

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Code of Criminal Procedure  
Chapter 2B  
10/3/22

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| 32 | SUBCHAPTER A. GENERAL PROVISIONS                                |  |    |
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| 34 | Art. 2B.0001.   | DEFINITIONS. In this chapter:                    |    |

1 (1) "Commission" means the Texas Commission on Law  
2 Enforcement.

3 (2) "Department" means the Department of Public Safety  
4 of the State of Texas. (Occ. Code, Sec. 1701.651(2); New.)

5 Source Law

6 Sec. 1701.651. DEFINITIONS. In this subchapter:

7 (2) "Department" means the Department of  
8 Public Safety of the State of Texas.

9 Revisor's Note

10 Section 1701.001(1), Occupations Code, defines  
11 "commission" as the Texas Commission on Law  
12 Enforcement for purposes of Chapter 1701, Occupations  
13 Code, revised in part as this chapter. Section  
14 1701.651(2), Occupations Code, defines "department"  
15 as the Department of Public Safety of the State of  
16 Texas for purposes of Subchapter N, Chapter 1701,  
17 Occupations Code, revised as Subchapter C of this  
18 chapter. However, there are references to the full  
19 names of both the Department of Public Safety of the  
20 State of Texas and the Texas Commission on Law  
21 Enforcement in Articles 2.132, 2.134, 2.137, and  
22 2.138, revised in Subchapters B and D of this chapter.  
23 For drafting convenience and to eliminate frequent,  
24 unnecessary repetition of the full names of these  
25 agencies, the revised law adds a definition of  
26 "commission" to the revised law and makes the  
27 definitions of "department" and "commission"  
28 applicable to the entire revised chapter.

29 SUBCHAPTER B. RACIAL PROFILING; MOTOR VEHICLE STOPS

30 Revised Law

31 Art. 2B.0051. DEFINITIONS. In this subchapter:

32 (1) "Bodily injury" has the meaning assigned by  
33 Section 1.07, Penal Code.

34 (2) "Motor vehicle stop" means an occasion in which a

1 peace officer stops a motor vehicle for an alleged violation of a  
2 law or ordinance.

3 (3) "Race or ethnicity" means the following  
4 categories:

- 5 (A) Alaska native or American Indian;
- 6 (B) Asian or Pacific Islander;
- 7 (C) black;
- 8 (D) Hispanic or Latino; and
- 9 (E) white.

10 (4) "Racial profiling" means a law  
11 enforcement-initiated action based on an individual's race,  
12 ethnicity, or national origin rather than on the individual's  
13 behavior or on information identifying the individual as having  
14 engaged in criminal activity. (Code Crim. Proc., Arts.  
15 2.132(a)(2), (3), (b) (part), 2.133(a), (b) (part), 2.134(a),  
16 3.05.)

17 Source Law

18 Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL  
19 PROFILING. (a) In this article:

20 (2) "Motor vehicle stop" means an occasion  
21 in which a peace officer stops a motor vehicle for an  
22 alleged violation of a law or ordinance.

23 (3) "Race or ethnicity" means the  
24 following categories:

- 25 (A) Alaska native or American Indian;
- 26 (B) Asian or Pacific Islander;
- 27 (C) black;
- 28 (D) white; and
- 29 (E) Hispanic or Latino.

30 (b) . . .

31 (6) . . .  
32 (D) . . . bodily injury, as that term  
33 is defined by Section 1.07, Penal Code, . . . ;  
34 . . .

35 Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE  
36 STOPS. (a) In this article, "race or ethnicity" has  
37 the meaning assigned by Article 2.132(a).

38 (b) . . .

39 (9) . . . bodily injury, as that term is  
40 defined by Section 1.07, Penal Code, . . . .

41 Art. 2.134. COMPILATION AND ANALYSIS OF  
42 INFORMATION COLLECTED. (a) In this article:

43 (1) "Motor vehicle stop" has the meaning  
44 assigned by Article 2.132(a).

45 (2) "Race or ethnicity" has the meaning  
46 assigned by Article 2.132(a).

47 Art. 3.05. RACIAL PROFILING. In this code,  
48 "racial profiling" means a law enforcement-initiated

1 action based on an individual's race, ethnicity, or  
2 national origin rather than on the individual's  
3 behavior or on information identifying the individual  
4 as having engaged in criminal activity.

5 Revisor's Note

6 (1) Article 2.132(a), Code of Criminal  
7 Procedure, provides definitions of "motor vehicle  
8 stop" and "race or ethnicity" for purposes of that  
9 article. Articles 2.133 and 2.134 of that code, which  
10 include those terms and are revised in this  
11 subchapter, contain cross-references to the  
12 appropriate definition in Article 2.132(a). To avoid  
13 the unnecessary repetition of those cross-references,  
14 the revised law provides that the terms are applicable  
15 to Subchapter B of this chapter.

16 (2) In Articles 2.132 and 2.133, Code of  
17 Criminal Procedure, the phrase "bodily injury, as that  
18 term is defined by Section 1.07, Penal Code," is used.  
19 The term "bodily injury" is not used elsewhere in the  
20 source law. The revised law adds a definition of  
21 "bodily injury" applicable to Subchapter B of this  
22 chapter in which Articles 2.132 and 2.133 are revised  
23 to prevent the unnecessary repetition of the  
24 cross-references for that definition within the  
25 substance of the revised law.

26 (3) Article 3.05, Code of Criminal Procedure,  
27 provides a definition of "racial profiling" applicable  
28 to the Code of Criminal Procedure. The revised law  
29 substitutes "this subchapter" for "this code" because  
30 the term is used only in Articles 2.131, 2.132(b) and  
31 (c), and 2.134(c) and (f), Code of Criminal Procedure,  
32 which are revised in this subchapter as Articles  
33 2B.0051, 2B.0052, 2B.0053, 2B.0055, and 2B.0056.

34 Revised Law

35 Art. 2B.0052. RACIAL PROFILING PROHIBITED. A peace officer  
36 may not engage in racial profiling. (Code Crim. Proc., Art. 2.131.)



1 (A) the race or ethnicity of the individual  
2 detained;

3 (B) whether a search was conducted and, if so,  
4 whether the individual detained consented to the search;

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

8 (D) whether the peace officer used physical force  
9 that resulted in bodily injury during the stop;

10 (E) the location of the stop; and

11 (F) the reason for the stop; and

12 (7) require the chief administrator of the agency,  
13 regardless of whether the administrator is elected, employed, or  
14 appointed, to submit an annual report of the information collected  
15 under Subdivision (6) to:

16 (A) the commission; and

17 (B) the governing body of each county or  
18 municipality served by the agency, if the agency is an agency of a  
19 county, municipality, or other political subdivision of this state.

20 (c) On the commencement of an investigation by a law  
21 enforcement agency of a complaint described by Subsection (b)(3) in  
22 which there is a video or audio recording of the occurrence that is  
23 the basis for the complaint, the agency shall promptly provide a  
24 copy of the recording to the peace officer who is the subject of the  
25 complaint on written request by the officer for a copy of the  
26 recording.

27 (d) A law enforcement agency shall review the data collected  
28 under Subsection (b)(6) to identify any improvements the agency  
29 could make in the agency's practices and policies regarding motor  
30 vehicle stops.

31 (e) A report required under Subsection (b)(7) may not  
32 include identifying information about a peace officer who makes a  
33 motor vehicle stop or about an individual who is stopped or arrested  
34 by a peace officer. This subsection does not affect the collection

1 of information required by a policy under Subsection (b)(6).

2 (f) The commission shall begin disciplinary procedures  
3 against the chief administrator of a law enforcement agency if the  
4 commission finds that the chief administrator intentionally failed  
5 to submit a report required under Subsection (b)(7). (Code Crim.  
6 Proc., Arts. 2.132(a)(1), (b) (part), (e), (f), (g), (h).)

7 Source Law

8 (a) In this article:

9 (1) "Law enforcement agency" means an  
10 agency of the state, or of a county, municipality, or  
11 other political subdivision of the state, that employs  
12 peace officers who make motor vehicle stops in the  
13 routine performance of the officers' official duties.

14 (b) Each law enforcement agency in this state  
15 shall adopt a detailed written policy on racial  
16 profiling. The policy must:

17 (1) clearly define acts constituting  
18 racial profiling;

19 (2) strictly prohibit peace officers  
20 employed by the agency from engaging in racial  
21 profiling;

22 (3) implement a process by which an  
23 individual may file a complaint with the agency if the  
24 individual believes that a peace officer employed by  
25 the agency has engaged in racial profiling with  
26 respect to the individual;

27 (4) provide public education relating to  
28 the agency's compliment and complaint process,  
29 including providing the telephone number, mailing  
30 address, and e-mail address to make a compliment or  
31 complaint with respect to each ticket, citation, or  
32 warning issued by a peace officer;

33 (5) require appropriate corrective action  
34 to be taken against a peace officer employed by the  
35 agency who, after an investigation, is shown to have  
36 engaged in racial profiling in violation of the  
37 agency's policy adopted under this article;

38 (6) require collection of information  
39 relating to motor vehicle stops in which a ticket,  
40 citation, or warning is issued and to arrests made as a  
41 result of those stops, including information relating  
42 to:

43 (A) the race or ethnicity of the  
44 individual detained;

45 (B) whether a search was conducted  
46 and, if so, whether the individual detained consented  
47 to the search;

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

51 (D) whether the peace officer used  
52 physical force that resulted in bodily injury,  
53 . . . during the stop;

54 (E) the location of the stop; and

55 (F) the reason for the stop; and

56 (7) require the chief administrator of the  
57 agency, regardless of whether the administrator is  
58 elected, employed, or appointed, to submit an annual  
59 report of the information collected under Subdivision

1 (6) to:

2 (A) the Texas Commission on Law  
3 Enforcement; and

4 (B) the governing body of each county  
5 or municipality served by the agency, if the agency is  
6 an agency of a county, municipality, or other  
7 political subdivision of the state.

8 (e) A report required under Subsection (b)(7)  
9 may not include identifying information about a peace  
10 officer who makes a motor vehicle stop or about an  
11 individual who is stopped or arrested by a peace  
12 officer. This subsection does not affect the  
13 collection of information as required by a policy  
14 under Subsection (b)(6).

