (b)
Asian	1.4% (a)	2.5% (a)	2.5% (a)
Native American	0.4% (a)	0.9% (a)	0.8% (a)

(a) includes persons reporting only one race

(b) hispanics may be of any race, so also are included in applicable race categories

**ALAMO HEIGHTS POLICE DEPARTMENT**  
**2018 Racial Profiling Audit**

**Census Comparisons To Police Activities**

Period: 01/01/2018 - 12/31/2018

Exhibit #4


2018 AHPD Contact & Arrest			2010 Census Data					
			Alamo Heights 7031		San Antonio 1,327,407		Bexar County 1,714,773	
#	%	%	+ or (-)	%	+ or (-)	%	+ or (-)	
African	412	7.0%	0.7	+6.3%	6.9	+0.1%	7.5	(-)0.5%
Asian	110	1.9%	1.4	+0.5%	2.5	(-)0.6%	2.5	(-)0.6%
Caucasian	3,584	61.4%	94.4	(-)33%	72.6	(-)11.2%	72.9	(-)11.5%
Native Amer. <sup>1</sup>	73	1.2%	0.4	+0.8%	0.9	+0.3%	0.8	+0.4%
Hispanic <sup>2</sup>	1,662	28.5%	16.3	+12.2	63.2	(-)34.7%	58.7	(-)30.2%

**Total Contacts**      5,841      100.0%

<sup>1</sup> includes Native Alaskan and Pacific Islander

<sup>2</sup> included in caucasian totals

\*\*\* middle easterners counted as "other" or "multi-ethnicity" in the 2010 census

	<b>ALAMO HEIGHTS POLICE DEPARTMENT</b>	
	<b>Policy 2.2 Bias Based Policing</b>	
	<b>Effective Date: 06/29/11</b>	<b>Replaces: 806</b>
	<b>Approved: <u>Richard Pruitt Sr.</u></b> Chief of Police	
<b>Reference: TBP 2.01</b>		

**I. POLICY**

We are committed to a respect for constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, 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 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, sex, sexual orientation, gender, national origin, ethnicity, age, or religion. 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 directive. Nothing in this order limits non-enforcement contacts between officers and the public.

## II. PURPOSE

The purpose of this order 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

Most of the following terms appear in this order. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. 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. **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.
- F. **Race:** A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
- G. **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.
- H. **Reasonable suspicion:** Articulable, objective facts which lead an experienced 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."

- I. **Sex:** A biological classification, male or female, based on physical and genetic characteristics.
- J. **Stop:** The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is 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, national origin, citizenship, religion, ethnicity, age, gender, color, creed, sexual orientation, disability, or economic status. 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 engenders a future willingness to cooperate with law enforcement.

- a. Personnel shall facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
  - b. All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by an individual against the department. Furthermore, officers shall provide information on the complaints process and shall give copies of the "Citizen Complaint Procedures" pamphlet when appropriate.
5. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on an individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel shall 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 identification 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.

#### B. 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 use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are the 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.
4. Supervisors are reminded that biased enforcement of the laws engenders 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.

5. 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.
6. Supervisors shall facilitate the filing of any complaints about law enforcement service.
7. Supervisors shall conduct supervisory reviews of at least three (3) random videos each quarter (3 months) per officer. (TBP 2.01)
8. Supervisors shall record the reviewed videos on the video review spreadsheet located on the T:drive.

C. Disciplinary consequences

Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.

D. 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 “Citizen Complaint Procedures” pamphlets and make them available at all city facilities and as a downloadable document on the City website. The department’s complaint process and its bias based profiling policy will be posted on the website. If deemed necessary by the Chief of Police, the media may be used to inform the public of the department’s policy and complaint process.
- B. Complaints alleging incidents of bias based profiling will be fully investigated as described under Policy 2.4.
- C. 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 any combination of a warning citation, court citation and/or arrest is made is made subsequent to a traffic stop pursuant to state law.

- B. The information collected above will be reported to the city council annually in compliance with the Texas Racial Profiling Law.
- C. The information will also be reported to the Texas Commission on Law Enforcement Officer Standards and Education in the required format.

