

MEMORANDUM

TO: CAPTAIN TODD MALLAND
RON RHEIN, RECORDS DIVISION SUPERVISOR

FROM: MICHAEL J. MCKENNA, ESQ.

DATE: NOVEMBER 30, 2017

RE: OPRA/INTERNAL AFFAIRS INVESTIGATION RECORDS (COKOS)

Todd: One of the OPRA-related issues we recently discussed was the request by John T. Cokos for copies of Internal Affairs records/reports. I have done some additional research on the issue and the research supports our position that Internal Affairs records/reports are not required to be disclosed under OPRA.

The Government Records Council ("GRC") has held that the New Jersey Attorney General's Internal Affairs Policy & Procedure ("IAPP"), which has the force of law, *see* Blaustein v. Lakewood Police Department, GRC Complaint No. 2011-102 (June 2012), *citing*, O'Shea v. Township of West Milford, 410 N.J. Super. 371, 382 (App. Div. 2009), exempts internal affairs records from disclosure. The IAPP provides that "the nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information." IAPP, page 42. In Rivera v. Borough of Keansburg Police Department, GRC Complaint No. 2007-222 (June 2010), the Administrative Law Judge held that internal affairs reports are confidential records not subject to OPRA, relying upon the IAPP guidelines.

Therefore, it is my opinion that the Records Custodian will not be found to have unlawfully denied access to the Internal Affairs records/reports, because such records are exempt from public access pursuant to the IAPP, which classifies these records as confidential. *See* Blaustein, GRC Complaint No. 20011-102, and Rivera, GRC Complaint No. 2007-222.

Manchester Police Department
1 Colonial Drive, Manchester NJ 08759
Incident Report

CRIME Suspicious Persons Report						STATUTE 		PROS. CASE #: 		MUN. CODE 1518		M.P.D. REPORT # 2017-1023	
						NAME OF PRIMARY VICTIM (LFM) 							
						STREET APT. # 							
						CITY STATE ZIP 							
REPORTED AT: 		TIME 1457		DAY OF WEEK Sat		MONTH 05		DATE 20		YEAR 17		D.O.B AGE SEX RACE HISPANIC S.S. # 	
OCCURRED FROM: 												RESIDENT HOME PHONE BUSINESS PHONE 	
TO / AT: 												BUSINESS / SCHOOL NAME: 	
LOCATION OF INCIDENT CR 547/Lakehurst Naval Base												STREET 	
POST 2		DEVELOPMENT / AREA: CR 547				TECHNICAL SERVICE: N/A				CITY STATE / ZIP CODE 			

PERSONS		CODES <u>Assoc.</u> , <u>Suspect</u> , <u>Reporting Person.</u> , <u>Witness</u> , <u>Victim</u> , <u>Owner</u> , <u>P.O.I</u>											
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S CODE # 1	NAME: ADDRESS: CITY: STATE / ZIP CODE:																						
	HOME PHONE:			BUSINESS PHONE:			BUSINESS NAME:																
	BUSINESS ADDRESS												CITY	STATE / ZIP CODE									
	DOB:		AGE:		SEX:		RACE:		HT:		WT:		HAIR:		EYES:		COMPLEX:		BUILD:		FACIAL HAIR:		

R CODE # 2	NAME: ADDRESS: CITY: STATE / ZIP CODE:																						
	HOME PHONE:			BUSINESS PHONE:			BUSINESS NAME:																
	BUSINESS ADDRESS												CITY	STATE / ZIP CODE									
	DOB:		AGE:		SEX:		RACE:		HT:		WT:		HAIR:		EYES:		COMPLEX:		BUILD:		FACIAL HAIR:		
	ADDED INFO.: SOC. SEC. #:																						

VEHICLES		CODES <u>Stolen</u> , <u>Recovered</u> , <u>Abandoned</u> , <u>susPect</u> , <u>Impound</u> , <u>Evidence</u> , <u>Victim</u>											
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CODE # 1	YEAR BODY MAKE MODEL COLOR(S) REGISTRATION STATE V.I.N.:												
	OTHER INFO.:						VEHICLE VALUE:				TOWED TO:		

Summary of Comments on doc04941320180416095413.pdf

Page: 1

 Number: 1 Author: rhein Subject: Redact Date: 4/16/2018 9:52:31 AM

25) Privacy Interest - "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."

 Number: 2 Author: rhein Subject: Redact Date: 4/16/2018 9:52:38 AM

25) Privacy Interest - "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."