15 (f) On the commencement of an investigation by a  
16 law enforcement agency of a complaint described by  
17 Subsection (b)(3) in which a video or audio recording  
18 of the occurrence on which the complaint is based was  
19 made, the agency shall promptly provide a copy of the  
20 recording to the peace officer who is the subject of  
21 the complaint on written request by the officer.

22 (g) On a finding by the Texas Commission on Law  
23 Enforcement that the chief administrator of a law  
24 enforcement agency intentionally failed to submit a  
25 report required under Subsection (b)(7), the  
26 commission shall begin disciplinary procedures  
27 against the chief administrator.

28 (h) A law enforcement agency shall review the  
29 data collected under Subsection (b)(6) to identify any  
30 improvements the agency could make in its practices  
31 and policies regarding motor vehicle stops.

32 Revised Law

33 Art. 2B.0054. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

34 (a) A peace officer who makes a motor vehicle stop shall report to  
35 the law enforcement agency that employs the officer information  
36 relating to the stop, including:

37 (1) a physical description of any individual operating  
38 the motor vehicle who is detained as a result of the stop,  
39 including:

40 (A) the individual's gender; and

41 (B) the individual's race or ethnicity, as stated  
42 by the individual or, if the individual does not state the  
43 individual's race or ethnicity, as determined by the officer to the  
44 best of the officer's ability;

45 (2) the initial reason for the stop;

46 (3) whether the officer conducted a search as a result  
47 of the stop and, if so:

48 (A) whether the individual detained consented to  
49 the search;

1 (B) the reason for the search, including whether:

2 (i) any contraband or other evidence was in  
3 plain view;

4 (ii) any probable cause or reasonable  
5 suspicion existed to perform the search; or

6 (iii) the search was performed because the  
7 motor vehicle was towed or because of the arrest of any individual  
8 in the motor vehicle; and

9 (C) whether any contraband or other evidence was  
10 discovered during the search and a description of the contraband or  
11 evidence;

12 (4) whether the officer made an arrest as a result of  
13 the stop or the search and, if so, a statement of:

14 (A) whether the arrest was based on:

15 (i) a violation of the Penal Code;

16 (ii) a violation of a traffic law or  
17 ordinance; or

18 (iii) an outstanding warrant; and

19 (B) the offense charged;

20 (5) the street address or approximate location of the  
21 stop;

22 (6) whether the officer issued a verbal or written  
23 warning or a ticket or citation as a result of the stop; and

24 (7) whether the officer used physical force that  
25 resulted in bodily injury during the stop.

26 (b) The chief administrator of a law enforcement agency,  
27 regardless of whether the administrator is elected, employed, or  
28 appointed, is responsible for auditing reports under Subsection (a)  
29 to ensure that the race or ethnicity of the individual operating the  
30 motor vehicle is reported. (Code Crim. Proc., Arts. 2.133(b)  
31 (part), (c).)

32 Source Law

33 (b) A peace officer who stops a motor vehicle  
34 for an alleged violation of a law or ordinance shall  
35 report to the law enforcement agency that employs the

1 officer information relating to the stop, including:

2 (1) a physical description of any person  
3 operating the motor vehicle who is detained as a result  
4 of the stop, including:

5 (A) the person's gender; and

6 (B) the person's race or ethnicity,  
7 as stated by the person or, if the person does not  
8 state the person's race or ethnicity, as determined by  
9 the officer to the best of the officer's ability;

10 (2) the initial reason for the stop;

11 (3) whether the officer conducted a search  
12 as a result of the stop and, if so, whether the person  
13 detained consented to the search;

14 (4) whether any contraband or other  
15 evidence was discovered in the course of the search and  
16 a description of the contraband or evidence;

17 (5) the reason for the search, including  
18 whether:

19 (A) any contraband or other evidence  
20 was in plain view;

21 (B) any probable cause or reasonable  
22 suspicion existed to perform the search; or

23 (C) the search was performed as a  
24 result of the towing of the motor vehicle or the arrest  
25 of any person in the motor vehicle;

26 (6) whether the officer made an arrest as a  
27 result of the stop or the search, including a statement  
28 of whether the arrest was based on a violation of the  
29 Penal Code, a violation of a traffic law or ordinance,  
30 or an outstanding warrant and a statement of the  
31 offense charged;

32 (7) the street address or approximate  
33 location of the stop;

34 (8) whether the officer issued a verbal or  
35 written warning or a ticket or citation as a result of  
36 the stop; and

37 (9) whether the officer used physical  
38 force that resulted in bodily injury, . . . during the  
39 stop.

40 (c) The chief administrator of a law enforcement  
41 agency, regardless of whether the administrator is  
42 elected, employed, or appointed, is responsible for  
43 auditing reports under Subsection (b) to ensure that  
44 the race or ethnicity of the person operating the motor  
45 vehicle is being reported.

46 Revisor's Note

47 (1) Article 2.133(b), Code of Criminal  
48 Procedure, refers to a "peace officer who stops a motor  
49 vehicle for an alleged violation of a law or  
50 ordinance." Revised Article 2B.0051(2) provides a  
51 definition of "motor vehicle stop" that is applicable  
52 throughout the subchapter as "an occasion in which a  
53 peace officer stops a motor vehicle for an alleged  
54 violation of a law or ordinance." Because "motor  
55 vehicle stop" is defined for the subchapter and the  
56 language of Article 2.133 duplicates the substantive

1 definition, the revised law only references a "motor  
2 vehicle stop."

3 (2) Article 2.133(c), Code of Criminal  
4 Procedure, refers to a "person" operating a motor  
5 vehicle. Throughout this chapter, the revised law  
6 substitutes "individual" for "person" for clarity and  
7 consistency because, in context, it is clear that the  
8 referenced person is a natural person and not an entity  
9 described by the definition of "person" provided by  
10 Section 311.005, Government Code (Code Construction  
11 Act). The Code Construction Act is applicable to the  
12 revised law and any other provision of the Code of  
13 Criminal Procedure enacted under Section 43, Article  
14 III, Texas Constitution (authorizing the continuing  
15 statutory revision program), in the same manner as to  
16 an entire code enacted under the continuing statutory  
17 revision program, except as otherwise expressly  
18 provided by the Code of Criminal Procedure. See  
19 Section 6.02(a), Chapter 1058 (H.B. 2931), Acts of the  
20 85th Legislature, Regular Session, 2017.

21 Revised Law

22 Art. 2B.0055. COMPILATION AND ANALYSIS OF INFORMATION  
23 COLLECTED. (a) A law enforcement agency shall compile and analyze  
24 the information contained in each report received by the agency  
25 under Article 2B.0054.

26 (b) Not later than March 1 of each year, each law  
27 enforcement agency shall submit a report containing the  
28 incident-based data compiled during the previous calendar year to:

29 (1) the commission; and

30 (2) the governing body of each county or municipality  
31 served by the agency, if the law enforcement agency is a local law  
32 enforcement agency.

33 (c) A report required under Subsection (b) must be submitted  
34 by the chief administrator of the law enforcement agency,

1 regardless of whether the administrator is elected, employed, or  
2 appointed. The report must include:

3 (1) a comparative analysis of the information compiled  
4 under Article 2B.0054 to:

5 (A) evaluate and compare the number of motor  
6 vehicle stops, within the applicable jurisdiction, of:

7 (i) individuals recognized as members of  
8 racial or ethnic minority groups; and

9 (ii) individuals not recognized as members  
10 of racial or ethnic minority groups;

11 (B) examine the disposition of motor vehicle  
12 stops made by officers employed by the agency, categorized  
13 according to the race or ethnicity of the individuals affected, as  
14 appropriate, including any searches resulting from stops within the  
15 applicable jurisdiction; and

16 (C) evaluate and compare the number of searches  
17 resulting from motor vehicle stops within the applicable  
18 jurisdiction and whether contraband or other evidence was  
19 discovered during those searches; and

20 (2) information relating to each complaint filed with  
21 the agency alleging that a peace officer employed by the agency has  
22 engaged in racial profiling.

23 (d) A report required under Subsection (b) may not include  
24 identifying information about a peace officer who makes a motor  
25 vehicle stop or about an individual who is stopped or arrested by a  
26 peace officer. This subsection does not affect the reporting of  
27 information required under Article 2B.0054(a)(1).

28 (e) The commission, in accordance with Section 1701.162,  
29 Occupations Code, shall develop guidelines for compiling and  
30 reporting information as required by this article.

31 (f) The commission shall begin disciplinary procedures  
32 against the chief administrator of a law enforcement agency if the  
33 commission finds that the chief administrator intentionally failed  
34 to submit a report required under Subsection (b). (Code Crim.

1 Proc., Arts. 2.134(b), (c), (d), (e), (g).)

2 Source Law

3 (b) A law enforcement agency shall compile and  
4 analyze the information contained in each report  
5 received by the agency under Article 2.133. Not later  
6 than March 1 of each year, each law enforcement agency  
7 shall submit a report containing the incident-based  
8 data compiled during the previous calendar year to the  
9 Texas Commission on Law Enforcement and, if the law  
10 enforcement agency is a local law enforcement agency,  
11 to the governing body of each county or municipality  
12 served by the agency.

13 (c) A report required under Subsection (b) must  
14 be submitted by the chief administrator of the law  
15 enforcement agency, regardless of whether the  
16 administrator is elected, employed, or appointed, and  
17 must include:

18 (1) a comparative analysis of the  
19 information compiled under Article 2.133 to:

20 (A) evaluate and compare the number  
21 of motor vehicle stops, within the applicable  
22 jurisdiction, of persons who are recognized as racial  
23 or ethnic minorities and persons who are not  
24 recognized as racial or ethnic minorities;

25 (B) examine the disposition of motor  
26 vehicle stops made by officers employed by the agency,  
27 categorized according to the race or ethnicity of the  
28 affected persons, as appropriate, including any  
29 searches resulting from stops within the applicable  
30 jurisdiction; and

31 (C) evaluate and compare the number  
32 of searches resulting from motor vehicle stops within  
33 the applicable jurisdiction and whether contraband or  
34 other evidence was discovered in the course of those  
35 searches; and

36 (2) information relating to each complaint  
37 filed with the agency alleging that a peace officer  
38 employed by the agency has engaged in racial  
39 profiling.

40 (d) A report required under Subsection (b) may  
41 not include identifying information about a peace  
42 officer who makes a motor vehicle stop or about an  
43 individual who is stopped or arrested by a peace  
44 officer. This subsection does not affect the reporting  
45 of information required under Article 2.133(b)(1).