	<b>ALAMO HEIGHTS POLICE DEPARTMENT</b>	
	<b>Policy 2.4 Internal Investigation Process</b>	
	<b>Effective Date: 06/05/2014</b>	<b>Replaces: N/A</b>
	<b>Approved: <u>Richard Pruitt</u> Chief of Police</b>	
	<b>Reference: TBP 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, and 2.10.</b>	

**Purpose:**

To provide Standard Operating Procedures (SOP) regarding the internal affairs function, including receiving, investigating, and concluding complaints against employees.

**Definitions:**

1. Administrative Review: A documented review of an incident or occurrence prepared by or for the Chief of Police or designee. The review should indicate whether policy, training, equipment, or disciplinary issues should be addressed.
2. Compelled Interview: An involuntary employee interview, whereby the employee is compelled to respond to job related questions, or face disciplinary sanctions, including dismissal.
3. Complaint: An allegation of misconduct, violation of law or agency directives, against any member of the Department. This does not include a complainant’s misunderstanding or disagreement with the application of law or agency policies.
4. Conclusion of Fact: Final determination about allegations based on investigative activities. Classifications of investigative findings may include exonerated, sustained, not sustained, unfounded, and policy failure.
5. Criminal Investigation: An inquiry concerning suspected criminal behavior for the purpose of identifying offenders or gathering evidence to assist the prosecution of alleged offenders.
6. Discipline: A method of training or developing any employee by proper supervision and instruction. Discipline may be positive or negative.
7. Disciplinary Action: Punitive measures taken against an employee as the result of a complaint of one or more violations which have been sustained by the administrative investigation, including verbal or written reprimands, suspension, demotion, and/or termination.
8. Garrity v. New Jersey (1967): A landmark decision by the U. S. Supreme Court regarding a police officer’s constitutional right to self-incrimination under the 14<sup>th</sup> Amendment, which concluded “that police officers are not relegated to a watered-down version of constitutional rights”.

9. Grievance: Formal request in writing to resolve differences in identified matters due to actual or supposed circumstances regarded as just cause for protest.
10. Internal Affairs Investigation: A formal, detailed investigation of alleged misconduct, violation of law or agency directives.
11. Public Information Act: The Public Information Act, as contained in Chapter 552 of the Texas Government Code, gives the public access to government records. The employee may not ask why a person wants the information. While all government records are subject to the Public Information Act, certain exceptions may apply to the disclosure of the information, such as the law enforcement exception.
12. Substantial Evidence: Substantial evidence is defined as such evidence that a reasonable person might accept as adequate to support a conclusion of fact. It is that quality of evidence necessary for a court to affirm an administrative decision.

### **Discussion:**

The image of the Alamo Heights Police Department depends on the personal and professional integrity, training, and discipline of all agency employees. Public confidence and trust is determined by the quality of the internal investigative response to allegations of misconduct by the agency or its employees. The Department must competently and professionally investigate all allegations of misfeasance, malfeasance, nonfeasance by employees and complaints bearing on the Department's response to community needs.

### **Policy:**

It is the policy of the Alamo Heights Police Department to receive, investigate, and conclude citizen complaints, including anonymous complaints, against the agency or our employees in a timely manner. This should always be done in a professional, courteous, and respectful manner. The agency, employees, and citizens all benefit from an honest, open, and objective policy for the reception and adjudication of complaints. While this administration is committed to maintaining a professionally trained and disciplined police department, the administration shall always observe an employee's constitutional rights in regards to allegations of employee misconduct.

The Chief of Police shall be responsible for the internal investigative function. Therefore, the Chief of Police shall be informed in writing, of formal complaints against the agency or employees. Because of the sensitivity and impact of the creditability of the Police Department, investigators, assigned by the Chief of Police to investigate internal affairs complaints, shall report their investigative findings *directly* to the Chief of Police.

