



VIA TRANSIT POLICE DEPARTMENT

Standard Operating Procedures



Section 601 Racial/Bias Profiling

Office with Primary Responsibility:	COP	Effective Date: Prior Revision Date:	December 1, 2017 December 5, 2015
Office(s) with Secondary Responsibilities:	Racial/Bias Coordinator	Number of Pages:	8
Forms Referenced in Procedure:	Daily Log Via Form 100, Officer Daily Racial Profiling Compliance Form VIA form R/P 01, Officer Racial Profiling Monthly Report VIA form R/P 02, Supervisor Racial Profiling Monthly Report VIA form R/P 03, Department Quarterly Report VIA Form R/P 04	Related Procedures:	ALL

.01 INTRODUCTION

The purpose of the policy is to reaffirm the VIA Transit Police Department's commitment to unbiased policing in all its encounters between any officer 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.

.02 POLICY

- A. It is the policy of the VIA Transit Police Department to police in a proactive manner and aggressively investigate suspected violations of law. Officers shall actively enforce state and federal laws in a responsible and professional manner, without regard to race, ethnicity and/or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.
- B. Officers shall not use race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or physical or mental disability for a law enforcement-initiated action, except to determine whether a person matches a specific description of a particular suspect.
- C. Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures shall be respected at all times. Racial profiling is an unacceptable patrol tactic and will not be tolerated.
- D. This policy shall not preclude officers from offering assistance, such as observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

.03 DEFINITIONS

- A. **Racial / Bias Profiling:** A law enforcement-initiated action based solely on an individual's race, ethnicity or national origin, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

NOTE: A law enforcement initiated action does not include dispatch calls for service or citizens flagging down an officer.

- B. **Racial Profiling:** racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains 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. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin, ethnic background,



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gender, sexual orientation, religion, economic status age, cultural group, or any other identifiable group are racial profiling. Examples of racial profiling include but are not limited to the following:

1. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin, ethnic background, gender.
2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin, sexual orientation, religion is unlikely to own or possess that specific make or model of vehicle.
3. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin, economic status, cultural group, or any other identifiable group does not belong in a specific part of town or a specific place.

NOTE: A law enforcement agency derive two principles from the adoption of this definition of racial profiling:

- Officers may not use racial or ethnic stereotype as factors in selecting whom to stop and search, while officers may use race in conjunction with other known information of the suspect.
 - Officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.
- C. **Race or Ethnicity:** Of a particular decent, including Caucasian, African, Hispanic/Latino, Asian/Pacific Islander, or Native American/Alaskan.
- 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.
- E. **Traffic Stop:** A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic. Officers will no longer give verbal warnings on traffic stops but will issue a Written Warning.

.04 TRAINING

The Department shall be responsible for providing training to all officers in racial/bias profiling to emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or law enforcement-initiated action. This training shall include:

- A. Pre-FTO and FTO Training;
- B. All officers shall complete a TCOLE 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. Officers shall turn in class certificates to TCOLE coordinator and coordinator will maintain records.
- C. Specific lesson plans for Patrol Officers, Supervisors, FTOs, etc.

Note: Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

.05 RESPONSIBILITIES

- A. Each officer has a responsibility for preventing racial/bias profiling. Officers must remain customer-oriented, while also considering their safety and the safety of others. Officers should:
 1. Identify themselves by name;



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2. Explain the reason for the stop or detention;
 3. Afford the person the opportunity to provide their explanation of their behavior;
 4. Politely ask for the person's identification; and
 5. Be courteous and project a professional demeanor during the interview or questioning.
- B. Officers shall refrain from participating in or encouraging any actions or statements which could be perceived as racial/bias profiling.
- C. Officers must document their law enforcement-initiated action on their Daily Log, Racial Profiling Compliance Form and/or Monthly Racial Profiling Report.
- D. Each officer is responsible for assisting in the prevention of racial/bias profiling by the following actions:
1. Officers making custodial/non-custodial arrests shall base the arrests on probable cause supporting the elements of the offense and not on racial/bias profiling.
 2. Officers conducting a lawful detention, including stop and frisks, shall base the lawful detention on reasonable suspicion at the time of the stop and not on racial/bias profiling.
 3. Officers conducting field contacts (interviews) shall do so in accordance with SOP Section 509, *Field Contacts*.
 4. Officers shall refrain from participating in or encouraging any actions or statements which could be reasonably perceived as racial/bias profiling.
 5. Officers shall report any acts of racial/bias profiling in writing to their immediate supervisor.
- E. Supervisory officers shall monitor the actions of the officers under their command to ensure racial/bias profiling does not occur and is not condoned. Supervisors shall:
1. Review of at least three (3) random videos per officer each calendar quarter (3 months). When conducting random quarterly reviews of officer's video, supervisors are not required to watch each incident of an 8, 10, or 12-hour shift; however, but shall review the footage in a manner intended to gain an understanding of that officer's performance and adherence to policy and law. A recording of each officer will be reviewed at least once every thirty (30) days.
 2. Take immediate and appropriate remedial action whenever they observe, or are made aware of, any racial/bias profiling.
 3. Immediately document any complaint or observed incident of any acts or perceived acts of racial/bias profiling in accordance with Section .06.
 4. Immediately submit all reports of racial/bias profiling through the chain of command to the Chief of Transit Police.
 5. Supervisor will ensure officers of this department are recording their traffic and pedestrian stops. If the equipment used to record audio and /or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the officer making the stop shall properly document and report the information to a supervisor.
- F. When Supervisory Officers operate as a field officer, i.e. make a traffic stop themselves and/or contact a pedestrian in an officer-initiated manner; the supervisor must document the actions they take as per Section .05 C above.



