



Police Department

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February 20, 2015

Superintendent Jim Vaszauskas,

Pursuant to requirements of the Texas Racial Profiling Law (S.B. 1074), I hereby submit our annual Racial Profiling Report.

During the year January 1, 2014 through December 31, 2014, the Mansfield ISD Police Department collected police contact data for the purpose of identifying and addressing (if necessary) concerns regarding racial profiling practices among police officers.

In this report, you will find 2 sections. The first section contains the department policy prohibiting the practice of racial profiling. Section two contains the data collected for reporting to the Texas Commission on Law Enforcement and an analysis of that data determining if public contacts are within standards based on the demographics of our service area.

All of this data has been reviewed by myself and command staff personnel for any indicators that might reveal any trends that should be addressed or suspected profiling by our officers. It is my goal to continue to be responsive to the MISD community by implementing and monitoring the proper policies and safeguards to prevent racial profiling practices. It is my sincere hope that this report not only demonstrates the adequacy of our present performance, but also shows our willingness to improve as necessary to insure a balance and effective approach to policing in the future.

Respectfully,

Jimmy Womack
Chief of Police

Racial- or Bias-Based Profiling

328.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that employees of the Mansfield ISD Police Department do not engage in racial- or bias-based profiling or violate any related laws while serving the community.

328.1.1 DEFINITIONS

Definitions related to this policy include:

Racial- or bias-based profiling - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service (Tex. Code of Crim. Pro. art. 3.05; Tex. Code of Crim. Pro. art. 2.132).

328.2 POLICY

The Mansfield ISD Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law (Tex. Code of Crim. Pro., art. 2.131).

328.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

328.4 MEMBER RESPONSIBILITY

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial- or bias-based profiling to a supervisor.

328.4.1 REASON FOR DETENTION

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

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328.4.2 REPORTING TRAFFIC STOPS

Any officer conducting an enforcement stop on any motor vehicle shall collect the following information relating to the stop (Tex. Code of Crim. Pro art. 2.132; Tex. Code of Crim. Pro. art. 2.133):

- (a) The location of the stop
- (b) The initial reason for the stop
- (c) The physical description of the driver, including:
 1. The person's gender
 2. The person's race or ethnicity as stated by the person or as best as can be determined by the officer
- (d) Whether the officer knew the race or ethnicity of the detained person before the stop
- (e) Whether a citation or a warning was issued as a result of the stop
- (f) Whether an arrest was made and, if so, for what offense
- (g) Whether the officer conducted a search and, if so, whether the search was based on consent, probable cause or reasonable suspicion, incident to arrest, contraband or evidence in plain view, the result of towing the vehicle for evidence or safekeeping or any other reason
- (h) Whether any contraband or evidence was discovered and whether it was in plain view
- (i) A description of any contraband or evidence located

328.5 SUPERVISOR RESPONSIBILITY

Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer in a timely manner.
- (b) In instances where officers record their public contacts, supervisors should periodically review the recordings to ensure compliance with racial profiling laws (Tex. Code Crim. Pro. art. 2.132(d)) and this policy.
 1. Supervisors should document these periodic reviews.
 2. Recordings that capture a potential instance of racial- or bias-based profiling should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial- or bias-based profiling.

328.6 STATE REPORTING

The Chief of Police shall submit to the Texas Commission on Law Enforcement (TCOLE) and each governing body served by this agency an annual report of the information required in Tex. Code of Crim. Pro. art 2.132(b)(6).

Further, unless exempt under Tex. Code of Crim. Pro. art 2.135, prior to March 1 of each year, the Chief of Police shall provide to TCOLE and to each governing body served by this agency a report containing an analysis of the information required by Tex. Code of Crim. Pro. art 2.133 (Tex. Code of Crim. Pro. art 2.134).

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These reports may not include identifying information about any officer who made a motor vehicle stop or about an individual who was stopped or arrested by any officer (Tex. Code of Crim. Pro. art. 2.132; Tex. Code of Crim. Pro. art 2.134).