The goal of any complaint-processing policy is *fairness and truthfulness*. This applies equally to the complainant, accused employee, agency, as well as, the community. The established goals and objectives of the internal investigative function shall be:

- A. GOAL: To instill and maintain public confidence of the Alamo Heights Police Department, while ensuring fairness.
- B. OBJECTIVES:
1. To ensure the integrity of the Police Department through a standardized process of investigation.
  2. To establish a fair, impartial, objective, and legal handling of internal investigations:
    - a. Employee should fully understand that they are held responsible for proper conduct under a program that provides them adequate safeguards.
    - b. Public recognition that citizen's complaints are taken seriously by this administration and will be investigated thoroughly. If warranted, appropriate corrective action will be taken.
  3. To provide citizens the opportunity to lodge complaints and obtain information regarding the process of the investigation, while maintaining open lines of communication with the community.
  4. To provide quality police service, while maintaining a professionally trained and disciplined police agency.
  5. To protect the agency and its employees against unfair or unwarranted criticism, including false or vindictive accusations.
  6. To promptly remove unsuitable personnel, who engage in serious acts of misconduct, or have demonstrated they are unfit for an assignment, rank held or police service in general.
  7. To identify and correct weakness in agency policies, equipment, and/or training.

**Procedures:** (TBP:2.04)

- A. Receiving Complaints: This administration takes all complaints of employee misconduct seriously and welcomes citizens to bring forward legitimate grievances of employee misconduct. Employees shall receive complaints courteously and respectfully, providing citizens a written copy of the agency complaint process.
1. A person wishing to make a formal complaint alleging employee misconduct must do so in writing, accompanied by their signature. While a notarized affidavit is preferred, a letter, fax, or email may serve as notice of the complaint.
  2. An internally originated complaint may be made by any supervisor or employee by submitting a written statement with signature or notarized affidavit to the Chief of Police.
  3. The Chief of Police may serve as the complainant, if warranted, regarding employee

misconduct.

- B. Notification of the Chief of Police: (TBP: 2:07)
1. In the event an agency employee is accused, arrested, or charged with a crime, or found to be under the influence of alcohol and/or drugs while on-duty, the Chief of Police or his/her designate shall be notified *immediately*.
  2. The Chief of Police shall be notified promptly, *in writing*, of all formal complaints made against the agency or employees.
- C. Complaints Requiring an Internal Investigation: *Formal Complaints*, alleging a violation of agency policy or law, against the agency or its employees shall be promptly investigated, including anonymous complaints, to ensure the integrity of agency operations and personnel:
1. Types of complaints to be investigated by supervisory personnel shall include routine disciplinary complaints, for example, tardiness, failure to report to duty, unprofessional conduct, rudeness, discourtesy, verbal abuse, sarcasm, neglect or inattention to duty, poor driving record, or unacceptable job performance.
  2. Types of complaints that require a formal internal investigation, at the direction of the Chief of Police, may include, but not limited to, allegations of incompetence, insubordination, intoxication, corruption, brutality, excessive use of force, unlawful arrests, illegal searches, breach of civil rights, sexual harassment, racial profiling, falsifying police reports, perjury, or criminal conduct. (TBP:2:06)
- D. Time Limit on Internal Investigations: The impact of an internal investigation on the agency's integrity and employee morale necessitates a speedy resolution. Therefore, internal affairs complaints shall be *promptly* investigated and completed in a timely manner.
1. Unless extenuating circumstances exist, internal investigations shall be completed and any required disciplinary action taken within *30-days* of assignment. (TBP:2:05)
  2. Should additional time be required, the Chief of Police may authorize additional time in writing. (TBP: 2:05)
  3. A complete investigation is essential to the proper resolution of allegations of employee misconduct. Therefore, the Chief of Police has the authority to extend the time limit, as needed, to complete the internal investigation.
- E. The agency maintains a log of complaints that require formal internal investigations and a separate log for complaints investigated by line supervisors. Each log will record the date of the complaint, the complainants name, the employee involved, a description of the complaint, the date the investigation was concluded, and the results including any disciplinary measures. (TBP: 2:06)
- F. Notification to Complainant: (TBP:2:10) The Chief of Police or his designate shall be



responsible to keep the complainant informed concerning the status of a complaint, including the results:

1. Provide written notification to the complainant, acknowledging receipt of the complaint.
2. Regarding extended investigations, keep the complainant informed by periodic status reports, either orally or in writing.
3. Responsible to notify the complainant of the final results of the investigation upon conclusion, although the degree of specificity of the notice shall be at the discretion of the Chief of Police.
4. Assure the complainant that the agency is committed to quality police service and thanked for his/her interest, concern, and cooperation.