Manchester Police Department
1 Colonial Drive, Manchester NJ 08759
Incident Report

PROPERTY		CODES: <u>D</u> amaged, <u>S</u> tolen, <u>L</u> ost			REPORT #: 2017-1023			
ALL OTHER ITEMS THAT ARE TAKEN INTO CUSTODY OF THE M.P.D. WILL BE RECORDED ON THE EVIDENCE / PROPERTY FORM.								
CODE	QTY.	BRAND	MODEL	SERIAL #	DESCRIPTION	RECOVERED	N.C.I.C.	VALUE
TOTAL VALUE OF PROPERTY: \$								
NARRATIVE								
WAS A SUSPECT ARRESTED ? YES ☐ NO ☒		CAN A SUSPECT BE DESCRIBED ? YES ☒ NO ☐		CAN THE SUSPECTS VEHICLE BE IDENTIFIED ? YES ☐ NO ☒				
CAN A SUSPECT BE NAMED ? YES ☒ NO ☐		WAS THERE A WITNESS TO THE CRIME ? YES ☐ NO ☒		IS THE STOLEN PROPERTY TRACEABLE ? YES ☐ NO ☒				
CAN A SUSPECT BE LOCATED ? YES ☒ NO ☐		IS THERE A UNIQUE M.O. PRESENT ? YES ☐ NO ☒		WAS PHYSICAL EVIDENCE RECOVERED YES ☐ NO ☒				
NAME: Ptl. Terranova		BADGE #: 376		CASE STATUS: SERVICE COMPLETED ☐ ☐ ☐ UNFOUNDED ☐ ☐ ☐ ACTIVE CASE ☐ ☐ ☐ X - CLEAR ☐ ☒ ☐ CLEAR - ARREST ☐ ☐ ☐ CLEAR - JUV. ARREST ☐ ☐ ☐		DATE OF RPT. 5/20/17 PAGE <u>2</u> OF <u>3</u>		
SIGNATURE 		SUPERVISOR INITIALS SV346						

Manchester Twp Police Department
1 Colonial Drive, Manchester NJ 08759
Continuation Page

Case # [2017-1023]

On 05/20/17 at 1457 hrs., I received a call from dispatch to respond to the area of the Lakehurst Naval Base for a report of possible protestors on the base. Upon my arrival, I met with two Dept. of Defense Base Police Officers who advised me that there were two suspicious males with video cameras filming and taking photographs of the base access area. The Base Police Officers advised me that the two suspicious males were advised to leave the area, and they were currently walking their bicycles on the side of CR 547. I observed the two males in question walking their bicycles on the shoulder of CR 547 on the northbound side, walking south.

At this time, I drove to their location on CR 547 and I activated my overhead emergency lights to block traffic for my safety in the right lane, as there was a very narrow fog line/shoulder on this particular roadway. I observed two middle aged white males with bicycles and video cameras. As I approached the males well off the road and at a safe distance, I identified myself and the reason I was approaching them. Both males were holding video cameras and pointing them in my direction. As I approached closer I observed that both males had a portable radio which resembled our police radio or emergency service radio. I observed later during the call that they were Motorola portable radios. The two male suspects advised me that they were taking pictures of the airplane on the front lawn of the base. I advised the males that, the area they were originally standing in was restricted and it was naval base property. The male suspects advised me that the area is a public road and that they were able to be there. I advised the males that I would just need to identify them and investigate the reason why they were there. The males stated that they would not provide their identification and that they were there to do a First Amendment audit. Not fully understanding what their intentions were, I continued to ask the two males to identify themselves and to state their purpose for being there. Both males continued to make statements to me referring to the First Amendment of the Constitution. Neither male would provide me with their identification and the older male stated that he was invoking his Fifth Amendment Right.

At this time, Sgt. Sharry arrived on scene to assist. Sgt. Sharry advised the males to put the cameras on the ground and to stop pointing them at me. Sgt. Sharry advised the males that they could continue to record and that he just didn't want anything in their hands pointed at the officer. After several attempts to get their identification, the older male provided me with his name. The name the older male suspect provided me with was [REDACTED] I relayed the information to dispatch and I was able to confirm through a DMV printout that the information provided matched the male suspect. [REDACTED] was checked NCIC, ATS/ACS and was negative for any warrants. The second suspicious male would not provide his name or identification. The second male was approximately six foot tall, heavier set, wearing sunglasses, and camouflage shorts with a black sweatshirt that had a Police and Fireman insignia. The male was also wearing a black bag or case.

Ptl. Reilly, Ptl. Fastige, Ptl. Weiner, and Ptl. Wendruff all responded on scene to assist. Sgt. Sharry spoke to the supervisor of the D.O.D. Police and he was informed that the base no longer wished to pursue any charges at this time. Both males were advised that they were free to go at that point, and we cleared from the area.

It was later discovered that the incident the males recorded was posted on YouTube under the name "Gunnison Undercover and the URL was: <https://youtu.be/8JzFwY6levk>. The video was also posted on the Manchester Twp. Police Departments Face book page. No further action.

Officer's Signature



Badge #

376

Date

5/20/17

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Supervisor's Initials

SV346

 Number: 1 Author: rhein Subject: Redact Date: 4/16/2018 9:54:11 AM

25) Privacy Interest - "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."

 Number: 2 Author: rhein Subject: Redact Date: 4/16/2018 9:54:48 AM

25) Privacy Interest - "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."