46 (e) The Texas Commission on Law Enforcement, in  
47 accordance with Section 1701.162, Occupations Code,  
48 shall develop guidelines for compiling and reporting  
49 information as required by this article.

50 (g) On a finding by the Texas Commission on Law  
51 Enforcement that the chief administrator of a law  
52 enforcement agency intentionally failed to submit a  
53 report required under Subsection (b), the commission  
54 shall begin disciplinary procedures against the chief  
55 administrator.

56 Revised Law

57 Art. 2B.0056. PRIMA FACIE EVIDENCE. The data collected as a  
58 result of the reporting requirements of Articles 2B.0053 and  
59 2B.0055 does not constitute prima facie evidence of racial

1 profiling. (Code Crim. Proc., Arts. 2.132(c), 2.134(f).)

2 Source Law

3 [Art. 2.132]

4 (c) The data collected as a result of the  
5 reporting requirements of this article shall not  
6 constitute prima facie evidence of racial profiling.

7 [Art. 2.134]

8 (f) The data collected as a result of the  
9 reporting requirements of this article shall not  
10 constitute prima facie evidence of racial profiling.

11 Revisor's Note

12 Article 2.132(c), Code of Criminal Procedure,  
13 refers to "[t]he data collected as a result of the  
14 reporting requirements of this article." Article 2.132  
15 is revised as this article and Articles 2B.0051,  
16 2B.0053, and 2B.0151. Because the parts of Article  
17 2.132 revised as 2B.0053 are the only part of that  
18 article relating to data collection, it is unnecessary  
19 in this context to include a cross-reference to  
20 Article 2B.0051 or 2B.0151. The revised law is drafted  
21 accordingly.

22 Revised Law

23 Art. 2B.0057. LIABILITY. A peace officer is not liable for  
24 damages arising from an act relating to the collection or reporting  
25 of information as required by Article 2B.0054 or under a policy  
26 adopted under Article 2B.0053. (Code Crim. Proc., Art. 2.136.)

27 Source Law

28 Art. 2.136. LIABILITY. A peace officer is not  
29 liable for damages arising from an act relating to the  
30 collection or reporting of information as required by  
31 Article 2.133 or under a policy adopted under Article  
32 2.132.

33 Revisor's Note

34 Article 2.136, Code of Criminal Procedure, refers  
35 to the collection or reporting of information as  
36 required by Article 2.133 of that code or under a  
37 policy adopted under Article 2.132 of that code. The  
38 relevant part of Article 2.133, Code of Criminal  
39 Procedure, related to the reporting of information is

1 revised as Article 2B.0054 of this chapter and the  
2 relevant part of Article 2.132 related to a policy and  
3 the collection and reporting of information under that  
4 policy is revised as Article 2B.0053 of this chapter.  
5 The revised law is drafted accordingly.

#### 6 Revised Law

7 Art. 2B.0058. CIVIL PENALTY. (a) If the chief  
8 administrator of a local law enforcement agency intentionally fails  
9 to submit the incident-based data required by Article 2B.0055, the  
10 agency is liable to the state for a civil penalty in an amount not to  
11 exceed \$5,000 for each violation. The attorney general may sue to  
12 collect a civil penalty under this subsection.

13 (b) From money appropriated to the agency for the  
14 administration of the agency, the executive director of a state law  
15 enforcement agency that intentionally fails to submit the  
16 incident-based data required by Article 2B.0055 shall remit to the  
17 comptroller the amount of \$1,000 for each violation.

18 (c) Money collected under this article shall be deposited in  
19 the state treasury to the credit of the general revenue fund. (Code  
20 Crim. Proc., Art. 2.1385.)

#### 21 Source Law

22 Art. 2.1385. CIVIL PENALTY. (a) If the chief  
23 administrator of a local law enforcement agency  
24 intentionally fails to submit the incident-based data  
25 as required by Article 2.134, the agency is liable to  
26 the state for a civil penalty in an amount not to  
27 exceed \$5,000 for each violation. The attorney general  
28 may sue to collect a civil penalty under this  
29 subsection.

30 (b) From money appropriated to the agency for  
31 the administration of the agency, the executive  
32 director of a state law enforcement agency that  
33 intentionally fails to submit the incident-based data  
34 as required by Article 2.134 shall remit to the  
35 comptroller the amount of \$1,000 for each violation.

36 (c) Money collected under this article shall be  
37 deposited in the state treasury to the credit of the  
38 general revenue fund.

#### 39 Revisor's Note

40 Article 2.1385, Code of Criminal Procedure,  
41 refers to a data submission requirement under Article  
42 2.134 of that code. Article 2.134, Code of Criminal

1 Procedure, is revised as Articles 2B.0055 and 2B.0056  
2 of this chapter. Because the part of Article 2.134  
3 revised as Article 2B.0055 is the only part of that  
4 article relating to a requirement to submit data, it is  
5 unnecessary in this context to include a  
6 cross-reference to Article 2B.0056 of this chapter.  
7 The revised law is drafted accordingly.

8 Revised Law

9 Art. 2B.0059. RULES. The department may adopt rules to  
10 implement Articles 2B.0052, 2B.0053, 2B.0054, 2B.0055, 2B.0056,  
11 and 2B.0057. (Code Crim. Proc., Art. 2.138.)

12 Source Law

13 Art. 2.138. RULES. The Department of Public  
14 Safety may adopt rules to implement Articles  
15 2.131-2.137.

16 Revisor's Note

17 Article 2.138, Code of Criminal Procedure,  
18 authorizes the Department of Public Safety to adopt  
19 rules to implement Articles 2.131-2.137. Those  
20 articles are revised as Articles 2B.0051, 2B.0052,  
21 2B.0053, 2B.0054, 2B.0055, 2B.0056, 2B.0057, 2B.0151,  
22 and 2B.0152 of this chapter. It is unnecessary to  
23 include a reference to Article 2B.0051 because that  
24 article includes only definitions that would not be  
25 the subject of rulemaking. It is also unnecessary to  
26 provide a reference to Articles 2B.0151 and 2B.0152  
27 because the rulemaking authority for those articles is  
28 revised as Article 2B.0153 of this chapter. The  
29 revised law is drafted to include references only to  
30 Articles 2B.0052, 2B.0053, 2B.0054, 2B.0055, 2B.0056,  
31 and 2B.0057 of this chapter.

32 SUBCHAPTER C. BODY WORN CAMERA PROGRAM

33 Revised Law

34 Art. 2B.0101. DEFINITIONS. In this subchapter:

35 (1) "Body worn camera" means a recording device that

1 is:

2 (A) capable of recording, or transmitting to be  
3 recorded remotely, video or audio; and

4 (B) worn on the person of a peace officer, which  
5 includes being attached to the officer's clothing or worn as  
6 glasses.

7 (2) "Officer" and "peace officer" have the meanings  
8 assigned by Section 1701.001, Occupations Code.

9 (3) "Private space" means a location in which an  
10 individual has a reasonable expectation of privacy, including an  
11 individual's home. (Occ. Code, Secs. 1701.651(1), (3); New.)

12 Source Law

13 Sec. 1701.651. DEFINITIONS. In this  
14 subchapter:

15 (1) "Body worn camera" means a recording  
16 device that is:

17 (A) capable of recording, or  
18 transmitting to be recorded remotely, video or audio;  
19 and

20 (B) worn on the person of a peace  
21 officer, which includes being attached to the  
22 officer's clothing or worn as glasses.

23 (3) "Private space" means a location in  
24 which a person has a reasonable expectation of  
25 privacy, including a person's home.

26 Revisor's Note

27 Section 1701.001, Occupations Code, provides  
28 definitions for purposes of Chapter 1701, Occupations  
29 Code. Among the terms defined in that section, only  
30 the terms "commission," "officer," and "peace officer"  
31 are used in Subchapter N, Occupations Code, revised as  
32 this subchapter. The definition of "commission" is  
33 included in Article 2B.0001 of this chapter.  
34 Accordingly, the revised law adds cross-references  
35 only to the definitions of "officer" and "peace  
36 officer" in Section 1701.001, Occupations Code.

37 Revised Law

38 Art. 2B.0102. GRANTS FOR BODY WORN CAMERAS. (a) A police  
39 department of a municipality in this state, a sheriff of a county in

1 this state who has received the approval of the commissioners court  
2 for the purpose, or the department may apply to the governor's  
3 office for a grant to defray the cost of implementing this  
4 subchapter and to equip peace officers with body worn cameras if  
5 that law enforcement agency employs officers who:

6 (1) engage in traffic or highway patrol or otherwise  
7 regularly detain or stop motor vehicles; or

8 (2) are primary responders who respond directly to  
9 calls for assistance from the public.

10 (b) The governor's office shall set deadlines for  
11 applications for grants under this subchapter.

12 (c) Except as provided by Subsection (d), the governor's  
13 office shall create and implement a matching grant program under  
14 which matching funds from federal, state, local, and other funding  
15 sources may be required as a condition of the grant. A law  
16 enforcement agency that receives a grant under this article is  
17 required to match 25 percent of the grant money.

18 (d) The department is eligible for grants under this  
19 subchapter but is not subject to any requirement for matching  
20 funds.

21 (e) The governor's office may conditionally award a grant to  
22 a law enforcement agency that has not adopted and implemented the  
23 policy under Article 2B.0106 or implemented the training required  
24 under Article 2B.0107. Money may not be disbursed to the law  
25 enforcement agency until the agency fully complies with those  
26 articles. (Occ. Code, Sec. 1701.652.)

27 Source Law

28 Sec. 1701.652. GRANTS FOR BODY WORN CAMERAS.

29 (a) A police department of a municipality in this  
30 state, a sheriff of a county in this state who has  
31 received the approval of the commissioners court for  
32 the purpose, or the department may apply to the office  
33 of the governor for a grant to defray the cost of  
34 implementing this subchapter and to equip peace  
35 officers with body worn cameras if that law  
36 enforcement agency employs officers who:

37 (1) are engaged in traffic or highway  
38 patrol or otherwise regularly detain or stop motor  
39 vehicles; or

40 (2) are primary responders who respond

1 directly to calls for assistance from the public.

2 (b) The office of the governor shall set  
3 deadlines for applications for grants under this  
4 chapter.