G. Employee's Rights: Personnel complaints must comply with state law (Government Code 614.021). When employees are notified that they have become the focus of an internal investigation, the Chief of Police or his designate shall issue the employee a written statement of the allegations. Police officers enjoy certain employee rights as protected by state law:

1. Persons wishing to make a formal complaint must do so in *writing*, accompanied by their *signature*. A notarized affidavit is preferred, but not required. A signed letter of the complaint may be sufficient.
2. A copy of a signed complaint against a law enforcement officer shall be given to the officer, within a reasonable time after the complaint is filed. The employee will be instructed to respond, in writing, to the allegations.
3. *Disciplinary action* may not be taken against the officer, unless a copy of the signed complaint has been given to the officer. Sustained complaints must be based on a "*finding of fact*" supporting the allegations. The employee may not be indefinitely suspended or terminated from employment, until the complaint is investigated and there is sufficient evidence to prove the allegation of misconduct.
4. Occasionally, malicious and deliberate false accusations are made against the agency or employees. To discourage false accusations, complainants should be provided a copy of the state's perjury statutes. False complaints will be prosecuted to the extent allowed by state law.
5. Employees may file an appeal of disciplinary action taken against them, in accordance with the City's grievance policy.

H. Compelled Employee Interviews: During a compelled interview, the employee will be instructed to fully cooperate with the investigation, including truthfully answering all questions relating to his/her law enforcement duties. Employers have the right to expect their employees to tell the truth regarding their positions as public employees. ***PUBLIC EMPLOYEES HAVE NO CONSTITUTIONAL RIGHT TO LIE!***

1. Upon receipt of a direct order by a supervisor, an employee may be disciplined for refusal to answer such questions, including dismissal.
  - a. The supervisor must warn the employee that refusal to answer job related questions will constitute *insubordination*, warranting disciplinary action.
  - b. A distinction should be made between administrative and criminal investigations. Employees should be advised that their compelled statements nor evidence gained there from cannot be used against them in any criminal proceedings, but may be used to discipline employees.
  - c. Prior to conducting a compelled interview involving criminal behavior, the assigned investigator should always consult with the Bexar County District Attorney's Office before proceeding with the internal investigation.
  - d. If criminal, employees cannot be asked to surrender their constitutional privileges against self-incrimination. According to the U. S. Constitution, "*no person shall be compelled in any criminal case to be a witness against himself.*"
2. During compelled interviews, the employee will not be permitted to have counsel, a supervisor or other representative present. The 5<sup>th</sup> Amendment right to counsel does not apply to administrative matters.
3. At the discretion of the Chief of Police, the employee may be required to submit or participate in the following specific conditions (at the agency's expense) to further aid the administrative review: a medical or lab examinations, photo lineup, or polygraph. If the employee refuses to take a test as ordered by the Chief of Police, the employee may be subject to disciplinary action, including termination for insubordination. The exam results would be limited to administrative use, except as provided by law.
4. The Chief of Police may authorize reasonable searches of Departmental property and equipment, such as employees desks, file cabinets, lockers, vehicles, etc. for the purpose of identifying, locating, and securing agency property or evidence that may be utilized as part of the internal investigation.
5. The Chief of Police may require an employee to provide the department with a list of social media sites used by the employee and the user name utilized on each site if the social media site(s) have relevance to the investigation.
6. If the focus of the investigation is criminal rather than administrative, the employee shall enjoy all constitutional rights provided by law, including the Garrity Rule or Miranda Rule.
7. This practice shall be subject to any legal requirements related to criminal allegations, including the 5th amendment of self-incrimination, the 6th amendment right to an attorney, and the 14th amendment of due process.
8. If criminal allegations are involved, the Chief of Police may elect to request an outside law enforcement agency to pursue the investigation or to conduct an independent

investigation, such as:

- Bexar County Sheriff's Department
- Texas Rangers
- Bexar County District Attorney
- Federal Bureau of Investigation

8. All compelled interviews for administrative and criminal investigations shall be recorded in their entirety. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed. (TBP:2:06)

I. Administrative Suspensions: Under certain circumstances, an employee may be relieved from duty at the discretion of the Chief of Police or his designate.