Course Results

Printed by rhein - Ronald Rhein

Results for 2017-064 - 1st Amendment Training, section number 001

☐	Username	First Name	Last Name	Grade	Status:	Start Date	End Date	
☐	bachovchin	Paul	Bachovchin	(0%) 0/0	Pass	7/3/2017	7/3/2017	
☐	barker	Danny	Barker	(0%) 0/0	Pass	6/5/2017	6/5/2017	
☐	beaulieu	Craig	Beaulieu	(0%) 0/0	Pass	6/6/2017	6/6/2017	
☐	bole	Ian	Bole	(0%) 0/0	Pass	6/5/2017	6/5/2017	
☐	brooks	Charles	Brooks	(0%) 0/0	Pass	6/2/2017	6/2/2017	
☐	cerullo	Christopher	Cerullo	(0%) 0/0	Pass	6/28/2017	6/28/2017	
☐	cervenak	Patrick	Cervenak	(0%) 0/0	Pass	6/6/2017	6/6/2017	
☐	chant	Thomas	Chant	(0%) 0/0	Pass	6/7/2017	6/7/2017	
☐	chevrier	Richard	Chevrier	(0%) 0/0	Pass	6/2/2017	6/2/2017	
☐	collins	Brian	Collins	(0%) 0/0	Pass	6/5/2017	6/5/2017	
☐	conklin	Richard	Conklin	(0%) 0/0	Pass	6/1/2017	6/2/2017	
☐	cooke	Theodore	Cooke	(0%) 0/0	Pass	6/28/2017	7/3/2017	
☐	craig	Keith	Craig	(0%) 0/0	Pass	6/28/2017	6/28/2017	
☐	cronk	Arthur	Cronk	(0%) 0/0	Pass	6/28/2017	6/28/2017	
☐	cyatauro	Conner	Yatauro	(0%) 0/0	Pass	6/6/2017	6/6/2017	
☐	decker	John	Decker	(0%) 0/0	Pass	6/4/2017	6/4/2017	
☐	derome	Vincent	Derome	(0%) 0/0	Pass	6/6/2017	6/6/2017	
☐	dolan	Robert	Dolan	(0%) 0/0	Pass	6/6/2017	6/6/2017	
☐	ellis	Antonio	Ellis	(0%) 0/0	Pass	6/7/2017	6/7/2017	
☐	emmons	Adam	Emmons	(0%) 0/0	Pass	6/28/2017	6/28/2017	
☐	fastige	Joseph	Fastige	(0%) 0/0	Pass	6/2/2017	6/2/2017	
☐	fusaro	David	Fusaro		Pass	7/5/2017	7/5/2017	

	☐	Username	First Name	Last Name	Grade	Status:	Start Date	End Date	
					(0%) 0/0				
	☐	gatnarek	Charles	Gatnarek	(0%) 0/0	Pass	6/4/2017	6/4/2017	
	☐	greenwood	Nicholas	Greenwood	(0%) 0/0	Pass	7/2/2017	7/2/2017	
	☐	greilly	Gavin	Reilly	(0%) 0/0	Pass	6/6/2017	6/6/2017	
	☐	guarino	Michael	Guarino	(0%) 0/0	Pass	6/1/2017	6/2/2017	
	☐	guker	Adam	Guker	(0%) 0/0	Pass	6/28/2017	6/28/2017	
	☐	hemhauser	Christopher	Hemhauser	(0%) 0/0	Pass	7/3/2017	7/3/2017	
	☐	higgins	Douglas	Higgins	(0%) 0/0	Pass	6/6/2017	6/6/2017	
	☐	hoydis	Jesse	Hoydis	(0%) 0/0	Pass	8/15/2017	8/15/2017	
	☐	iliadis	Anthony	Iliadis	(0%) 0/0	Pass	7/6/2017	7/6/2017	
	☐	jhankins	Joseph	Hankins	(0%) 0/0	Pass	6/3/2017	6/3/2017	
	☐	jupinka	Richard	Jupinka	(0%) 0/0	Pass	6/2/2017	6/2/2017	
	☐	kdouglas	Keith	Douglas	(0%) 0/0	Pass	6/6/2017	6/6/2017	
	☐	komsa	James	Komsa	(0%) 0/0	Pass	6/1/2017	6/1/2017	
	☐	leming	Michael	Leming	(0%) 0/0	Pass	6/5/2017	6/5/2017	
	☐	mabie	Patrick	Mabie Jr.	(0%) 0/0	Pass	6/5/2017	6/5/2017	
	☐	maccaquano	Robert	Maccaquano	(0%) 0/0	Pass	6/7/2017	6/7/2017	
	☐	malland	Todd	Malland	(0%) 0/0	Pass	6/1/2017	6/1/2017	
	☐	manderson	Michael	Anderson	(0%) 0/0	Pass	6/3/2017	6/3/2017	
	☐	mazza	Richard	Mazza	(0%) 0/0	Pass	6/28/2017	6/28/2017	
	☐	micciulla	Marc	Micciulla	(0%) 0/0	Pass	7/2/2017	7/2/2017	
	☐	mjuralewicz	Matthew	Juralewicz	(0%) 0/0	Pass	6/9/2017	6/9/2017	
	☐	morgan	Patrick	Morgan	(0%) 0/0	Pass	6/2/2017	6/2/2017	
	☐	mwalaszek	Matthew	Walaszek		Pass	6/2/2017	6/2/2017	