5 (c) Except as provided by Subsection (d), the  
6 office of the governor shall create and implement a  
7 matching grant program under which matching funds from  
8 federal, state, local, and other funding sources may  
9 be required as a condition of the grant. A law  
10 enforcement agency that receives a grant under this  
11 section is required to match 25 percent of the grant  
12 money.

13 (d) The department is eligible for grants under  
14 this subchapter but may not be made subject to any  
15 requirement for matching funds.

16 (e) The governor's office may conditionally  
17 award a grant to a law enforcement agency that has not  
18 adopted and implemented the policy under Section  
19 1701.655 or implemented the training required under  
20 Section 1701.656, but money may not be disbursed to a  
21 law enforcement agency until the agency fully complies  
22 with those sections.

23 Revisor's Note

24 Section 1701.652(b), Occupations Code, requires  
25 the governor's office to set deadlines for  
26 applications for grants "under this chapter." The  
27 revised law substitutes "subchapter" for "chapter"  
28 because it is clear from the context that the word  
29 "chapter" is a drafting error and the grants referred  
30 to in Subsection (b) of that section are grants under  
31 Subchapter N, Chapter 1701, Occupations Code, revised  
32 as this subchapter. See other references within  
33 Subchapter N, Chapter 1701, Occupations Code, to  
34 grants under "this subchapter" in Sections 1701.652(d)  
35 and 1701.653(a), Occupations Code.

36 Revised Law

37 Art. 2B.0103. GRANTS FOR BODY WORN CAMERA DATA  
38 STORAGE. (a) A law enforcement agency in this state that provides  
39 body worn cameras to its peace officers may apply to the office of  
40 the governor for a grant to defray the cost of data storage for  
41 recordings created with the body worn cameras.

42 (b) The grant program established by this article may be  
43 funded by federal funds or by gifts, grants, and donations. (Occ.  
44 Code, Sec. 1701.6521.)

1 Source Law

2 Sec. 1701.6521. GRANTS FOR BODY WORN CAMERA  
3 DATA STORAGE. (a) A law enforcement agency in this  
4 state that provides body worn cameras to its peace  
5 officers may apply to the office of the governor for a  
6 grant to defray the cost of data storage for recordings  
7 created with the body worn cameras.

8 (b) The grant program established by this  
9 section may be funded by federal funds or by gifts,  
10 grants, and donations.

11 Revised Law

12 Art. 2B.0104. REPORTING. (a) As a condition of receiving a  
13 grant under this subchapter, a law enforcement agency shall report  
14 to the commission annually regarding the costs of implementing a  
15 body worn camera program, including all known equipment costs and  
16 costs for data storage.

17 (b) The commission shall compile the information submitted  
18 under Subsection (a) into a report and submit the report to the  
19 governor's office and the legislature not later than December 1 of  
20 each year. (Occ. Code, Sec. 1701.653.)

21 Source Law

22 Sec. 1701.653. REPORTING. (a) As a condition  
23 of receiving a grant under this subchapter, a law  
24 enforcement agency annually shall report to the  
25 commission regarding the costs of implementing a body  
26 worn camera program, including all known equipment  
27 costs and costs for data storage.

28 (b) The commission shall compile the  
29 information submitted under Subsection (a) into a  
30 report and submit the report to the office of the  
31 governor and the legislature not later than December 1  
32 of each year.

33 Revised Law

34 Art. 2B.0105. INTERAGENCY OR INTERLOCAL CONTRACTS. A law  
35 enforcement agency in this state may enter into an interagency or  
36 interlocal contract to receive body worn camera services and have  
37 the identified operations performed through a program established  
38 by the Department of Information Resources. (Occ. Code, Sec.  
39 1701.654.)

40 Source Law

41 Sec. 1701.654. INTERAGENCY OR INTERLOCAL  
42 CONTRACTS. A law enforcement agency in this state may  
43 enter into an interagency or interlocal contract to  
44 receive body worn camera services and have the  
45 identified operations performed through a program

1 established by the Department of Information  
2 Resources.

3 Revised Law

4 Art. 2B.0106. BODY WORN CAMERA POLICY. (a) A law  
5 enforcement agency that receives a grant to provide body worn  
6 cameras to the agency's peace officers or that otherwise operates a  
7 body worn camera program shall adopt a policy for the use of body  
8 worn cameras.

9 (b) A policy described by Subsection (a) must ensure that a  
10 body worn camera is activated only for a law enforcement purpose and  
11 must include:

12 (1) guidelines for when a peace officer should  
13 activate a camera or discontinue a recording currently in progress,  
14 considering the need for privacy in certain situations and at  
15 certain locations;

16 (2) provisions relating to:

17 (A) data retention, including a provision  
18 requiring the retention of video for at least 90 days;

19 (B) storage of video and audio;

20 (C) creation of backup copies of the video and  
21 audio;

22 (D) maintenance of data security; and

23 (E) the collection of a body worn camera,  
24 including the applicable video and audio recorded by the camera, as  
25 evidence;

26 (3) guidelines for public access, through open records  
27 requests, to recordings that are public information;

28 (4) provisions entitling an officer to access any  
29 recording of an incident involving the officer before the officer  
30 is required to make a statement about the incident;

31 (5) procedures for supervisory or internal review; and

32 (6) provisions for the handling and documenting of  
33 equipment and malfunctions of equipment.

34 (c) A policy described by Subsection (a) may not require a  
35 peace officer to keep a body worn camera activated for the entire

1 period of the officer's shift.

2 (d) A policy described by Subsection (a) must require a  
3 peace officer who is equipped with a body worn camera and actively  
4 participating in an investigation to keep the camera activated for  
5 the entirety of the officer's active participation in the  
6 investigation unless the camera has been deactivated in compliance  
7 with that policy.

8 (e) A policy adopted under this article must be consistent  
9 with the Federal Rules of Evidence and Texas Rules of Evidence.  
10 (Occ. Code, Sec. 1701.655.)

11 Source Law

12 Sec. 1701.655. BODY WORN CAMERA POLICY. (a) A  
13 law enforcement agency that receives a grant to  
14 provide body worn cameras to its peace officers or that  
15 otherwise operates a body worn camera program shall  
16 adopt a policy for the use of body worn cameras.

17 (b) A policy described by Subsection (a) must  
18 ensure that a body worn camera is activated only for a  
19 law enforcement purpose and must include:

20 (1) guidelines for when a peace officer  
21 should activate a camera or discontinue a recording  
22 currently in progress, considering the need for  
23 privacy in certain situations and at certain  
24 locations;

25 (2) provisions relating to data retention,  
26 including a provision requiring the retention of video  
27 for a minimum period of 90 days;

28 (3) provisions relating to storage of  
29 video and audio, creation of backup copies of the video  
30 and audio, and maintenance of data security;

31 (4) provisions relating to the collection  
32 of a body worn camera, including the applicable video  
33 and audio recorded by the camera, as evidence;

34 (5) guidelines for public access, through  
35 open records requests, to recordings that are public  
36 information;

37 (6) provisions entitling an officer to  
38 access any recording of an incident involving the  
39 officer before the officer is required to make a  
40 statement about the incident;

41 (7) procedures for supervisory or internal  
42 review; and

43 (8) the handling and documenting of  
44 equipment and malfunctions of equipment.

45 (c) A policy described by Subsection (a) may not  
46 require a peace officer to keep a body worn camera  
47 activated for the entire period of the officer's shift.

48 (c-1) A policy described by Subsection (a) must  
49 require a peace officer who is equipped with a body  
50 worn camera and actively participating in an  
51 investigation to keep the camera activated for the  
52 entirety of the officer's active participation in the  
53 investigation unless the camera has been deactivated  
54 in compliance with that policy.

55 (d) A policy adopted under this section must be  
56 consistent with the Federal Rules of Evidence and

1 Texas Rules of Evidence.

2 Revised Law

3 Art. 2B.0107. TRAINING. (a) Before a law enforcement  
4 agency may operate a body worn camera program, the agency must  
5 provide training to:

6 (1) peace officers who will wear the body worn  
7 cameras; and

8 (2) any other personnel who will come into contact  
9 with video and audio data obtained from the use of body worn  
10 cameras.

11 (b) The commission, in consultation with the department,  
12 the Bill Blackwood Law Enforcement Management Institute of Texas,  
13 the Caruth Police Institute at Dallas, and the Texas Police Chiefs  
14 Association, shall develop or approve a curriculum for a training  
15 program under this article. (Occ. Code, Sec. 1701.656.)

16 Source Law

17 Sec. 1701.656. TRAINING. (a) Before a law  
18 enforcement agency may operate a body worn camera  
19 program, the agency must provide training to:

20 (1) peace officers who will wear the body  
21 worn cameras; and

22 (2) any other personnel who will come into  
23 contact with video and audio data obtained from the use  
24 of body worn cameras.

25 (b) The commission, in consultation with the  
26 department, the Bill Blackwood Law Enforcement  
27 Management Institute of Texas, the W. W. Caruth Jr.  
28 Police Institute at Dallas, and the Texas Police  
29 Chiefs Association, shall develop or approve a  
30 curriculum for a training program under this section.

31 Revised Law

32 Art. 2B.0108. RECORDING INTERACTIONS WITH PUBLIC. (a) A  
33 peace officer equipped with a body worn camera shall act in a manner  
34 that is consistent with the policy of the law enforcement agency  
35 that employs the officer with respect to when and under what  
36 circumstances a body worn camera must be activated.

37 (b) A peace officer equipped with a body worn camera may  
38 choose not to activate a camera or may choose to discontinue a  
39 recording currently in progress for any encounter with an  
40 individual that is not related to an investigation.

41 (c) A peace officer who does not activate a body worn camera

1 in response to a call for assistance shall include in the officer's  
2 incident report or otherwise note in the case file or record the  
3 reason for not activating the camera.

4 (d) Any justification for failing to activate the body worn  
5 camera because it is unsafe, unrealistic, or impracticable must be  
6 based on whether a reasonable officer under the same or similar  
7 circumstances would have made the same decision. (Occ. Code, Sec.  
8 1701.657.)

9 Source Law

10 Sec. 1701.657. RECORDING INTERACTIONS WITH THE  
11 PUBLIC. (a) A peace officer equipped with a body worn  
12 camera shall act in a manner that is consistent with  
13 the policy of the law enforcement agency that employs  
14 the officer with respect to when and under what  
15 circumstances a body worn camera must be activated.