1. The Chief of Police retains the authority to relieve from duty any agency employee for the best interests of the agency, including public safety or liability concerns.
2. The relief from duty may be a temporary administrative action, such as suspension with or without pay or immediate dismissal, which is subject to the City Manager's approval.
3. If an employee refuses to submit to a test for alcohol or drug use, the Chief of Police or other officer in authority shall immediately relieve the employee from duty, *with pay*, for failure to cooperate in an administrative investigation.
4. Supervisory personnel have the authority to temporarily relieve from duty, *with pay*, any employee who is physically or psychologically unfit for duty, such as intoxicated.
  - a. When an employee is temporarily relieved from duty, his supervisor shall collect the employee's badge, department issued weapons and police identification card.
  - b. Whenever an employee is relieved from duty, the Chief of Police shall be notified, *immediately*.
  - c. Supervisors retain the authority to discipline a subordinate for minor infractions, including verbal warnings, counseling, or remedial training. All instances of verbal warning, employee counseling or remedial training will be documented by the supervisor or commanding officers initiating such action. (TBP: 2:04)

J. Conclusion of Facts: When the investigation is completed, the Chief of Police shall be responsible to provide a written "*conclusion of fact*" for each internal investigation into allegations of employee misconduct.

1. The conclusion of the disciplinary process should provide relevant information to all participants regarding final action taken, relative to the merits of the complaint and any culpability, including any required changes in agency policies, training, and/or equipment.
2. If several violations are alleged, each charge will be addressed and adjudicated separately. The conclusion of fact shall include a formal disposition, such as:

- a. Unfounded: Allegation is false or not supported factually.
  - b. Not sustained: Insufficient evidence either to prove or disprove the allegation; or the case is closed to lack of cooperation from the complainant.
  - c. Not involved: The investigation reveals that the named employee was not involved in the incident.
  - d. Sustained: Allegation is supported by sufficient evidence that the incident did occur and the named employee did engaged in misconduct. (TBP: 2:04)
  - e. Exonerated: The conduct complained of did occur, but the employee's actions were lawful, proper, or justified.
3. The Chief of Police shall be responsible to initiate disciplinary process required to correct employee misconduct. Any disciplinary action should be based upon the violation of agency policies, state, and/or federal laws.
  4. The city attorney or TML's legal department may be consulted regarding any employee decisions that might affect this directive.

K. Types of Disciplinary Actions: All disciplinary action will be based on *substantial* evidence. "Proof beyond a reasonable doubt" or "preponderance of evidence" is not required.

1. Minor infractions may be corrected by a verbal warning, employee counseling, or remedial training directed to improve the employee's job performance or to correct unacceptable behavior. All instances of verbal warning, employee counseling or remedial training will be documented by the supervisor or commanding officers initiating such action. (TBP: 2:04)
2. Major infractions may warrant more formal types of disciplinary action, which can only be accessed by the Chief of Police, such as written reprimand, suspension, demotion, or termination. The issuance of a written reprimand may be accomplished by a command level officer after consulting with the Chief of Police.
3. Disciplinary actions involving a monetary loss by the employee, such as suspension, demotion, and termination, shall be subject to an appeal to the City Manager, who has final authority. (Cross-reference with the City of Alamo Heights Employee Manual, "*Grievance Procedures*")


L. Confidentiality of Investigations: All internal investigations are "*confidential*". The complaint and investigation records shall be kept secure, consistent with the current Public Information Act requirements. Any employee, who violates this written directive, may be subject to disciplinary action.

1. The City of Alamo Heights must respond to any subpoena for internal investigative records. However, it is the policy of the City of Alamo Heights and the Police

Department to contest all such subpoenas where frivolous grounds exist. The City Attorney should always be consulted upon receipt of any court subpoena for administrative records.