	☐	Username	First Name	Last Name	Grade	Status:	Start Date	End Date	
					(0%) 0/0				
	☐	nazario	Christian	Nazario	(0%) 0/0	Pass	6/29/2017	6/29/2017	
	☐	ohara	Michael	OHara	(0%) 0/0	Pass	6/2/2017	6/2/2017	
	☐	ohare	Thomas	O'Hare	(0%) 0/0	Pass	6/7/2017	6/7/2017	
	☐	parker	Lisa	Parker	(0%) 0/0	Pass	6/6/2017	6/6/2017	
	☐	pmanco	Peter	Manco	(0%) 0/0	Pass	6/29/2017	6/29/2017	
	☐	raub	Victoria	Raub	(0%) 0/0	Pass	6/3/2017	6/3/2017	
	☐	reilly	Joseph	Reilly	(0%) 0/0	Pass	6/1/2017	6/1/2017	
	☐	rickvalsky	Kyle	Rickvalsky	(0%) 0/0	Pass	7/1/2017	7/1/2017	
	☐	rsharry	Robert	Sharry	(0%) 0/0	Pass	6/28/2017	6/28/2017	
	☐	saul	Ryan	Saul	(0%) 0/0	Pass	6/4/2017	6/4/2017	
	☐	shankins	Stephen	Hankins	(0%) 0/0	Pass	6/2/2017	6/3/2017	
	☐	sharkey	James	Sharkey	(0%) 0/0	Pass	6/1/2017	6/1/2017	
	☐	smith	George	Smith	(0%) 0/0	Pass	6/29/2017	6/29/2017	
	☐	steffen	Michael	Steffen 2nd	(0%) 0/0	Pass	6/2/2017	6/2/2017	
	☐	tdill	Thomas	Dill	(0%) 0/0	Pass	6/6/2017	6/6/2017	
	☐	terranova	Michael	Terranova	(0%) 0/0	Pass	6/2/2017	6/2/2017	
	☐	vega	Albert	Vega	(0%) 0/0	Pass	6/5/2017	6/5/2017	
	☐	ventre	Sal	Ventre	(0%) 0/0	Pass	6/2/2017	6/2/2017	
	☐	vidovich	Bryan	Vidovich	(0%) 0/0	Pass	6/5/2017	6/5/2017	
	☐	vmanco	Vincent	Manco	(0%) 0/0	Pass	6/6/2017	6/6/2017	
	☐	volk	Brian	Volk	(0%) 0/0	Pass	6/7/2017	6/11/2017	
	☐	walaszek	Christopher	Walaszek	(0%) 0/0	Pass	6/10/2017	6/10/2017	
	☐	wendruff	Steven	Wendruff		Pass	6/28/2017	6/28/2017	

	☐		Username	First Name	Last Name	Grade	Status:	Start Date	End Date	
						(0%) 0/0				
	☐		wiener	Jason	Wiener	(0%) 0/0	Pass	6/2/2017	6/2/2017	

This report has been generated using PowerDMS™

BAD EXAMPLE



This Trooper could not develop specific and articulable reasonable suspicion of criminal activity. He needed more than just someone video recording police headquarters

GOOD EXAMPLE



This officer had no reasonable suspicion of criminal activity. It was clear to this officer he was dealing with First Amendment auditors

WHEN TO TAKE POLICE ACTION

- ▶ Some examples of when to take action:
 - ▶ The assembly is no longer peaceful
 - ▶ Threat to the safety of any person or the public
 - ▶ Traffic Hazard or obstruction of traffic
 - ▶ Violations of NJ State Law and Township Ordinances
 - ▶ Interference with a police officer during the performance of his/her official duties
 - ▶ Reasonable suspicion of criminal activity

WHEN TO TAKE POLICE ACTION

- ▶ Exercising First Amendment rights does not give a person immunity from violating NJ State Law, Title 39 or Township Ordinances
- ▶ As in any situation, the officer must act reasonable, exercise sound judgement and make logical decisions
- ▶ If feasible, consult with your supervisor before taking action

VIDEO RECORDING OF MUNICIPAL COMPLEXES

- ▶ Absent reasonable suspicion of criminal activity, any person can lawfully video/audio record areas of the municipal building accessible to the public including:
 - ▶ Police lobby
 - ▶ Records window
 - ▶ Police parking lot
 - ▶ Personal vehicle parking
 - ▶ Recreation Department
 - ▶ Lobby on Township side of building

WHAT IS CONSIDERED REASONABLE SUSPICION

- ▶ Specific information and/or observations related to the current situation the officer is dealing with
 - ▶ Some Examples (not an inclusive list):
 - ▶ Recent TRAK flyer / BOLO
 - ▶ Specific officer safety intelligence about a group or person
 - ▶ Police info received from another PD
 - ▶ Citizen call to dispatch about witnessed criminal and/or suspicious activity
 - ▶ Intelligence pertaining to terrorist acts