328.7 ADMINISTRATION

Each year, the Lieutenant shall review the efforts of the Department to prevent racial- or bias-based profiling and submit an overview, including public concerns and complaints, to the Chief of Police. This report should not contain any identifying information regarding any specific complaint, citizen or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors shall review the administrative overview report and the annual report submitted to TCLOSE and the governing body and discuss the results with those they are assigned to supervise.

328.8 TRAINING

All sworn members of this department will be scheduled to attend TCLEOSE-approved training on the subject of racial- and bias-based profiling.

Each member of this department undergoing initial TCLEOSE-approved training will thereafter be required to complete an approved refresher course every five years or sooner if deemed necessary, in order to keep current with changing racial issues and cultural trends.

Employee Conduct and Welfare

900.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of this department and are expected of its members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning member conduct. Members are also subject to provisions contained throughout this manual as well as any additional guidance on conduct that may be disseminated by the Department or the member's supervisors.

This policy applies to all employees.

900.2 DISCIPLINE POLICY

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

900.2.1 LAWFUL ORDERS

Employees shall comply with lawful directives and orders from any supervisor or person in a position of authority, absent a reasonable and bona fide excuse.

An employee who believes any written or verbal order to be in conflict with another order or unlawful shall:

- (a) Immediately inform the supervisor issuing the order, the employee's immediate supervisor or the Lieutenant of the conflict or error of the order.
- (b) Provide details explaining the grounds for the belief of the conflict or error of the order.
- (c) Request clarification, guidance and direction regarding following the order.
- (d) Request the order in writing if the conflict or error is unresolved.
- (e) Inform the supervisor of his/her intent to disobey an unlawful order.

An employee's election to disobey an order he/she believes to be unlawful is not a bar to discipline should the order be determined as lawful.

900.2.2 GENERAL ORDERS

The 10 general orders are the traditional code of conduct and are binding in addition to any other code of ethics adopted. These 10 general orders are as follows:

- (a) To advance the objective of the Department in preserving order and protecting the lives, rights, privileges and property of the people in the State of Texas to the best of my ability and in an entirely impartial manner.
- (b) To practice at all times the mission statement of this organization: "Protecting our future by striving to provide a safe learning environment."

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- (c) To keep myself clean and presentable, and in good physical, mental and moral health.
- (d) To know and obey orders and instructions at all times.
- (e) To keep all equipment entrusted to me fully accounted for and in proper condition.
- (f) To qualify as a voter, and to vote my convictions as a citizen on all public questions and political races, but while on-duty, in uniform or otherwise a representative of the department to take no other part in any public politics or campaigns.
- (g) To conduct my business in a straightforward manner, relying upon poise, competence, and discretion rather than threats and argument to carry out my duties.
- (h) To take up matters affecting me and my position with my immediate superior and through proper channels.
- (i) To submit through proper channels constructive suggestions for the betterment of the Department and its service.
- (j) To conduct myself at all times, both on and off-duty, in such an appropriate manner that I may merit the voluntary commendation of all law-abiding citizens and visitors with whom I come in contact, both those with whom I meet in carrying out my duties and those I shall live among as a citizen in order that credit may be reflected upon the Mansfield ISD Police Department.

900.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

Any of the major infractions listed as follows may be deemed sufficient cause for the discharge, suspension, demotion or removal of any employee:

- (a) Failure to abide by the Code and Canons of Ethics or the standards of ethical conduct for employees.
- (b) Violation of one or more of the 10 general orders.
- (c) Violation of any rule, order, requirement or failure to follow instructions contained in department manuals.
- (d) Willful disobedience to any legal order properly issued by any superior officer of the Department.
- (e) Willful neglect of duty.
- (f) Making public any investigation or proposed movement or business of the Department to any unauthorized person.
- (g) Unnecessary and unwarranted violence to a citizen or person under arrest.
- (h) Use of indecent, profane or harsh language while on-duty or in uniform.
- (i) Unauthorized attendance while on-duty at official government meetings.
- (j) Personal involvement in political issues or campaigns while on-duty or in uniform.
- (k) Willful or inexcusable destruction or loss of department property.
- (l) Violations of law which are willful or inexcusable.
- (m) Acceptance of fees, gifts or money contrary to the rules of the Department and/or laws of the state.
- (n) Any act on- or off-duty which brings discredit to the Department.