16 (b) A peace officer equipped with a body worn  
17 camera may choose not to activate a camera or may  
18 choose to discontinue a recording currently in  
19 progress for any encounter with a person that is not  
20 related to an investigation.

21 (c) A peace officer who does not activate a body  
22 worn camera in response to a call for assistance must  
23 include in the officer's incident report or otherwise  
24 note in the case file or record the reason for not  
25 activating the camera.

26 (d) Any justification for failing to activate  
27 the body worn camera because it is unsafe,  
28 unrealistic, or impracticable is based on whether a  
29 reasonable officer under the same or similar  
30 circumstances would have made the same decision.

31 Revised Law

32 Art. 2B.0109. USE OF PERSONAL EQUIPMENT. (a) If a law  
33 enforcement agency receives a grant under Article 2B.0102, a peace  
34 officer who is employed by the agency and who is on duty may only use  
35 a body worn camera that is issued and maintained by that agency.

36 (b) Notwithstanding any previous policy, an agency may not  
37 allow its peace officers to use privately owned body worn cameras  
38 after receiving a grant described by this article.

39 (c) A peace officer who is employed by a law enforcement  
40 agency that has not received a grant described by this article or  
41 who has not otherwise been provided with a body worn camera by the  
42 agency that employs the officer may operate a body worn camera that  
43 is privately owned only if permitted by the employing agency.

44 (d) An agency that authorizes the use of privately owned

1 body worn cameras under Subsection (c) must make provisions for the  
2 security and compatibility of the recordings made by those cameras.  
3 (Occ. Code, Sec. 1701.658.)

4 Source Law

5 Sec. 1701.658. USE OF PERSONAL EQUIPMENT. (a)  
6 If a law enforcement agency receives a grant under  
7 Section 1701.652, a peace officer who is employed by  
8 the agency and who is on duty may only use a body worn  
9 camera that is issued and maintained by that agency.

10 (b) Notwithstanding any previous policies, an  
11 agency may not allow its peace officers to use  
12 privately owned body worn cameras after receiving a  
13 grant described by this section.

14 (c) A peace officer who is employed by a law  
15 enforcement agency that has not received a grant  
16 described by this section or who has not otherwise been  
17 provided with a body worn camera by the agency that  
18 employs the officer may operate a body worn camera that  
19 is privately owned only if permitted by the employing  
20 agency.

21 (d) An agency that authorizes the use of  
22 privately owned body worn cameras under Subsection (c)  
23 must make provisions for the security and  
24 compatibility of the recordings made by those cameras.

25 Revised Law

26 Art. 2B.0110. OFFENSE. (a) A peace officer or other  
27 employee of a law enforcement agency commits an offense if the  
28 officer or employee releases a recording created with a body worn  
29 camera under this subchapter without permission of the applicable  
30 law enforcement agency.

31 (b) An offense under this article is a Class A misdemeanor.  
32 (Occ. Code, Sec. 1701.659.)

33 Source Law

34 Sec. 1701.659. OFFENSE. (a) A peace officer or  
35 other employee of a law enforcement agency commits an  
36 offense if the officer or employee releases a  
37 recording created with a body worn camera under this  
38 subchapter without permission of the applicable law  
39 enforcement agency.

40 (b) An offense under this section is a Class A  
41 misdemeanor.

42 Revised Law

43 Art. 2B.0111. RECORDINGS AS EVIDENCE. (a) Except as  
44 provided by Subsections (b) and (c), a recording created with a body  
45 worn camera that documents an incident that involves the use of  
46 deadly force by a peace officer or that is otherwise related to an  
47 administrative or criminal investigation of an officer may not be

1 deleted, destroyed, or released to the public until all criminal  
2 matters have been finally adjudicated and all related  
3 administrative investigations have concluded.

4 (b) A law enforcement agency may permit an individual who is  
5 depicted in a recording of an incident described by Subsection (a)  
6 or, if the individual is deceased, the individual's authorized  
7 representative, to view the recording, if the law enforcement  
8 agency determines that the viewing furthers a law enforcement  
9 purpose and any authorized representative who is permitted to view  
10 the recording was not a witness to the incident. An individual  
11 viewing a recording under this subsection may not duplicate the  
12 recording or capture video or audio from the recording. A permitted  
13 viewing of a recording under this subsection is not considered to be  
14 a release of public information for purposes of Chapter 552,  
15 Government Code.

16 (c) A law enforcement agency may release to the public a  
17 recording described by Subsection (a) if the law enforcement agency  
18 determines that the release furthers a law enforcement purpose.

19 (d) This article does not affect the authority of a law  
20 enforcement agency to withhold under Section 552.108, Government  
21 Code, information related to a closed criminal investigation that  
22 did not result in a conviction or a grant of deferred adjudication  
23 community supervision. (Occ. Code, Sec. 1701.660.)

24 Source Law

25 Sec. 1701.660. RECORDINGS AS EVIDENCE. (a)  
26 Except as provided by Subsections (a-1) and (b), a  
27 recording created with a body worn camera and  
28 documenting an incident that involves the use of  
29 deadly force by a peace officer or that is otherwise  
30 related to an administrative or criminal investigation  
31 of an officer may not be deleted, destroyed, or  
32 released to the public until all criminal matters have  
33 been finally adjudicated and all related  
34 administrative investigations have concluded.

35 (a-1) A law enforcement agency may permit a  
36 person who is depicted in a recording of an incident  
37 described by Subsection (a) or, if the person is  
38 deceased, the person's authorized representative, to  
39 view the recording, provided that the law enforcement  
40 agency determines that the viewing furthers a law  
41 enforcement purpose and provided that any authorized  
42 representative who is permitted to view the recording  
43 was not a witness to the incident. A person viewing a

1 recording may not duplicate the recording or capture  
2 video or audio from the recording. A permitted viewing  
3 of a recording under this subsection is not considered  
4 to be a release of public information for purposes of  
5 Chapter 552, Government Code.

6 (b) A law enforcement agency may release to the  
7 public a recording described by Subsection (a) if the  
8 law enforcement agency determines that the release  
9 furthers a law enforcement purpose.

10 (c) This section does not affect the authority  
11 of a law enforcement agency to withhold under Section  
12 552.108, Government Code, information related to a  
13 closed criminal investigation that did not result in a  
14 conviction or a grant of deferred adjudication  
15 community supervision.

#### 16 Revised Law

17 Art. 2B.0112. RELEASE OF INFORMATION RECORDED BY BODY WORN  
18 CAMERA. (a) A member of the public who submits a written request to  
19 a law enforcement agency for information recorded by a body worn  
20 camera must include with the request:

21 (1) the date and approximate time of the recording;

22 (2) the specific location where the recording  
23 occurred; and

24 (3) the name of one or more individuals known to be a  
25 subject of the recording.

26 (b) Failure to provide all of the information required by  
27 Subsection (a) does not preclude the requestor from making a future  
28 request for the same recorded information.

29 (c) Except as provided by Subsection (d), information  
30 recorded by a body worn camera and held by a law enforcement agency  
31 under this subchapter is not subject to Section 552.021, Government  
32 Code.

33 (d) Information that is or could be used as evidence in a  
34 criminal prosecution is subject to Section 552.021, Government  
35 Code.

36 (e) A law enforcement agency may:

37 (1) seek to withhold information subject to Subsection  
38 (d) in accordance with procedures provided by Section 552.301,  
39 Government Code;

40 (2) assert any exception to disclosure under Chapter  
41 552, Government Code, or other law; or

1 (3) release information requested in accordance with  
2 Subsection (a) after the agency redacts any information made  
3 confidential under Chapter 552, Government Code, or other law.

4 (f) A law enforcement agency may not release any portion of  
5 a recording made in a private space, or of a recording involving the  
6 investigation of conduct that constitutes a misdemeanor punishable  
7 by fine only and does not result in arrest, without written  
8 authorization from the individual who is the subject of that  
9 portion of the recording or, if the individual is deceased, from the  
10 individual's authorized representative.

11 (g) The attorney general shall set a proposed fee to be  
12 charged to members of the public who seek to obtain a copy of a  
13 recording under this article in an amount sufficient to cover the  
14 cost of reviewing and making the recording. A law enforcement  
15 agency may provide a copy without charge or at a reduced charge if  
16 the agency determines that waiver or reduction of the charge is in  
17 the public interest.

18 (h) A recording is confidential and excepted from the  
19 requirements of Chapter 552, Government Code, if the recording:

20 (1) was not required to be made under this subchapter,  
21 another law, or a policy adopted by the appropriate law enforcement  
22 agency; and

23 (2) does not relate to a law enforcement purpose.  
24 (Occ. Code, Sec. 1701.661.)

25 Source Law

26 Sec. 1701.661. RELEASE OF INFORMATION RECORDED  
27 BY BODY WORN CAMERA. (a) A member of the public is  
28 required to provide the following information when  
29 submitting a written request to a law enforcement  
30 agency for information recorded by a body worn camera:

31 (1) the date and approximate time of the  
32 recording;

33 (2) the specific location where the  
34 recording occurred; and

35 (3) the name of one or more persons known  
36 to be a subject of the recording.

37 (b) A failure to provide all of the information  
38 required by Subsection (a) to be part of a request for  
39 recorded information does not preclude the requestor  
40 from making a future request for the same recorded  
41 information.

42 (c) Except as provided by Subsection (d),

1 information recorded by a body worn camera and held by  
2 a law enforcement agency under this subchapter is not  
3 subject to the requirements of Section 552.021,  
4 Government Code.

5 (d) Information that is or could be used as  
6 evidence in a criminal prosecution is subject to the  
7 requirements of Section 552.021, Government Code.

8 (e) A law enforcement agency may:

9 (1) seek to withhold information subject  
10 to Subsection (d) in accordance with procedures  
11 provided by Section 552.301, Government Code;

12 (2) assert any exceptions to disclosure in  
13 Chapter 552, Government Code, or other law; or

14 (3) release information requested in  
15 accordance with Subsection (a) after the agency  
16 redacts any information made confidential under  
17 Chapter 552, Government Code, or other law.

18 (f) A law enforcement agency may not release any  
19 portion of a recording made in a private space, or of a  
20 recording involving the investigation of conduct that  
21 constitutes a misdemeanor punishable by fine only and  
22 does not result in arrest, without written  
23 authorization from the person who is the subject of  
24 that portion of the recording or, if the person is  
25 deceased, from the person's authorized representative.