OFFICERS SHOULD NOT

- ▶ Do any of the following without developing specific and articulable reasonable suspicion of criminal activity:
 - ▶ Conduct an investigation
 - ▶ Request or demand identification
 - ▶ Detain a person(s)
 - ▶ Prohibit video and audio recordings responding police
 - ▶ Seize cameras, phones or sim cards containing any digital recordings

OFFICERS WILL

- ▶ Protect life and property
- ▶ Practice fair and impartial enforcement of laws, statutes and ordinances
- ▶ Not infringe on the right of a person or group to peacefully assemble in a public area

THE RIGHT TO PEACFULLY ASSEMBLE

- ▶ People have the right to:
 - ▶ Conduct assemblies and gatherings in public areas
 - ▶ Express their political, social or religious views in a peaceful assembly
 - ▶ Associate with others and collectively express, pursue and promote a common interest

THE RIGHT TO PEACFULLY ASSEMBLE

- ▶ All persons have a right to organize and participate in peaceful assemblies
- ▶ Some examples include:
 - ▶ Demonstrations
 - ▶ Rallies
 - ▶ Parades
 - ▶ Marches
 - ▶ Picket Lines

THE FIRST AMENDMENT

- ▶ The First Amendment to the U.S. Constitution guarantees the following five freedoms:
 - ▶ Freedom of Religion
 - ▶ Freedom of Speech
 - ▶ Freedom of the Press
 - ▶ Freedom to Assemble Peacefully
 - ▶ Freedom to petition the government for a redress of grievances

FIRST AMENDMENT EVENTS

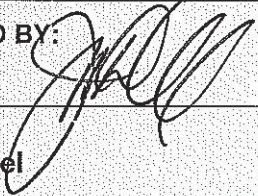


A GUIDE FOR LAW ENFORCEMENT

OCEAN COUNTY PROSECUTOR'S OFFICE

Law Enforcement Directive



SUBJECT: Public Video Recording of Government and Military Facilities	NUMBER: LED – 2017-025	EFFECTIVE DATE: June 19, 2017
ISSUED BY: Prosecutor Joseph D. Coronato	APPROVED BY: 	SUPERCEDES DIRECTIVE #:
DISTRIBUTION TO: All Ocean County Law Enforcement Personnel		

DETAILS:

Recently there have been several incidents of a group calling themselves "Police State NJ" video recording public and military facilities from a public location (roadside/sidewalk, etc). The group considers this video-taping a "first amendment audit" but if you look at any of the video, it is clearly designed to embarrass the police. As such, listed below is some legal guidance should this group decide to video tape your police facility or any other critical infrastructure in your jurisdiction.

The only relevant legal authority which permits law enforcement to arrest or detain civilians making recordings of military installations stems from 18 U.S.C. § 795 which states in relevant part:

a) Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military and naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary.

(b) Whoever violates this section shall be fined under this title or imprisoned not more than one year, or both.

However, after consultation with the Base legal authorities at Joint Base McGuire-Dix-Lakehurst, OCPO was informed that the Base **does not possess the requisite classification** to fall under 18 U.S.C. § 795.

Based upon legal research of both the Base authorities and OCPO, our collective opinion is that there is no legal authority, which prohibits civilians from videotaping the Base or other government buildings (including a police station) from a public area. All law enforcement personnel shall be advised to be respectful to the video-tapers unless confronted with reasonable suspicion of other offenses such as obstruction of a roadway, assault, trespassing, etc. Should any Chief wish to use a "roll call" training on this issue, Manchester PD has developed one. If you would like to obtain a copy of it, please contact MPD Confidential Aide Greg Kyriakaks, 732-657-2009 X4100.

Realizing this issue presents other potential homeland security issues, it is suggested that law enforcement document the videotaping to the best of their ability (Police MVR/Body Cam) and submit a SARS report to OHSP.

Additionally, it is suggested all law enforcement agencies in Ocean County have a policy/procedure in effect regarding citizen recording of police activity. If you do not have such a policy in place please contact Chief Glenn Miller X7647 who can provide you with a sample policy for your agency.

Thanks for your cooperation with this issue.

G. **High-Visibility Safety Apparel** – In accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and applicable NJSACOP accreditation standards all officers shall wear high-visibility safety apparel during any of the following activities:

1. Whenever they are exposed to moving traffic, work vehicles or construction equipment;
2. When they are directing motor vehicle traffic; or
3. When they are in a roadway controlling motor vehicle traffic.

The apparel must meet the requirements of either ANSI/ISEA 207-2006 or the Performance Class 2 or 3 requirements of ANSI/ISEA 107-2004, the American National Standard for High Visibility Safety Apparel.

VI. Request for Driver's Re-Examination

- A. If a police officer encounters a driver who appears to be physically and/or mentally incapable of operating a motor vehicle, the officer will notify the New Jersey Motor Vehicle Commission (NJMVC) using the MR-5 Driver Examination and/or Medical Evaluation Request form provided by the NJMVC.
- B. All of the information boxes on the form must be completed in detail. The officer will submit the form to his or her supervisor for review and approval. The supervisor will be responsible for submitting the form to the NJMVC. A copy of the form will be retained by the department in Records.
- C. If the driver's condition is such that continued operation of the motor vehicle will imminently endanger the motoring public, or the driver himself, further operation will not be allowed. The vehicle should be safely secured by parking it legally, if possible, or by impoundment and arrangements made for the operator. If a medical condition is present and requires the need of emergency attention an ambulance will be dispatched to the location.