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- (o) Racial profiling (Tex. Code of Crim. Pro. art. 2.131).

900.3.1 ATTENDANCE

- (a) Leaving an assigned job during duty hours without a reasonable excuse and proper permission or approval.
- (b) Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.
- (c) Failure to report to work or to the place of assignment at the time specified and fully prepared, without a reasonable excuse.
- (d) Failure to notify the Department within 24 hours of any change in residence address, home phone number or marital status.

900.3.2 CONDUCT

- (a) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.
- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.
- (c) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
- (d) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- (e) Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.
- (f) Failure of any employee to promptly and fully report activities on his/her own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- (g) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- (h) Using or disclosing one's status as an employee of the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (i) The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or his/her designee may result in discipline under this policy (Tex. Penal Code § 39.06(a)).
- (j) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.
- (k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (l) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (m) Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (n) Intentionally subjecting another to sexual harassment (Tex. Penal Code § 39.03(a)(3)).

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900.3.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

- (a) Discriminating against, oppress or provide favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful (Tex. Penal Code § 39.03(a)(2)).

900.3.4 INTOXICANTS

- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties, or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants.
- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Reporting for work or being at work following the use of a controlled substance or any drug (legally prescribed or otherwise) without prior notification of a department supervisor, where such use may impair the employee's ability to perform assigned duties.
- (d) Unauthorized possession, use of or attempting to bring controlled substance or other illegal drug to any work site.

900.3.5 PERFORMANCE

- (a) Unauthorized sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials, or work of an unacceptable nature, as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department, or which would tend to discredit any member thereof.
- (h) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- (i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized removal,

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- alteration, destruction and/or mutilation of any department record, public record, book, paper or document (Tex. Gov't Code § 552.351).
- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.
 - (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
 - (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
 - (m) Any knowing or negligent violation of the provisions of the Policy Manual, operating procedures, or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.
 - (n) Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.
 - (o) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.
 - (p) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form or other official document, report or form or during the course of any work-related investigation.
 - (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
 - (r) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.
 - (s) Offer or acceptance of a bribe or gratuity.
 - (t) Misappropriation or misuse of public funds, property, personnel or services (Tex. Penal Code § 39.02(a)(2)).
 - (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct (Tex. Penal Code § 39.03(a)(1)).
 - (v) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
 - (w) Substantiated, active, continuing association on a personal rather than official basis with persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.
 - (x) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on district property, or while in any way

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representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.

- (y) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
- (z) Violating a law related to employment or any misdemeanor or felony statute (Tex. Penal Code § 39.02(a)(1)).
- (aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or that is contrary to good order, efficiency or morale or that tends to reflect unfavorably upon the Department or its members.
- (ab) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ac) Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g. first aid).
- (ad) Giving false or misleading statements or misrepresenting or omitting material information to a supervisor or other person in a position of authority in connection with any investigation or in the reporting of any department-related business.
- (ae) Establishing an inappropriate social relationship with a known victim, witness, suspect or defendant of a department case while the case is being investigated or prosecuted as a result of the investigation.

900.3.6 SAFETY

- (a) Failure to observe posted rules, signs and written or oral safety instructions while on-duty and/or within department facilities, or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- (c) Has a substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating department safety standards or safe working practices.

900.3.7 SECURITY

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports.

900.3.8 SUPERVISION RESPONSIBILITY

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and that the actions of all personnel comply with all laws.
- (b) Failure of a supervisor to report in a timely manner the known misconduct of an employee to his/her immediate supervisor, or to document such misconduct appropriately or as required by policy.

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- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or any other improper purpose.