2. The Chief of Police shall maintain a record of all formal complaints against the agency or employees in a secure file cabinet, consistent with current law, within the Chief of Police's office to protect the *confidentiality* of these records. (TBP: 2.09)
  3. Access shall be restricted, available only at the approval of the Chief of Police. (TBP: 2.09)
  4. The Chief of Police shall make available to the public a log of formal complaint investigations upon receipt of a written request consistent with the current Public Information Act requirements.
- M. Retention: The retention and purging of records of internal investigations shall be consistent with agency policy and state law, at the direction of the Chief of Police.
- N. Behavioral Cause Investigations: A behavioral cause investigation is an administrative investigation which is conducted when an employee exhibits unusual or abnormal behavior which could affect his/her ability to perform their job in an acceptable or safe manner. This may either be observed behavior by the employee's supervisor or a perceived behavioral deficiency which is claimed by the employee.
1. The employee will be referred, at the City's expense, to a licensed psychologist, who will examine the employee and make a determination as to his/her fitness for duty. Any information obtained by the psychologist which does not relate to the specific incident or problem under investigation will be considered privileged communication and shall not be disclosed or entered into any agency or personnel file.
  2. The Chief of Police reserves the authority to initiate a behavioral cause investigation, whenever he/she believes that it is in the best interest of the employee and/or the Police Department.
- O. Each employee of the Alamo Heights Police Department shall receive a copy of the agency's written policy related to internal investigative procedures. Employees will be held strictly accountable for this policy and the information contained therein, with no exceptions. (TBP: 2.09)

Cross-reference this policy with the City of Alamo Heights Employee Manual.

	<b>ALAMO HEIGHTS POLICE DEPARTMENT</b>	
	<b>Policy 7.34 Mobile / Body Worn Video and Audio Recording</b>	
	<b>Effective Date: 10/25/13</b>	<b>Replaces: 7.34 (02/07/2012)</b>
	<b>Approved: <u>Richard Pruitt</u> Chief of Police</b>	
<b>Reference:</b>		

**I. POLICY**

It is the policy of the Alamo Heights Police Department to present for prosecution video / audio evidence of traffic and other law violations. To this end, officers with properly functioning video / audio recording equipment shall make a recording of all applicable events surrounding the contact, stop, detention, interview and arrest of suspected violators and maintain this recorded evidence for consideration in criminal prosecution.

All video / audio recordings generated on department-owned equipment are the property of the Alamo Heights Police Department. The copying or reproduction of any video / audio recording files generated by members of the department for use outside of department business is prohibited.

Distribution of any video / audio recordings generated by department members in any format or for any purpose must be in compliance with this policy and any applicable SOPs.

**II. PURPOSE**

Video / audio recording equipment has proven to be a valuable law enforcement tool. Utilizing mobile video and body worn camera equipment facilitates the Alamo Heights Police Department’s objectives to collect evidence for criminal prosecution, aid in the prosecution of traffic violations and related offenses, provide an administrative function in evaluation of officer performance, and assist in training officers to improve safety and tactics.

**III. MOBILE VIDEO RECORDER (MVR)**

- A. Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with mobile video recording equipment and transmitter activated equipment. Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video and/or audio, as appropriate, shall be recorded.
- B. All officers operating a vehicle with functioning MVR equipment shall wear the

microphone or wireless transmitter supplied with each system.

1. Officers shall wear the wireless transmitter on their uniform shirt epaulet.
  2. Officers may elect to wear the wireless transmitter in a shirt pocket. Should this option be used, the officer shall attach an external microphone to the wireless transmitter. The external microphone shall be worn on the outermost garment in a position that will achieve the best audio recording possible.
- C. Officers shall not use any personally owned mobile video and/or audio recording device without authorization from the Chief of Police. This includes, but not limited to, audio recorders, cellular telephones, video cameras, and/or still cameras.
- D. The officer will use MVR equipment to record all portions of the following incidents:
1. Responding to calls for service in emergency mode (Code 2 or 3).
  2. Vehicle pursuits
  3. Traffic stops, including the investigation of a vehicle and occupants already stopped or parked.
    - a. The officer on a traffic stop will continue to record until the stopped vehicle departs or until they leave the scene.
    - b. Officers assisting on traffic stops will continue to record until the stopped vehicle departs or until the officers leave the scene.
  4. Pedestrian stops / Field interviews
    - a. The officer on a pedestrian stop/field interview will continue to record until the pedestrian departs or until the officer leaves the scene.
    - b. Officers assisting on pedestrian stops/field interviews will continue to record until the pedestrian departs or until the officer leaves the scene.
  5. Suspect Detentions
    - a. Officers shall use the MVR equipment to record the actions of suspects during interviews, when undergoing field sobriety tests, or when placed in custody.