VII. Collisions Involving Police Vehicles

- A. Every collision involving a Department vehicle, regardless of location, shall be handled in accordance with the Department's Motor Vehicle Crashes Involving Township Vehicles General Order.

- iv. The beam may be rapidly flashed in the direction of the approaching vehicle to get the driver's attention.
 - v. The beam should be moved along the roadway in a small come-along arc to indicate the path the vehicle should precede.
- C. **Scenes of Critical Incidents** – The primary task of personnel engaged in traffic direction activities at critical incidents (such as fires, utility emergencies, or other events) is to stop unauthorized vehicles and pedestrians from entering the area and maintain access avenues for emergency vehicles. This agency will coordinate its efforts with other emergency service organizations at emergency scenes to provide crowd control and adequate safety measures for vehicular and pedestrian traffic. In performing traffic control, personnel shall use temporary traffic control devices as needed and shall manually direct and control the flow of all traffic in accordance with this policy. If additional assistance is needed, personnel shall contact their supervisor and advise them of the situation and what is needed.
- D. **Adverse Road and Weather Conditions** - The shift supervisor will notify the appropriate public works of adverse road conditions that will affect the motoring public. The shift supervisor may close a street if, in his opinion, the surface conditions and terrain creates an unusually hazardous condition. The supervisor should request assistance from the appropriate public works in alleviating the problem. The shift supervisor shall request dispatchers to notify the proper utility company and assign officers to direct traffic and safeguard movement at the scene of all downed power lines, broken gas or water mains when the situation endangers the movement of traffic through the area. Officers performing traffic control during these conditions must deploy flares and use extreme caution. If weather conditions become too dangerous to direct traffic the officer shall contact their supervisor. The supervisor shall decide what course of action to take.
- E. **Manual Operation of Traffic Control Devices** - On occasion, officers must manually operate traffic control signal lights, normally to either attempt to recycle a signal light or to place the signal lights on flash or blink. Officers shall manually control traffic control devices only in the following situations:
 - 1. When traffic light malfunctions;
 - 2. To facilitate movement at traffic accidents or other emergencies;
 - 3. To provide a thoroughfare for a motorcade, funeral procession, etc;
 - 4. To alleviate congestion particularly during planned special events.
- F. **Temporary Traffic Control Devices** - Normally, temporary traffic control devices will only be used with the approval of the shift supervisor for control of traffic during peak rush hours, special events or in the event a key signal light malfunctions. Signs may be requested from public works. Shift supervisors will ensure return of all signs as soon as no longer required. Use of temporary stop signs will be limited to those key intersections at which a traffic signal has failed completely. If the traffic signal can be placed on four-way blink or flash, this is preferred over use of the temporary stop sign. Temporary traffic control devices shall be deployed in compliance with manufacturers' recommendations.

B. **Manual Traffic Direction and Control** - Posture serves to communicate the fact that the officer is in command of the situation. The officer must therefore assume a military bearing, with his/her weight evenly distributed on both feet. When not engaged in signaling motorists, the officer must stand at ease facing the traffic and with hands at their side. When directing traffic, the officer's shoulders must be in line with the flow of traffic and their attention must be directed to the vehicular movements.

1. **Hand Signals** - Prompt compliance to hand signals are dependent upon the officer's ability to use uniform, clearly defined and understandable gestures.

a. **Stopping Traffic** - Two clearly defined motions are required to stop traffic. First, the officer selects the vehicle to be stopped. Looking directly at the driver, the officer points at the driver with the arm fully extended. The position is retained until the officer is observed by the driver. The officer then raises their hand so that the palm is toward the driver and the arm is slightly bent at the elbow. The officer maintains this position until the oncoming traffic has stopped. With the one arm still raised, the officer turns their head and repeats the procedure with their other hand to stop the traffic moving in the opposite direction. The arms are not lowered until all traffic has been stopped.

b. **Starting Traffic** - To start vehicular movement on the cross street, the officer pivots a quarter of a turn to place his/her shoulders parallel with the vehicles waiting to move. When the intersection is cleared, the officer turns their head to one side facing the waiting traffic. The officer attracts attention by pointing to the lead car. Then, turning the palm inward, the hand is brought up and over to the chin, bending the arm at the elbow. If the driver's attention has been properly obtained, it will be necessary to make only a few motions. After traffic begins to move, the arm is dropped to the side. The opposing traffic is then started in the same manner, but with the other arm.

c. **Turning Traffic** - Point towards driver, motion to start, other hand pointing in the direction of turn.

d. **Dangerous Condition** – Stop all traffic and address the condition with all traffic stopped.

e. **Flashlight signals during darkness.**

i. Due to reduced visibility officers should be extra cautious when directing traffic at night. The emergency lights and flares should be utilized to warn approaching motorists of the officer's presence. Also, officers should be aware that being back lit by bright lights may reduce the ability of approaching motorists to see them.

ii. The red flashlight baton should be used to enhance signals given with a flashlight.

iii. The beam of the flashlight may be aimed at and across the pavement in front of approaching cars as a signal to stop.