26 (g) The attorney general shall set a proposed  
27 fee to be charged to members of the public who seek to  
28 obtain a copy of a recording under this section. The  
29 fee amount must be sufficient to cover the cost of  
30 reviewing and making the recording. A law enforcement  
31 agency may provide a copy without charge or at a  
32 reduced charge if the agency determines that waiver or  
33 reduction of the charge is in the public interest.

34 (h) A recording is confidential and excepted  
35 from the requirements of Chapter 552, Government Code,  
36 if the recording:

37 (1) was not required to be made under this  
38 subchapter or another law or under a policy adopted by  
39 the appropriate law enforcement agency; and

40 (2) does not relate to a law enforcement  
41 purpose.

#### 42 Revised Law

43 Art. 2B.0113. BODY WORN CAMERA RECORDINGS; REQUEST FOR  
44 ATTORNEY GENERAL DECISION REGARDING PUBLIC INFORMATION. (a)  
45 Notwithstanding Section 552.301(b), Government Code, a  
46 governmental body's request for a decision from the attorney  
47 general about whether a requested body worn camera recording falls  
48 within an exception to public disclosure is considered timely if  
49 made not later than the 20th business day after the date of receipt  
50 of the written request.

51 (b) Notwithstanding Section 552.301(d), Government Code, a  
52 governmental body's response to a requestor regarding a requested  
53 body worn camera recording is considered timely if made not later  
54 than the 20th business day after the date of receipt of the written

1 request.

2 (c) Notwithstanding Section 552.301(e), Government Code, a  
3 governmental body's submission to the attorney general of the  
4 information required by that subsection regarding a requested body  
5 worn camera recording is considered timely if made not later than  
6 the 25th business day after the date of receipt of the written  
7 request.

8 (d) Notwithstanding Section 552.301(e-1), Government Code,  
9 a governmental body's submission to a requestor of the information  
10 required by that subsection regarding a requested body worn camera  
11 recording is considered timely if made not later than the 25th  
12 business day after the date of receipt of the written request.  
13 (Occ. Code, Sec. 1701.662.)

14 Source Law

15 Sec. 1701.662. BODY WORN CAMERA RECORDINGS;  
16 REQUEST FOR ATTORNEY GENERAL DECISION. (a)  
17 Notwithstanding Section 552.301(b), Government Code,  
18 a governmental body's request for a decision from the  
19 attorney general about whether a requested body worn  
20 camera recording falls within an exception to public  
21 disclosure is considered timely if made not later than  
22 the 20th business day after the date of receipt of the  
23 written request.

24 (b) Notwithstanding Section 552.301(d),  
25 Government Code, a governmental body's response to a  
26 requestor regarding a requested body worn camera  
27 recording is considered timely if made not later than  
28 the 20th business day after the date of receipt of the  
29 written request.

30 (c) Notwithstanding Section 552.301(e),  
31 Government Code, a governmental body's submission to  
32 the attorney general of the information required by  
33 that subsection regarding a requested body worn camera  
34 recording is considered timely if made not later than  
35 the 25th business day after the date of receipt of the  
36 written request.

37 (d) Notwithstanding Section 552.301(e-1),  
38 Government Code, a governmental body's submission to a  
39 requestor of the information required by that  
40 subsection regarding a requested body worn camera  
41 recording is considered timely if made not later than  
42 the 25th business day after the date of receipt of the  
43 written request.

44 Revised Law

45 Art. 2B.0114. PRODUCTION OF BODY WORN CAMERA RECORDING IN  
46 RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS. (a) For  
47 purposes of this article, "voluminous request" includes:

48 (1) a request for body worn camera recordings from

1 more than five separate incidents;

2 (2) more than five separate requests for body worn  
3 camera recordings from the same individual in a 24-hour period,  
4 regardless of the number of incidents included in each request; and

5 (3) a request or multiple requests from the same  
6 individual in a 24-hour period for body worn camera recordings  
7 that, taken together, constitute more than five hours of video  
8 footage.

9 (b) Notwithstanding Section 552.221(d), Government Code, an  
10 officer for public information who is employed by a governmental  
11 body and who receives a voluminous request in accordance with  
12 Article 2B.0112(a) is considered to have promptly produced the  
13 information for purposes of Section 552.221, Government Code, if  
14 the officer takes the actions required under Section 552.221 not  
15 later than the 20th business day after the date of receipt of the  
16 written request. (Occ. Code, Sec. 1701.663.)

17 Source Law

18 Sec. 1701.663. PRODUCTION OF BODY WORN CAMERA  
19 RECORDING IN RESPONSE TO VOLUMINOUS PUBLIC INFORMATION  
20 REQUESTS. (a) Notwithstanding Section 552.221(d),  
21 Government Code, an officer for public information who  
22 is employed by a governmental body and who receives a  
23 voluminous request in accordance with Section  
24 1701.661(a) is considered to have promptly produced  
25 the information for purposes of Section 552.221,  
26 Government Code, if the officer takes the actions  
27 required under Section 552.221 before the 21st  
28 business day after the date of receipt of the written  
29 request.

30 (b) For purposes of this section, "voluminous  
31 request" includes:

32 (1) a request for body worn camera  
33 recordings from more than five separate incidents;

34 (2) more than five separate requests for  
35 body worn camera recordings from the same person in a  
36 24-hour period, regardless of the number of incidents  
37 included in each request; or

38 (3) a request or multiple requests from  
39 the same person in a 24-hour period for body worn  
40 camera recordings that, taken together, constitute  
41 more than five total hours of video footage.

42 SUBCHAPTER D. VIDEO AND AUDIO EQUIPMENT AND RECORDINGS OF MOTOR  
43 VEHICLE STOPS

44 Revised Law

45 Art. 2B.0151. FEASIBILITY OF VIDEO AND AUDIO EQUIPMENT AND

1 RECORDINGS FOR MOTOR VEHICLE STOPS. (a) In this article:

2 (1) "Law enforcement agency" has the meaning assigned  
3 by Article 2B.0053.

4 (2) "Motor vehicle stop" has the meaning assigned by  
5 Article 2B.0051.

6 (b) On adoption of a policy under Article 2B.0053(b), a law  
7 enforcement agency shall examine the feasibility of:

8 (1) installing video camera and transmitter-activated  
9 equipment in each agency law enforcement motor vehicle that is  
10 regularly used to make motor vehicle stops;

11 (2) installing transmitter-activated equipment in  
12 each agency law enforcement motorcycle regularly used to make motor  
13 vehicle stops; and

14 (3) equipping with a body worn camera, as that term is  
15 defined by Article 2B.0101, each peace officer who regularly  
16 detains or stops motor vehicles.

17 (c) If a law enforcement agency installs video or audio  
18 equipment or equips peace officers with body worn cameras as  
19 provided by this article, the policy adopted by the agency under  
20 Article 2B.0053(b) must include standards for reviewing video and  
21 audio documentation. (Code Crim. Proc., Art. 2.132(d); New.)

22 Source Law

23 (d) On adoption of a policy under Subsection  
24 (b), a law enforcement agency shall examine the  
25 feasibility of installing video camera and  
26 transmitter-activated equipment in each agency law  
27 enforcement motor vehicle regularly used to make motor  
28 vehicle stops and transmitter-activated equipment in  
29 each agency law enforcement motorcycle regularly used  
30 to make motor vehicle stops. The agency also shall  
31 examine the feasibility of equipping each peace  
32 officer who regularly detains or stops motor vehicles  
33 with a body worn camera, as that term is defined by  
34 Section 1701.651, Occupations Code. If a law  
35 enforcement agency installs video or audio equipment  
36 or equips peace officers with body worn cameras as  
37 provided by this subsection, the policy adopted by the  
38 agency under Subsection (b) must include standards for  
39 reviewing video and audio documentation.

40 Revisor's Note

41 Article 2.132(d), Code of Criminal Procedure,  
42 refers to a "law enforcement agency" and "motor

1 vehicle stop." Those terms are defined in Articles  
2 2.132(a)(1) and (2), Code of Criminal Procedure, and  
3 are applicable to Subsection (d) of that article.  
4 Articles 2.132(a)(1) and (2) are revised in this  
5 chapter as Articles 2B.0053(a) and 2B.0051(2),  
6 respectively. The revised law includes  
7 cross-references to those provisions because the  
8 definitions are applicable to Article 2.132(d), Code  
9 of Criminal Procedure, revised as Subsections (b) and  
10 (c) of this article.

11 Revised Law

12 Art. 2B.0152. PROVISION OF MONEY OR EQUIPMENT. (a) The  
13 department shall adopt rules for providing money or video and audio  
14 equipment to law enforcement agencies to:

15 (1) install video and audio equipment in law  
16 enforcement motor vehicles and motorcycles; or

17 (2) equip peace officers with body worn cameras.

18 (b) The rules described by Subsection (a) must specify  
19 criteria to prioritize money or equipment provided to law  
20 enforcement agencies. The criteria may include consideration of  
21 tax effort, financial hardship, available revenue, and budget  
22 surpluses. The criteria must give priority to:

23 (1) law enforcement agencies that employ peace  
24 officers whose primary duty is traffic enforcement;

25 (2) smaller jurisdictions; and

26 (3) municipal and county law enforcement agencies.

27 (c) The department shall collaborate with an institution of  
28 higher education to identify law enforcement agencies that need  
29 money or video and audio equipment for a purpose described by  
30 Subsection (a). The collaboration may include the use of a survey to  
31 assist in developing criteria to prioritize money or equipment  
32 provided to law enforcement agencies.

33 (d) To receive money or video and audio equipment from the  
34 state for a purpose described by Subsection (a), the governing body

1 of a county or municipality, in conjunction with the law  
2 enforcement agency serving the county or municipality, shall  
3 certify to the department that the law enforcement agency needs  
4 money or video and audio equipment for that purpose.

5 (e) On receipt of money or video and audio equipment from  
6 the state for a purpose described by Subsection (a), the governing  
7 body of a county or municipality, in conjunction with the law  
8 enforcement agency serving the county or municipality, shall  
9 certify to the department that the law enforcement agency:

10 (1) has taken the necessary actions to use the video  
11 and audio equipment or body worn cameras for that purpose; and

12 (2) is using the video and audio equipment or body worn  
13 cameras for that purpose. (Code Crim. Proc., Art. 2.137.)