900.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with the Personnel Complaint Procedure Policy. The investigation should be completed within one year of the discovery of the allegation or within a reasonable time thereafter, based upon the complexity or conditions of the investigation.

900.5 POST INVESTIGATION PROCEDURES

900.5.1 LIEUTENANT RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Lieutenant shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Lieutenant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

- (a) Prior to forwarding recommendations to the Chief of Police, the Lieutenant may return the entire investigation to the assigned detective or supervisor for further investigation or action.
- (b) When forwarding any written recommendation to the Chief of Police, the Lieutenant shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.

900.5.2 RESPONSIBILITIES OF THE CHIEF OF POLICE

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials.

The Chief of Police may modify any recommendations and/or may return the file to the Lieutenant for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, to be imposed.

In the event disciplinary action is recommended, the Chief of Police shall provide the employee with written notice of the following information:

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A separate recommendation of proposed discipline for each charge.
- (c) A statement that the employee has been provided with or given access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (d) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.

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2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

900.6 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) This response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) of information raised in any subsequent materials.
- (f) Once the employee has completed his/her response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall thereafter render a timely, written decision to the employee imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason(s) for termination and the process to receive all remaining fringe and retirement benefits.
- (g) Once the Chief of Police has issued a written decision, the discipline shall become effective.

900.7 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file and proper notification shall be made on the F-5 TCOLE form.

The tender of a retirement or resignation by itself may not serve as grounds for the termination of pending discipline.

900.8 COMPLAINTS AND GRIEVANCES

In an effort to hear and resolve employee complaints in a timely manner and at the lowest administrative level possible, the MISD School Board has adopted an orderly grievance process. Employees are encouraged to discuss problems or complaints with their supervisors or an appropriate administrator at any time.

The formal grievance process provides all employees with an opportunity to be heard up to the highest level of management if they are dissatisfied with an administrative response. Once all administrative grievance procedures are exhausted, employees can

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bring grievances to the Board of Trustees. All forms to be used can be found on line at www.mansfieldisd.org. Click on "School Board," then "Complaints/Grievances/Concerns."

900.9 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary employee for failure to pass probation shall be so reflected in the employee's personnel file.
- (b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the same manner as set forth in the appeal procedure above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline.
- (c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in applicable Department policies.
- (d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment.
- (e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence.
- (f) In the event that a probationary employee meets his/her burden of proof in a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file.
- (g) In the event that a probationary employee fails to meet his/her burden of proof in a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police.

Personnel Complaints

902.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department. All complaints alleging a violation of law or policy shall be investigated.

902.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct or performance which, even if true, would not qualify as a violation may be handled informally by a supervisor and shall not be considered a complaint. These may generally include clarifications regarding policy, procedures or the department's response to specific incidents.

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form, and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

Formal - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of a rank greater than the accused employee or referred to the assigned supervisor depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

902.1.2 DEFINITIONS

Complainant - A person claiming to be the victim or witness of misconduct by an officer.

Investigation - An administrative investigation, conducted by the department, of alleged misconduct by an officer that could result in punitive action.

Investigator - An agent or employee of the department who is assigned to conduct an investigation.

Punitive Action - A disciplinary suspension, indefinite suspension, demotion in rank, reprimand or any combination of those actions.

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902.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

902.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobby and on the Mansfield ISD Police Department website. Forms may also be available at other district offices and facilities. Personnel complaint forms in languages other than English may also be provided as determined necessary or practicable.

Each sergeant shall be responsible for monitoring public satisfaction or inquiries regarding the personnel complaint process, and shall forward to the Chief of Police any suggestions for improvement or changes.