2. **High Risk** - The following procedures may be employed when an officer initiating a vehicle stop has reason to believe that the occupants may be armed and dangerous:
 - a. When planning to stop the suspect vehicle, the officer shall notify the communications center; describe the nature or reason for the stop; provide information on the vehicle, license plate number and number of occupants; and request appropriate assistance to make the stop.
 - b. An officer should not individually initiate high-risk vehicle stops unless back-up units will not be available in an appropriate amount of time or the urgency of the situation demands immediate action.
 - c. After selecting an appropriate location and with adequate support units in position, the officer should signal the suspect to stop.
 - d. Officers should position their vehicles approximately 30 feet behind the suspect vehicle, in positions that will maximize opportunities for cover and in a manner that will illuminate the interior of the vehicle to the occupants' disadvantage.
 - e. The officer initiating the stop, or the officer with the best observation point, should issue verbal commands to vehicle occupants through the vehicle's public address system (PA), if available. Only one officer shall issue commands.
 - f. Once the suspect vehicle has stopped, officers should exit their vehicles quickly and assume positions of cover.
 - g. The officer in charge shall first identify himself and then notify the occupants that they are considered to be armed and dangerous and that all instructions are to be followed without hesitation or suspicious movements.
 - h. The operator of the suspect vehicle should be ordered in separate commands to do the following: lower his window, remove the ignition keys with his left hand, drop them on the ground, open the door from the outside, step out of the vehicle, turn completely around, face away from the officers, walk backward until commanded to stop and lie face down on the ground with hands stretched far to the sides. Subsequent occupants should be similarly commanded until all are in position to be handcuffed and searched.
 - i. With appropriate cover, officers should then approach the suspect vehicle to inspect the passenger compartment and trunk.

V. Procedures for Traffic Direction

- A. **Scenes of Traffic Collisions** - Officers directing traffic at the scene of an accident will route traffic safely around wrecked vehicles and debris. Wearing high visibility vests or rain coats, officers will maintain an orderly flow of traffic until wreckage is cleared. Maximum use of emergency lights and flares/cones is strongly encouraged at accident scenes.

- B. Once a violator has been selected to be stopped, officers will use the patrol car's emergency lights and other necessary equipment to make the stop. Upon stopping, the patrol vehicle will be positioned in a way to afford maximal protection to the officer and to the violator's vehicle during the stop. At all times, officer safety will be considered.
- C. In most instances, the violator will be directed to pull to the far right side of the roadway to stop. However, officers will be prepared to deal with the driver who stops elsewhere, possibly creating a hazard.
- D. Upon initiating the traffic stop, officers will notify the dispatch center of their location, number of occupants in the vehicle and a description of the vehicle being stopped, including its registration state and number. The dispatcher will acknowledge the message prior to the officer's approaching the violator's vehicle.
- E. When walking to the violator's vehicle, officers will approach with caution and position themselves in a safe location to communicate effectively with the driver and still view any other occupants of the car. Officers will be aware that any traffic stop can elevate to a high-risk situation at any time.
- F. In greeting the violator, officers will present a professional image and treat the motorist with respect and courtesy. This will include giving a greeting, identifying them-selves by rank and name, providing the reason(s) for the stop, and requesting the motorist's documents. During the course of the contact, officers will remain cognizant that criminal activity unrelated to the traffic stop may be present and as a result may warrant additional enforcement action.
- G. The contact will be closed once appropriate law enforcement action has been undertaken and there is no articulable reasonable suspicion that the occupants have committed, are committing, or are about to commit a further crime or offense.
- H. If a consent search is requested, the motorist will be informed of his/her right to refuse to permit the search.
- I. Upon closure of the contact, the officer will provide the violator with information as to how to respond to the chosen enforcement action(s); and will assist the violator in pulling safely back into traffic.
- J. In the event the violator encounter is an unknown or high risk motor vehicle stop, officers will take additional pre-cautions by keeping the dispatch center informed, by utilizing the public address system to instruct the occupant(s) of the vehicle, by requesting backup officers, by having firearm and other law enforcement tools at the ready, by affording protection to nearby innocent citizens, and by keeping themselves in a safe position while accomplishing the stop.
 - 1. **Unknown Risk** - Unknown risk vehicle stops involve the action of an officer contacting a vehicle during the normal course of duties under circumstances, which do not immediately indicate an immediate threat to the officer. All vehicle stops should be considered to have some type of risk. Officers should use heightened awareness when approaching all vehicles and should also keep in mind the dangers that are posed by other vehicles in the area.