14 Source Law

15 Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

16 (a) The Department of Public Safety shall adopt rules  
17 for providing funds or video and audio equipment to law  
18 enforcement agencies for the purpose of installing  
19 video and audio equipment in law enforcement motor  
20 vehicles and motorcycles or equipping peace officers  
21 with body worn cameras, including specifying criteria  
22 to prioritize funding or equipment provided to law  
23 enforcement agencies. The criteria may include  
24 consideration of tax effort, financial hardship,  
25 available revenue, and budget surpluses. The criteria  
26 must give priority to:

27 (1) law enforcement agencies that employ  
28 peace officers whose primary duty is traffic  
29 enforcement;

30 (2) smaller jurisdictions; and

31 (3) municipal and county law enforcement  
32 agencies.

33 (b) The Department of Public Safety shall  
34 collaborate with an institution of higher education to  
35 identify law enforcement agencies that need funds or  
36 video and audio equipment for the purpose of  
37 installing video and audio equipment in law  
38 enforcement motor vehicles and motorcycles or  
39 equipping peace officers with body worn cameras. The  
40 collaboration may include the use of a survey to assist  
41 in developing criteria to prioritize funding or  
42 equipment provided to law enforcement agencies.

43 (c) To receive funds or video and audio  
44 equipment from the state for the purpose of installing  
45 video and audio equipment in law enforcement motor  
46 vehicles and motorcycles or equipping peace officers  
47 with body worn cameras, the governing body of a county  
48 or municipality, in conjunction with the law  
49 enforcement agency serving the county or municipality,  
50 shall certify to the Department of Public Safety that  
51 the law enforcement agency needs funds or video and  
52 audio equipment for that purpose.

53 (d) On receipt of funds or video and audio

1 equipment from the state for the purpose of installing  
2 video and audio equipment in law enforcement motor  
3 vehicles and motorcycles or equipping peace officers  
4 with body worn cameras, the governing body of a county  
5 or municipality, in conjunction with the law  
6 enforcement agency serving the county or municipality,  
7 shall certify to the Department of Public Safety that  
8 the law enforcement agency has taken the necessary  
9 actions to use and is using video and audio equipment  
10 and body worn cameras for those purposes.

11 Revisor's Note

12 Article 2.137, Code of Criminal Procedure, refers  
13 to providing "funds" to law enforcement agencies.  
14 Throughout this article, the revised law substitutes  
15 "money" for "funds" because, in context, the meaning  
16 is the same and "money" is the more commonly used term.

17 Revised Law

18 Art. 2B.0153. RULES. The department may adopt rules to  
19 implement Articles 2B.0151 and 2B.0152. (Code Crim. Proc., Art.  
20 2.138.)

21 Source Law

22 Art. 2.138. RULES. The Department of Public  
23 Safety may adopt rules to implement Articles  
24 2.131-2.137.

25 Revisor's Note

26 Article 2.138, Code of Criminal Procedure,  
27 authorizes the Department of Public Safety to adopt  
28 rules to implement Articles 2.131-2.137. Those  
29 articles are revised as Articles 2B.0051, 2B.0052,  
30 2B.0053, 2B.0054, 2B.0055, 2B.0056, 2B.0057, 2B.0151,  
31 and 2B.0152 of this chapter. It is unnecessary to  
32 include a reference to Article 2B.0051 for the reason  
33 stated in the revisor's note to Article 2B.0059. It is  
34 also unnecessary to provide a reference to Articles  
35 2B.0052, 2B.0053, 2B.0054, 2B.0055, 2B.0056, and  
36 2B.0057 because the rulemaking authority for those  
37 articles is revised as Article 2B.0059. The revised  
38 law is drafted to include references only to Articles  
39 2B.0151 and 2B.0152 of this chapter.

1 Revised Law

2 Art. 2B.0154. VIDEO RECORDINGS OF ARRESTS FOR INTOXICATION  
3 OFFENSES. An individual stopped or arrested on suspicion of an  
4 offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,  
5 is entitled to receive from the law enforcement agency employing  
6 the peace officer who made the stop or arrest a copy of any video  
7 made by or at the direction of the officer that contains footage of:

8 (1) the stop;

9 (2) the arrest;

10 (3) the conduct of the individual stopped during any  
11 interaction with the officer, including during the administration  
12 of a field sobriety test; or

13 (4) a procedure in which a specimen of the individual's  
14 breath or blood is taken. (Code Crim. Proc., Art. 2.1396.)

15 Source Law

16 Art. 2.1396. VIDEO RECORDINGS OF ARRESTS FOR  
17 INTOXICATION OFFENSES. A person stopped or arrested  
18 on suspicion of an offense under Section 49.04,  
19 49.045, 49.07, or 49.08, Penal Code, is entitled to  
20 receive from a law enforcement agency employing the  
21 peace officer who made the stop or arrest a copy of any  
22 video made by or at the direction of the officer that  
23 contains footage of:

24 (1) the stop;

25 (2) the arrest;

26 (3) the conduct of the person stopped  
27 during any interaction with the officer, including  
28 during the administration of a field sobriety test; or

29 (4) a procedure in which a specimen of the  
30 person's breath or blood is taken.

31 SUBCHAPTER E. ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS

32 Revised Law

33 Art. 2B.0201. DEFINITIONS. In this subchapter:

34 (1) "Electronic recording" means an audiovisual  
35 electronic recording, or an audio recording if an audiovisual  
36 electronic recording is unavailable, that is authentic, accurate,  
37 and unaltered.

38 (2) "Law enforcement agency" means an agency of this  
39 state, or of a county, municipality, or other political subdivision  
40 of this state, that employs peace officers who, in the routine  
41 performance of the officers' duties, conduct custodial

1 interrogations of individuals suspected of committing criminal  
2 offenses.

3 (3) "Place of detention" means a police station or  
4 other building that is a place of operation for a law enforcement  
5 agency, including a municipal police department or county sheriff's  
6 department, and is owned or operated by the law enforcement agency  
7 to detain individuals in connection with the suspected violation of  
8 a penal law. The term does not include a courthouse. (Code Crim.  
9 Proc., Art. 2.32(a).)

10 Source Law

11 Art. 2.32. ELECTRONIC RECORDING OF CUSTODIAL  
12 INTERROGATIONS. (a) In this article:

13 (1) "Electronic recording" means an  
14 audiovisual electronic recording, or an audio  
15 recording if an audiovisual electronic recording is  
16 unavailable, that is authentic, accurate, and  
17 unaltered.

18 (2) "Law enforcement agency" means an  
19 agency of the state, or of a county, municipality, or  
20 other political subdivision of this state, that  
21 employs peace officers who, in the routine performance  
22 of the officers' duties, conduct custodial  
23 interrogations of persons suspected of committing  
24 criminal offenses.

25 (3) "Place of detention" means a police  
26 station or other building that is a place of operation  
27 for a law enforcement agency, including a municipal  
28 police department or county sheriff's department, and  
29 is owned or operated by the law enforcement agency for  
30 the purpose of detaining persons in connection with  
31 the suspected violation of a penal law. The term does  
32 not include a courthouse.

33 Revised Law

34 Art. 2B.0202. RECORDING OF CUSTODIAL INTERROGATION  
35 REQUIRED; EXCEPTIONS. (a) Unless good cause exists that makes  
36 electronic recording infeasible, a law enforcement agency shall  
37 make a complete and contemporaneous electronic recording of any  
38 custodial interrogation that occurs in a place of detention and is  
39 of an individual suspected of committing or charged with the  
40 commission of an offense under the following provisions of the  
41 Penal Code:

42 (1) Section 19.02 (murder);

43 (2) Section 19.03 (capital murder);

44 (3) Section 20.03 (kidnapping);

- 1 (4) Section 20.04 (aggravated kidnapping);
- 2 (5) Section 20A.02 (trafficking of persons);
- 3 (6) Section 20A.03 (continuous trafficking of
- 4 persons);
- 5 (7) Section 21.02 (continuous sexual abuse of young
- 6 child or disabled individual);
- 7 (8) Section 21.11 (indecent with a child);
- 8 (9) Section 21.12 (improper relationship between
- 9 educator and student);
- 10 (10) Section 22.011 (sexual assault);
- 11 (11) Section 22.021 (aggravated sexual assault); or
- 12 (12) Section 43.25 (sexual performance by a child).

13 (b) For purposes of Subsection (a), an electronic recording  
14 of a custodial interrogation is complete only if the recording:

- 15 (1) begins at or before the time the individual being
- 16 interrogated enters the area of the place of detention in which the
- 17 custodial interrogation will take place or receives a warning
- 18 described by Section 2(a), Article 38.22, whichever is earlier; and
- 19 (2) continues until the time the interrogation ends.

20 (c) For purposes of Subsection (a), good cause that makes  
21 electronic recording infeasible includes the following:

- 22 (1) the individual being interrogated refused to
- 23 respond or cooperate in a custodial interrogation at which an
- 24 electronic recording was being made, provided that:

25 (A) a contemporaneous recording of the refusal  
26 was made; or

27 (B) the peace officer or agent of the law  
28 enforcement agency conducting the interrogation attempted, in good  
29 faith, to record the individual's refusal but the individual was  
30 unwilling to have the refusal recorded, and the peace officer or  
31 agent contemporaneously, in writing, documented the refusal;

- 32 (2) the statement was not made as the result of a
- 33 custodial interrogation, including a statement that was made
- 34 spontaneously by the accused and not in response to a question by a

1 peace officer;

2 (3) the peace officer or agent of the law enforcement  
3 agency conducting the interrogation attempted, in good faith, to  
4 record the interrogation but:

5 (A) the recording equipment did not function;

6 (B) the officer or agent inadvertently operated  
7 the equipment incorrectly; or

8 (C) the equipment malfunctioned or stopped  
9 operating without the knowledge of the officer or agent;

10 (4) exigent public safety concerns prevented or  
11 rendered infeasible the making of an electronic recording of the  
12 statement; or

13 (5) the peace officer or agent of the law enforcement  
14 agency conducting the interrogation reasonably believed at the time  
15 the interrogation commenced that the individual being interrogated  
16 was not taken into custody for or being interrogated concerning the  
17 commission of an offense listed in Subsection (a). (Code Crim.  
18 Proc., Arts. 2.32(b), (c), (d).)