902.2.2 SOURCE OF COMPLAINTS

Complaints will be accepted from the following:

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) Anonymous complaints and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

902.2.3 ACCEPTANCE OF COMPLAINTS

All written complaints will be courteously accepted by any employee and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed verbally, either in person or by telephoning the Department, and will be accepted by any supervisor. If a supervisor is not immediately available to take a verbal complaint, the receiving employee shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor shall complete and submit the Personnel Complaint Form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- (b) When a supervisor determines that the reporting person is satisfied that his/her complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken.
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint Form to be completed and submitted at a later time. However, if the intoxicated person insists on filing the complaint, the complaint shall be taken and properly processed.
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

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To merit investigation by this department, all formal complaints must be in writing and signed by the person making the complaint (Tex. Gov't. Code § 614.022). Nothing in this section is intended to preclude a supervisor from serving as the complainant to satisfy the requirements of Tex. Gov't. Code § 614.022 if the original complainant does not want to appear in person and/or reduce the complaint to writing.

902.2.4 COMPLAINT DOCUMENTATION

When a Personnel Complaint Form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. To ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her original complaint.

A copy of the signed Personnel Complaint Form must be given to the officer or employee named in the complaint within a reasonable time after the complaint is filed. (Tex. Gov't. Code § 614.023(a)); a reasonable time may be determined based upon the complexity of the investigation and/or the nature of the complaint.

Formal complaints of alleged misconduct not reported in person shall be documented by a supervisor on a Personnel Complaint Form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor shall document informal complaints as a supervisor or Sergeant log entry.

902.3 INITIAL SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct or receives a formal complaint shall take reasonable steps to prevent aggravation of the situation.

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may, however, direct that another supervisor investigate. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall notify the Chief of Police as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint Form has been completed as fully as possible. The original complaint form will then be directed to the supervisor of the accused employee, via the chain of command, who will forward a copy of the complaint to the Chief of Police, take any appropriate action, and/or forward the complaint to the assigned supervisor for further action.
 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 2. Photographs of alleged injuries as well as accessible areas of non-injury should be taken once immediate medical attention has been provided.
 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing, or where the confidentiality of a complainant is

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at issue, a supervisor shall orally report the matter to the employee's supervisor or the Chief of Police, who will initiate appropriate action.

- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to state and federal law.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Chief of Police. The Chief of Police shall promptly notify the Department of Human Resource Services and obtain direction regarding his/her role in investigation and/or addressing the complaint.

902.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the department, the employee, other employees or the public, the Chief of Police may recommend to the Superintendent that the accused employee be assigned to inactive duty pending completion of the investigation or the filing of administrative charges. The Superintendent may then assign the employee to inactive duty pending completion of the investigation or the filing of administrative charges.

902.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, department identification, assigned weapon(s) and any other department equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a department employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift, generally within normal business hours, during the pendency of the investigation. The employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) The Chief of Police or designated person will be responsible for making the reassignment.
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to his/her regularly assigned shift with all badges, identification card and other equipment returned.

902.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement or prosecutorial agency be conducted parallel to the administrative investigation.

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An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian under the state and federal constitutions. The employee may not be administratively ordered to provide any information to a criminal investigator.

No information or evidence administratively compelled from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction. However, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report. An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

902.6 ADMINISTRATIVE INVESTIGATION WITH THE EMPLOYEE

Investigations of a minor nature may be assigned to the employee's supervisor. More serious complaints will be assigned for investigation by the Lieutenant. The following procedures shall be followed with regard to the accused employee(s):

- (a) The investigator shall not be a person who is the complainant, the ultimate decision maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct.
- (b) Not less than 48 hours before an investigator begins the initial interrogation, the investigator must inform the officer in writing of the allegations in the complaint.
- (c) An investigator may not interrogate an officer based on a complaint by a complainant who is not a firefighter or peace officer unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath.
- (d) Interviews of accused employees shall be conducted during reasonable work hours of the employee and, if the employee is off-duty, the employee shall be compensated.
 1. Off-duty interviews should only be conducted based on the seriousness of the investigation and other factors that indicate time is of the essence.
- (e) An investigator may not interview an officer at that person's home without the officer's prior permission.
- (f) No more than two interviewers should ask questions of an accused employee to prevent confusion or misunderstanding.
- (g) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated.
- (h) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (i) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.