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.06 COMPLAINT INVESTIGATION

- A. The VIA Transit Police Department shall accept and investigate all complaints from any person who believes he/she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be intimidated, coerced, or discouraged in any manner from filing a complaint, nor discriminated against because he/she filed such a complaint.
- B. Any employee who receives an allegation of racial/bias profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint through the appropriate channel or direct the individual (s). Any employee contacted shall provide to that person a copy of a complaint card. All employees will immediately report the allegation of racial/bias profiling to his/her immediate supervisor.
- C. 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 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.
- D. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.
- E. If there is a department video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint this department shall promptly provide a copy of the recording to that officer.
- F. Officer's responsibilities: Officer's addressing racial/biased profiling shall
 1. The Officer shall also document the allegation in writing on an Incident Report.
 2. The incident report shall include the nature of the complaint or allegation along with the name, address and telephone number of each complainant and witness.
 3. After the incident, the report shall be immediately completed and given to the Officer's supervisor.
 4. The Officer shall also explain to the complainant the Department's process for filing a complaint with the VIA customer service line (210) 362-2020.
 5. If the complainant request to speak with a supervisor, the Officer shall immediately notify a supervisor of the request.
- G. Supervisor responsibilities: When addressing racial/biased profiling complaints shall:
 1. Immediately notify the Chief of Transit Police of any cases where an officer is involved in allegations of serious misconduct or suspected criminal activity;
 2. Immediately contact and interview the complainants;
 3. Refer the complainants to the VIA customer service line (210) 362-2020 to initiate formal complaints;
 4. Interview and obtain written reports from the subject officers of the complaints.



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5. Obtain necessary information, which assists in the evaluation of the complaints;
6. Prepare preliminary complaint investigation packets including the information provided by the complainants, witnesses, the officers' reports, and the supervisors' reports;
7. Supervisors will not make recommendations as to the specific rule, regulation, policy, or procedure violated, nor will they make a recommendation as to punishment. Supervisors will only recommend either no disciplinary action is necessary, or that the complaint should be forwarded to the Chief of Transit Police for further disposition;
8. Route the preliminary complaint investigation packets through the chain of command to the Chief of Transit Police.
9. 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.
10. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination. A copy of the written and signed complaint must be given to the officer before any disciplinary action is taken.
11. All racial profiling complaints shall be kept for statistical analysis purposes outlined in law.

.07 DISCIPLINARY ACTIONS

- A. The VIA Transit Police Department considers racial/bias profiling a serious form of officer misconduct. The Department shall take direct and immediate actions to prevent such behavior, and to remedy all reported instances of racial/bias profiling.
- B. Officers who are found to have engaged in racial/bias profiling will be subject to appropriate corrective action including, but not limited to discipline such as discharge or criminal actions.

.08 CITATION & DATA COLLECTION & REPORTING

- A. **TRAFFIC STOP:** Racial Profile data must be collected on the **operator of any motor vehicle** stopped for an alleged violation of a law or ordinance. Officers who initiate a motor vehicle stop, shall document such occurrence by submitting:
 1. Traffic citation; An officer is required to collect information relating to traffic stops in which a citation is issued. On the citation officers must include:
 - a. the violators race or ethnicity;
 - b. whether a search was conducted;
 - c. was the search consensual; and
 - d. arrest information for this cited violation or any other violation.
 2. Traffic warning citation;
 3. Incident Report/Offense Report
 4. Misdemeanor Citation
 5. Racial Profiling Compliance Form
- B. **OFFICER INITIATED/PEDESTRIAN:** An officer who initiates a pedestrian stop shall record and report the following information on the Racial Profiling Compliance Form RP01 and Daily log:



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1. A physical description of each person detained as a result of the stop, including the person's gender, the person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.
 2. The street address or approximate location of the stop. The suspected offense, traffic law or ordinance alleged to have been violated.
 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 probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause.
 5. Whether any contraband was discovered in the course of the search and, if so, the type of contraband discovered.
 6. Whether the officer made an arrest as a result of the stop and/or search, and, if so, a statement of the offense charged.
 7. Whether the officer issued a warning or a citation as a result of the stop and, if so, a statement of the offense charged.
- C. Officers shall complete their Racial Profiling Compliance Form RP 01 daily, attach them to their Daily Log and turn them in to the shift supervisor. Officers will create a Racial Profiling Monthly Report RP 02 from their daily logs and approved compliance forms. Officer will turn in a monthly Racial Profiling Report Packet to their supervisor prior to the 5th of each following month. The Monthly Report Packet will include:
1. A completed Racial Profiling Monthly Report RP 02 (as coversheet)
 2. All Racial Profiling Compliance Forms RP 01 for the respective timeframe.
- D. Supervisory Officers shall check the Officer's daily log packets from officers for racial profiling data. Once the supervisor is satisfied the racial profiling data is accurate, the supervisor will sign the Officer's Racial Profiling Compliance Form RP 01 and return it to the officer.
- E. Supervisory Officers shall receive the Officer's Monthly Report Packet and check them for accuracy and completeness. Supervisory officers will compile a Supervisor's Racial Profiling Monthly RP 03 to reflect their aggregate Racial Profiling data from their respective shift. The Supervisor's Racial Profiling Monthly RP 03 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 citations that resulted in custodial arrest for this cited violation or any other violation
 5. A breakdown of field contacts by race or ethnicity;
 6. Number of contacts that resulted in search;
 7. Number of searches that were consensual; and
 8. Number of contacts that resulted in custodial arrest.
 9. Number of complaints



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10. Statistical analysis

- F. Supervisory Officers shall also compile a Quarterly Shift Analysis Report Packet detailing the racial profiling data of their individual shift officers. Supervisors shall turn in a Quarterly Shift Analysis Report Packet to the Racial/Bias Coordinator prior to the 10th day of the quarter. The Quarterly Shift Analysis Report Packet will include:
1. The Quarterly Shift Analysis Spreadsheet;
 2. Three (3) Supervisor's Racial Profiling Monthly RP 03;
 3. All Officer Monthly Report Packets for the timeframe.
- G. Racial/Bias Coordinator will receive a Quarterly Shift Analysis Report Packet from each shift supervisor and check them for accuracy and completeness. Racial/Bias Coordinator will analyze shift reports and create the Department Quarterly Report RP 04 which contains the quarterly shift comparison of racial profiling data. The Racial/Bias Coordinator will create a Quarterly Department Report Packet for the Chief of Transit Police by the prior to the 15th day of the quarter. The Quarterly Department Report Packet will include:
1. The Department Quarterly Report RP 04 (as Coversheet) and,
 2. Department Shift Comparison Spreadsheet.
- H. By March 1st of each year, the Department shall submit a report to the VIA Metropolitan Transit Authority Executive Board and TCOLE that includes the information gathered by officers' contacts throughout the year on the Department Annual Analysis Report. 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 citations that resulted in custodial arrest for this cited violation or any other violation
 5. A breakdown of field contacts by race or ethnicity;
 6. Number of contacts that resulted in search;
 7. Number of searches that were consensual; and
 8. Number of contacts that resulted in custodial arrest.
 9. Number of complaints
 10. Statistical analysis

.09 PUBLIC INFORMATION

The VIA Transit Police Department will inform the public of its policy against racial profiling and the Department's complaint process. The Department may utilize various methods to inform the public such as the news media, radio, service or civic presentations, the Internet, as well as VIA Metropolitan Transit Authority Executive Board meetings. Additionally, this information will be made available in languages other than English as appropriate.

.10 USE OF VIDEO AND AUDIO EQUIPMENT



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- A. Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with a video Camera and transmitter-activated equipment.
- B. Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video and audio,
- C. The department shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, supervisor shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.

.11 ANNUAL ANALYSES AND REPORTING

- A. All racial/bias information required to be collected in accordance with Article 2.133 of the Code of Criminal Procedure must be compiled and analyzed monthly/quarterly/annually.
- B. In accordance with Article 2.134 of the Code of Criminal Procedure, the previous year's information collected on racial/bias profiling must be submitted to the VIA Metropolitan Transit Authority Executive Board and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The report will include:
 - 1. A breakdown of citations by race or ethnicity;
 - 2. The number of citations that resulted in a search;
 - 3. The number of searches that were consensual; and
 - 4. The number of citations that resulted in custodial arrest for this cited violation or any other violation.