19 Source Law

20 (b) Unless good cause exists that makes  
21 electronic recording infeasible, a law enforcement  
22 agency shall make a complete and contemporaneous  
23 electronic recording of any custodial interrogation  
24 that occurs in a place of detention and is of a person  
25 suspected of committing or charged with the commission  
26 of an offense under:

27 (1) Section 19.02, Penal Code (murder);

28 (2) Section 19.03, Penal Code (capital  
29 murder);

30 (3) Section 20.03, Penal Code  
31 (kidnapping);

32 (4) Section 20.04, Penal Code (aggravated  
33 kidnapping);

34 (5) Section 20A.02, Penal Code  
35 (trafficking of persons);

36 (6) Section 20A.03, Penal Code (continuous  
37 trafficking of persons);

38 (7) Section 21.02, Penal Code (continuous  
39 sexual abuse of young child or disabled individual);

40 (8) Section 21.11, Penal Code (indecent  
41 with a child);

42 (9) Section 21.12, Penal Code (improper  
43 relationship between educator and student);

44 (10) Section 22.011, Penal Code (sexual  
45 assault);

46 (11) Section 22.021, Penal Code  
47 (aggravated sexual assault); or

48 (12) Section 43.25, Penal Code (sexual

1 performance by a child).

2 (c) For purposes of Subsection (b), an  
3 electronic recording of a custodial interrogation is  
4 complete only if the recording:

5 (1) begins at or before the time the person  
6 being interrogated enters the area of the place of  
7 detention in which the custodial interrogation will  
8 take place or receives a warning described by Section  
9 2(a), Article 38.22, whichever is earlier; and

10 (2) continues until the time the  
11 interrogation ceases.

12 (d) For purposes of Subsection (b), good cause  
13 that makes electronic recording infeasible includes  
14 the following:

15 (1) the person being interrogated refused  
16 to respond or cooperate in a custodial interrogation  
17 at which an electronic recording was being made,  
18 provided that:

19 (A) a contemporaneous recording of  
20 the refusal was made; or

21 (B) the peace officer or agent of the  
22 law enforcement agency conducting the interrogation  
23 attempted, in good faith, to record the person's  
24 refusal but the person was unwilling to have the  
25 refusal recorded, and the peace officer or agent  
26 contemporaneously, in writing, documented the  
27 refusal;

28 (2) the statement was not made as the  
29 result of a custodial interrogation, including a  
30 statement that was made spontaneously by the accused  
31 and not in response to a question by a peace officer;

32 (3) the peace officer or agent of the law  
33 enforcement agency conducting the interrogation  
34 attempted, in good faith, to record the interrogation  
35 but the recording equipment did not function, the  
36 officer or agent inadvertently operated the equipment  
37 incorrectly, or the equipment malfunctioned or stopped  
38 operating without the knowledge of the officer or  
39 agent;

40 (4) exigent public safety concerns  
41 prevented or rendered infeasible the making of an  
42 electronic recording of the statement; or

43 (5) the peace officer or agent of the law  
44 enforcement agency conducting the interrogation  
45 reasonably believed at the time the interrogation  
46 commenced that the person being interrogated was not  
47 taken into custody for or being interrogated  
48 concerning the commission of an offense listed in  
49 Subsection (b).

50 Revised Law

51 Art. 2B.0203. PUBLIC DISCLOSURE. A recording of a  
52 custodial interrogation that complies with this subchapter is  
53 exempt from public disclosure as provided by Section 552.108,  
54 Government Code. (Code Crim. Proc., Art. 2.32(e).)

55 Source Law

56 (e) A recording of a custodial interrogation  
57 that complies with this article is exempt from public  
58 disclosure as provided by Section 552.108, Government  
59 Code.

60 SUBCHAPTER F. USE OF FORCE

1 Revised Law

2 Art. 2B.0251. INTERVENTION REQUIRED FOR EXCESSIVE FORCE;  
3 REPORT REQUIRED. (a) A peace officer has a duty to intervene to  
4 stop or prevent another peace officer from using force against a  
5 person suspected of committing an offense if:

6 (1) the amount of force exceeds that which is  
7 reasonable under the circumstances; and

8 (2) the officer knows or should know that the other  
9 officer's use of force:

10 (A) violates state or federal law;

11 (B) puts a person at risk of bodily injury, as  
12 defined by Section 1.07, Penal Code, and is not immediately  
13 necessary to avoid imminent bodily injury to a peace officer or  
14 other person; and

15 (C) is not required to apprehend the person  
16 suspected of committing an offense.

17 (b) A peace officer who witnesses the use of excessive force  
18 by another peace officer shall promptly make a detailed report of  
19 the incident and deliver the report to the supervisor of the peace  
20 officer making the report. (Code Crim. Proc., Art. 2.1387.)

21 Source Law

22 Art. 2.1387. INTERVENTION REQUIRED FOR  
23 EXCESSIVE FORCE; REPORT REQUIRED. (a) A peace officer  
24 has a duty to intervene to stop or prevent another  
25 peace officer from using force against a person  
26 suspected of committing an offense if:

27 (1) the amount of force exceeds that which  
28 is reasonable under the circumstances; and

29 (2) the officer knows or should know that  
30 the other officer's use of force:

31 (A) violates state or federal law;

32 (B) puts a person at risk of bodily  
33 injury, as that term is defined by Section 1.07, Penal  
34 Code, and is not immediately necessary to avoid  
35 imminent bodily injury to a peace officer or other  
36 person; and

37 (C) is not required to apprehend the  
38 person suspected of committing an offense.

39 (b) A peace officer who witnesses the use of  
40 excessive force by another peace officer shall  
41 promptly make a detailed report of the incident and  
42 deliver the report to the supervisor of the peace  
43 officer making the report.

1 Revised Law

2 Art. 2B.0252. USE OF NECK RESTRAINTS DURING SEARCH OR  
3 ARREST PROHIBITED. A peace officer may not intentionally use a  
4 choke hold, carotid artery hold, or similar neck restraint in  
5 searching or arresting a person unless the restraint is necessary  
6 to prevent serious bodily injury to or the death of the officer or  
7 another person. (Code Crim. Proc., Art. 2.33, as added Acts 87th  
8 Leg., R.S., Ch. 534.)

9 Source Law

10 Art. 2.33. USE OF NECK RESTRAINTS DURING SEARCH  
11 OR ARREST PROHIBITED. A peace officer may not  
12 intentionally use a choke hold, carotid artery hold,  
13 or similar neck restraint in searching or arresting a  
14 person unless the restraint is necessary to prevent  
15 serious bodily injury to or the death of the officer or  
16 another person.

17 Revised Law

18 Art. 2B.0253. LAW ENFORCEMENT POLICY ON USE OF FORCE BY  
19 DRONE. (a) In this article:

20 (1) "Drone" means an unmanned aircraft, watercraft, or  
21 ground vehicle or a robotic device that:

22 (A) is controlled remotely by a human operator;

23 or

24 (B) operates autonomously through computer  
25 software or other programming.

26 [[[Cross-reference amendment needed for Sec. 9.54, Penal Code]]]

27 (2) "Law enforcement agency" means an agency of the  
28 state or an agency of a political subdivision of the state  
29 authorized by law to employ peace officers.

30 (b) Each law enforcement agency that uses or intends to use  
31 a drone for law enforcement purposes shall:

32 (1) adopt a written policy regarding the agency's use  
33 of force by means of a drone, before the agency first uses a drone,  
34 and update the policy as necessary; and

35 (2) not later than January 1 of each even-numbered  
36 year, submit the policy to the commission in the manner prescribed  
37 by the commission. (Code Crim. Proc., Art. 2.33, as added Acts 87th

1 Leg., R.S., Ch. 1011.)

2 Source Law

3 Art. 2.33. LAW ENFORCEMENT POLICY ON USE OF  
4 FORCE BY DRONE. (a) In this article:

5 (1) "Drone" means an unmanned aircraft,  
6 watercraft, or ground vehicle or a robotic device  
7 that:

8 (A) is controlled remotely by a human  
9 operator; or

10 (B) operates autonomously through  
11 computer software or other programming.

12 (2) "Law enforcement agency" means an  
13 agency of the state or an agency of a political  
14 subdivision of the state authorized by law to employ  
15 peace officers.

16 (b) Each law enforcement agency that uses or  
17 intends to use a drone for law enforcement purposes  
18 shall:

19 (1) adopt a written policy regarding the  
20 agency's use of force by means of a drone, before the  
21 agency first uses a drone, and update the policy as  
22 necessary; and

23 (2) not later than January 1 of each  
24 even-numbered year, submit the policy to the Texas  
25 Commission on Law Enforcement in the manner prescribed  
26 by the commission.

27 SUBCHAPTER G. DUTY TO REQUEST AND RENDER AID

28 Revised Law

29 Art. 2B.0301. DUTY TO REQUEST AND RENDER AID. (a) Except  
30 as provided by Subsection (b), a peace officer who encounters an  
31 injured person while discharging the officer's official duties  
32 shall immediately and as necessary:

33 (1) request emergency medical services personnel to  
34 provide the person with emergency medical services; and

35 (2) while waiting for emergency medical services  
36 personnel to arrive, provide first aid or treatment to the person to  
37 the extent of the officer's skill and training.

38 (b) The peace officer is not required to request emergency  
39 medical services or provide first aid or treatment under Subsection  
40 (a) if:

41 (1) making the request or providing the treatment  
42 would expose the officer or another person to a risk of bodily  
43 injury; or

44 (2) the officer is injured and physically unable to  
45 make the request or provide the treatment. (Code Crim. Proc., Art.

1 2.33, as added Acts 87th Leg., R.S., Ch. 979.)

2 Source Law

3 Art. 2.33. DUTY TO REQUEST AND RENDER AID. (a)  
4 Except as provided by Subsection (b), a peace officer  
5 who encounters an injured person while discharging the  
6 officer's official duties shall immediately and as  
7 necessary:

8 (1) request emergency medical services  
9 personnel to provide the person with emergency medical  
10 services; and

11 (2) while waiting for emergency medical  
12 services personnel to arrive, provide first aid or  
13 treatment to the person to the extent of the officer's  
14 skill and training.

15 (b) The peace officer is not required to request  
16 emergency medical services or provide first aid or  
17 treatment under Subsection (a) if:

18 (1) making the request or providing the  
19 treatment would expose the officer or another person  
20 to a risk of bodily injury; or

21 (2) the officer is injured and physically  
22 unable to make the request or provide the treatment.