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- (j) If the allegations involve potential criminal conduct, the employee shall be advised of his/her constitutional rights. This admonishment shall be given administratively regardless of whether the employee was advised of these rights during any separate criminal investigation.
- (k) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative or attorney present during the interview.
- (l) All employees shall provide complete and truthful responses to questions posed during interviews.
- (m) An employee may be compelled to submit to a polygraph examination under the conditions set forth in Tex. Gov't Code § 614.063.

902.6.1 INVESTIGATION OF A COMPLAINT

The following procedures should be followed with regard to the complainant:

- (a) Within three days after assignment, the complainant should be informed of the handling investigator's name and the complaint number.
- (b) Interviews of the complainant should be conducted during reasonable hours.
- (c) Generally, no more than two interviewers should ask questions of the complaining party to prevent confusion or misunderstanding.
- (d) All interviews should be for a reasonable period and the complainant's needs should be accommodated and respected.
- (e) No complainant should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (f) Absent circumstances preventing it, the interviewer should record all interviews of the complainant.

902.6.2 ADMINISTRATIVE SEARCHES

Any employee may be compelled to disclose personal financial information pursuant to proper legal process if such information tends to indicate a conflict of interest with official duties, or if the employee is assigned to or being considered for a special assignment with a potential for bribes.

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place.

All other departmentally assigned areas (e.g., desks, office space and assigned vehicles) may be administratively searched for non-investigative purposes (e.g., obtaining a needed report or radio) by a supervisor and in the presence of an uninvolved witness. An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

902.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

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Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

Summary Of Allegations - List the allegations separately, including applicable policy sections, with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each one, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos and documents) should be attached to the report.

902.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions, based on a finding of fact and considering the totality of circumstances:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Additionally, complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred, but was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully to exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. Evidence in a sustained complaint will be weighed by a preponderance of the factual evidence.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

902.8 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation and impose any disciplinary action within a reasonable period following receipt. Investigations should be completed within 90 days of the date when a supervisor or manager from the Department becomes aware of the allegation. The Chief of Police may extend the period to five months if the investigation reasonably requires such an extension, as long as investigations are completed within the 180-day mandate.

Should additional time be required, a written request should be made to the Chief of Police, generally 30 days before the period tolls, requesting an extension. A request for extension

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should include the reason for the request and the related completion date. Such a request must be approved in writing and a copy provided to the accused employee.

If the nature of the allegation dictates that confidentiality is necessary to maintain the integrity of the investigation, the involved employee need not be notified of the pending investigation unless and until the employee is interviewed or formally charged administratively.

Upon completion, the report should be forwarded through the chain of command to the supervisor of the involved employee.

Once received, the Chief of Police may accept or modify the classification and the recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings but will not disclose the amount of discipline, if any has been imposed. The complaining party should also be provided with a copy of his/her original complaint.

Any complaining party who is not satisfied with the findings of the Department concerning his/her complaint, may contact the Chief of Police or the authorized designee to discuss the matter further.

902.8.1 WITHDRAWN COMPLAINTS

If the complainant withdraws the complaint or refuses to further cooperate with the administrative investigation, then the investigation may be closed as incomplete.

If the nature of the allegations can be sufficiently determined without the assistance of the complainant, then the investigation will proceed and be completed as normal.

902.9 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential and as protected peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel, except pursuant to lawful process.

In the event that an accused employee or the representative of such employee knowingly makes false representations regarding any internal investigation, and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute false representations.

All records of investigations shall be securely maintained for a period of time no less than the periods indicated below (Tex. Gov't Code § 441.158 and Public Safety Records Retention Schedule § 4075-01):

- (a) Sustained complaints resulting in formal discipline: 15 years.
- (b) Sustained complaints resulting in informal discipline, such as verbal counseling or additional training: Five years, provided a one-year, infraction free period precedes the date of destruction.
- (c) Complaint investigations that are Inconclusive: Five years, provided a one-year, infraction free period precedes the date of destruction.
- (d) Complaints that are not sustained, unfounded or exonerated: Three years.
- (e) Complaints that do not lead to an investigation: Two years.