6. Field Arrest Incidents
7. Incident / Crime Scenes
  - a. Officers shall use the MVR equipment to record the circumstances at crime and accident scenes or other events such as confiscation or documentation of evidence or contraband if the recording would prove useful in later judicial proceedings.
  - b. This includes, but is not limited to, family violence and disturbance calls, suicidal subjects, and suspicious circumstances.
8. The transport of any person regardless of custody status (e.g. handcuffed prisoner, courtesy ride, etc.) excluding authorized ride-alongs.
9. Requests for consent to search.

#### **IV. BODY WORN CAMERAS (BWC)**

- A. Body Worn Cameras are intended for official Department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the camera units is strictly prohibited.
- B. Officers will only use Body Worn Cameras approved by the Department. Officers shall not use any personally owned device to record video and/or audio without authorization from the Chief of Police.
- C. Uniformed officers engaged in the patrol function will be equipped with a Body Worn Camera.
- D. Non-uniformed officers (i.e. Detectives, etc.) may utilize the Body Worn Camera while carrying out official police duties.
- E. Prior to utilizing a BWC, officers will ensure its readiness by conducting an operation inspection.
  1. Any problems preventing the use of the unit during the shift will be reported to the shift supervisor and an Equipment Malfunction Report shall be completed.
- F. Officers shall wear the BWC on the front of their uniform shirt, centered with the chest at the sternum level to provide an optimal visual field.
- G. Non-uniformed officers shall wear the BWC on the outermost garment in a position that will achieve the best video and audio recording possible.



- H. Officers will activate the BWC to record all portions of the following incidents or activities:
1. Calls for service or self-initiated activity.
  2. Traffic stops, including the investigation of a vehicle and occupants already stopped or parked.
    - a. The officer on a traffic stop will continue to record until the stopped vehicle departs or until they leave the scene.
    - b. Officers assisting on traffic stops will continue to record until the stopped vehicle departs or until the officers leave the scene.
  3. Pedestrian stops / Field interviews
    - a. The officer on a pedestrian stop/field interview will continue to record until the pedestrian departs or until the officer leaves the scene.
    - b. Officers assisting on pedestrian stops/field interviews will continue to record until the pedestrian departs or until the officer leaves the scene.
  4. Suspect Detentions
    - a. Officers shall use the BWC equipment to record the actions of suspects during interviews, when undergoing field sobriety tests, or when placed in custody.
  5. Field Arrest Incidents
  6. Incident / Crime Scenes
    - a. Officers shall use the BWC equipment to record the circumstances at crime and accident scenes or other events such as confiscation or documentation of evidence or contraband if the recording would prove useful in later judicial proceedings.
    - b. This includes, but is not limited to, family violence and disturbance calls, suicidal subjects, and suspicious circumstances.
- I. Bike officers will activate the BWC on incidents or activities normally reserved for the in-car mobile video camera.

- J. Officers, if asked, shall inform questioners that the BWC is in use, and may, if appropriate, explain the purposes for its use.
- K. Officers will note in the narrative of reports when BWC recordings have been made during an incident.
- L. Officers will off-load the BWC recordings, via workstation docking cable, by the end of shift or upon indication that the device is nearing capacity.

## **V. MVR/BWC RECORDING CONTROL AND MANAGEMENT**

- A. All video / audio recordings generated on department-owned equipment are the property of the Alamo Heights Police Department. The copying, reproduction, or use of any video / audio recording files generated by members of the department for use outside of department business is prohibited without authorization from the Chief of Police or his designee.
- B. Mobile video and body worn camera recordings containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding will be safeguarded as other forms of evidence.
- C. Recordings of an evidentiary nature will be subject to the same security restrictions and chain of evidence safeguards as detailed in AHPD Policy 12.1, Property and Evidence.
- D. Access to MVR/BWC recordings is restricted to sworn personnel unless authorized by the Chief of Police or his designee. Viewing privileges of MVR/BWC recordings for Department personnel shall be established by the Chief of Police or his designee.
- E. MVR/BWC recordings will not be released to another criminal justice agency for trial or other reasons without having a duplicated copy made and returned to safe storage.
  - 1. Recordings will not be released to other than bona fide criminal justice agencies without prior approval of the Chief of Police or his designee.
  - 2. Recordings will be maintained by the Records Division unless ordered otherwise by the Chief of Police or his designee.
- F. No member of the Department shall alter, erase, modify, reuse, tamper with or disable any mobile or body worn video / audio recording equipment in any manner.
  - 1. Media containing MVR/BWC recordings may be destroyed per court order by C.I.D. personnel.