Mansfield ISD Police Department Tier 2 Data

Motor Vehicle Related Contacts Information (Jan. 1, 2014 – Dec. 31, 2014)

Race/Ethnicity	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	63	52.94%	1	1.58%	1	100%	0	0.00%	0	0.00%
African	33	27.73%	1	3.03%	0	0.00%	1	100%	1	3.03%
Hispanic	17	14.28%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Asian	2	1.68%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Native American	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Middle Eastern	3	2.52%	1	33.33%	0	0.00%	1	100%	1	33.33%
Other	1	0.84%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Total	119	100%	3	2.52%	1	0.84%	2	1.68%	2	1.68%

"N" represents "number" of traffic-related contacts

Three-Year Comparison

Race/Ethnicity	% of Contacts			% of Searches			% of Arrests		
	2012	2013	2014	2012	2013	2014	2012	2013	2014
Caucasian	52.17%	60.24%	52.94%	0.00%	0.00%	1.58%	0.00%	0.00%	0.00%
African	26.08%	26.5%	27.73%	0.00%	0.00%	3.03%	0.00%	0.00%	3.03%
Hispanic	8.69%	10.84%	14.28%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Asian	8.69%	1.2%	1.68%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Native American	0.00%	1.2%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Middle Eastern	4.34%	0.00%	2.52%	0.00%	0.00%	33.33%	0.00%	0.00%	33.33%
Other	0.00%	0.00%	0.84%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Racial Profiling Complaints:

Year	2012	2013	2014
Number of Complaints	0	0	0
Sustained/Unfounded	N/A	N/A	N/A

Mansfield Independent School District
Police Department
Racial Profiling Data Report

Race: All
 Ethnicity: All
 Officer: All
 Date Range: 01/01/2014 to 12/31/2014

1	Total Number of Racial Profile Records	119
2	Type of Contact	
	Traffic Stop	119
3	Reason for Stop	
	Suspicious Vehicle	4
	Traffic Violation	115
4	Violation Resulting in Stop	
	Communication device in active school zone	1
	Disregard Traffic Control Device	11
	Driving While License Suspended	2
	Equipment Violation	9
	Exceeding The Posted Speed	9
	Exhibition Of Acceleration	1
	Expired Drivers License	1
	Expired Inspection	1
	Expired REG	1
	Fail To Wear Seat Belt	1
	No Drivers License	1
	Radar Enforcement	1
	Ran School Bus Lights	3
	Reckless Driving	1
	Speeding	51
	Suspicious Person	1
	Suspicious Vehicle	2
	Traffic Control	14
5	Race Identifiable Prior to Stop	
	Yes	7
	No	112
6	Lives in County	
	Yes	21
	No	98
7	Result of Traffic Stop	
	Citation Issued	21
	Verbal Warning	90
	Written Warning	5
8	Age of Driver Stopped	
	UNKNOWN	30
	Younger than 18	26
	Between 18 and 29	20
	Between 30 and 39	20
	40 and older	23
9	Gender of Driver Stopped	
	Male	62
	Female	57
8	Resident of Jurisdiction	
	Yes	21
	No	98
9	Type of Search Resulting from Stop	
	Person	2
	Vehicle	1
10	What was Searched	
11	Probable Cause for Search	
	No	26
	Yes	2

12	Duration of Stop		
	Total Minutes		182
	Low		2
	High		30
	Range		28
	Mean		1
	Median		16
	Mode		0
13	Contraband Seizures		
	Yes		0
	No		119
14	Type of Contraband Seized		
15	Passenger Count		
	0		86
	0		11
	1		13
	2		5
	3		4
16	Passenger Searched		
	Yes		1
	No		118
17	Passenger Arrested		
	Yes		0
	No		119
18	Driver Arrests		
	Yes		2
	No		117
19	Violation Resulting in Arrest		
	Misdemeanor Warrant		1
	Outstanding Warrants		1