- G. All original recordings will be retained for a period to be determined by the Chief of Police and in compliance with any records retention laws.
- H. If a complaint is filed with the Department alleging an officer engaged in racial profiling with respect to a traffic or pedestrian stop, the Department shall retain the MVR/BWC recordings of the stop until final disposition of the complaint. If an officer becomes the subject of a complaint alleging racial profiling and the officer makes a written request, the officer shall be provided a copy of the MVR/BWC recordings of the incident.
- I. Officers aware of MVR/BWC recordings containing material that may be deemed beneficial as training material are encouraged and shall direct notification up the chain-of-command.

## **VI. COURT / EVIDENTIARY RECORDINGS**

- A. When MVR/BWC recordings are needed for court or evidentiary purposes, the officer shall request the recordings from the C.I.D. supervisor. A duplicate of the MVR/BWC recording will be made and processed as normal evidentiary material in accordance with Department policy.
- B. If the MVR/BWC recordings are not retained by the requesting court, the recordings will be returned to the C.I.D. supervisor for disposition.

## **VII. REQUESTS FOR MVR RECORDINGS**

- A. Any request for a MVR/BWC recording must be made prior to the end of the prescribed retention period.
- B. Requests for duplicates of MVR/BWC recordings originating from within the Department must be submitted to the Chief of Police or his designee. Recordings of an evidentiary nature may be submitted to the Criminal Investigations Division.
- C. Any request for a MVR/BWC recording by the District Attorney's office or City prosecutor will be permitted with the approval of the C.I.D. supervisor.
- D. Media requests for MVR/BWC recordings will be referred to and handled by the designated Public Information Officer (PIO). The PIO will release the recordings with approval of the Chief of Police or his designee.
- E. **Open Records requests by persons outside the Department to view or obtain a copy of an MVR/BWC recording will be handled under Open Records Act procedures.**
  - 1. Outside requests must be submitted through the Records Division.

Recordings of an evidentiary nature will only be released with the approval of the District Attorney's Office.

2. Requests are then directed to the C.I.D. supervisor for duplication. The Chief of Police or his designee will be responsible for determining to what extent the contents of the video are to be released.
3. Requests for recordings from criminal justice agencies shall be submitted in writing.
4. All other requests for duplicate recordings shall be referred to the Chief of Police or his designee. Requests should include specific information regarding the incident, i.e. date, time, location, etc.

## **VIII. SUPERVISOR RESPONSIBILITIES**

- A. Supervisors will ensure officers follow established procedures for the use and maintenance of MVR/BWC equipment.
- B. Supervisors will ensure the MVR/BWC recordings are off-loaded to the server at the end of the officer's tour of duty.
- C. Supervisors will conduct periodic and random inspections, on at least a weekly basis, of MVR/BWC equipment to determine if the MVR/BWC equipment is being fully and properly used, and to identify material that may be appropriate for training.
- D. Supervisors will ensure all statistical reporting requirements are being completed as required to ensure adequate program evaluation.
- E. Supervisors will assign police vehicles with faulty or no MVR/BWC equipment as a last resort.
- F. Supervisors will ensure that an "Equipment Malfunction Report" is submitted to the Patrol Commander for any damaged or non-functional MVR/BWC equipment. The Patrol Commander will ensure that non-functional MVR/BWC equipment is tracked and sent for repair or replacement.
- G. The Patrol Commander will randomly review MVR/BWC recordings on at least a weekly basis. During that review, a specific incident will be identified and reviewed in its entirety. These reviews will be conducted for training and integrity purposes.
- H. The Patrol Commander will review MVR/BWC recordings in incidents involving:
  1. Injury to Prisoners

2. Use of Force
3. Injury to Officers
4. Vehicle Pursuits
5. Citizen Complaints