- I. **Non-Hazardous Violations** – Generally, a violator may receive a summons or a warning for non-hazardous violations. Where in the opinion of the officer the violation is intentional, flagrant, or hazardous the officer should issue the violator a summons for the violation.
- J. **Multiple Violations** – When encountering a traffic stop where multiple violations are identified, the officer should use their discretion, training and experience, and the violator's demeanor in formulating a decision on enforcement action. Generally, a violator may receive a summons or a warning for each type of violation observed in an incident for non-hazardous violations stemming from the same operation. For instances where, in the opinion of the officer, multiple violations are intentional, flagrant or hazardous, officers may charge violators for each violation. When issuing charges for multiple violations, only one violation may be charged on each traffic citation. Officer will cross reference each related citations.
- K. **Newly Enacted Laws or Regulations** – The Chief of Police or designee will announce grace periods for newly-enacted laws, during which only warnings are given. After the expiration of the grace period, the officer will use discretion according to the circumstances.
- L. **Violations Resulting in Traffic Collisions** - Officers should issue a traffic summons as a result of all motor vehicle collisions that involve personal injury, property damage, leaving the scene of the collision, and other related serious violations. All other collisions an officer should use their discretion in deciding to issue a summons to the driver of the vehicle deemed to have caused the collision due to the violation of a traffic law.
- M. **Pedestrian and Bicycle Violations** – On heavily traveled highways where moving violations are observed involving persons operating bicycles, all applicable laws will be strictly enforced. In those areas where traffic flow is minimal, visibility is unobstructed, and traffic collisions occurrences are low, officers should exercise discretion in the type of enforcement action taken. Officers should be more lenient in the enforcement of the law and more instructive in their response to youthful offenders, who may not be fully aware of their responsibility in the safe operation of bicycles. Officers should be less tolerant with older offenders who should be aware of the hazards inherent in the unsafe operation of bicycles. Officers will concentrate their efforts on pedestrian violations in those areas where pedestrian collisions have been frequent and severe, and will cite those persons committing substantial violations, when appropriate.
- N. **Parking Enforcement** – Non-emergency parking regulations, including tow away zones, time controlled zones, and handicapped parking will be enforced with reasonableness and impartiality in all areas our jurisdiction. Vehicles parked in fire lanes, and vehicles parked illegally presenting an immediate hazard to traffic, will be ticketed and towed immediately.

IV. **Procedures for Motor Vehicle Stops**

- A. In preparing to stop a motorist, officers will consider the existing conditions, including, but not limited to, the roadway design, the road conditions, weather, lighting, and the current traffic flow, in order to create the safest possible environment for the traffic stop.

1. Pacing - The officer should follow the vehicle being paced at a constant interval for an adequate distance to obtain a reading on the speedometer indicating a speed exceeding that posted. All speedometers must be calibrated annually in accordance with Division of Criminal Justice recommendations.
 2. Radar - Radar may be utilized whenever possible for speed enforcement with concentration on specific known problem areas.
- D. **Hazardous Violations** - When handling a situation involving other hazardous violations, officers should consider the degree of the hazard, place, previous accident history of location, and the current directed patrol emphasis when making an enforcement decision.
- E. **Off Road Vehicle Violations** - Any officer observing an unregistered off-road vehicle that cannot be legally operated on the public highways, being operated on the highway, shall order the vehicle to be removed and take appropriate enforcement action. Officers should take appropriate enforcement action to insure compliance with vehicle registration and insurance laws as they pertain to off road vehicles. Officers should enforce traffic laws concerning the operation of off the road vehicles on any public-owned property.
- F. **Equipment and Inspection Violations** - Officers should consider issuance of a summons for any essential equipment defects and inspection violations. Whenever a fixture is missing and it is obvious that the owner is aware of the defective equipment, a summons should generally be issued. If the equipment violation is not obvious, the officer may stop the violator, warn of the defect, and give a warning. Furthermore, officers should issue a summons if it is obvious that the operator disregarded state inspection laws.
- G. **Licensing, Registration or Insurance Violations** – When deciding between issuing a warning or issuing a summons, the following factors should be considered.
1. Whether or not circumstances are clear that the driver would not have been aware of the licensing, registration, or insurance violation.
 2. The existence of multiple violations versus a singular violation.
 3. Whether or not there are obvious indications that document(s) were deliberately removed, altered and/or neglected.
 4. The comparative length of time since the expiration of one of the aforementioned and the current date.
 5. Whether or not there is history of these violations in the past.
 6. If the vehicle is found to not be insured, it will be impounded and held in accordance with N.J.S.A, Title 39; Section 6.
- H. **Public Carrier / Commercial Vehicle Violations** – Officers should use their discretion in enforcing any public carrier or commercial motor vehicle violations. If the violation is serious, a traffic summons should be issued. If the violation or violations are non-serious but of a repetitive nature, a summons should be issued. In all other cases a warning should be considered.

except for crimes of the first, second, or third degree (N.J. Constitution, Article IV, Section IV, Paragraph 9). For enforcement purposes, members of the U.S. Congress and the State Senate and Assembly will be treated in the same manner, and with the same courtesies, that would be extended to other persons claiming immunity.

E. **Foreign Diplomats and Consular Officials** - Diplomatic immunity is granted by the United States government under provisions of the Vienna Convention on diplomatic relations. Generally, these provisions apply to two (2) classes of immunity: Foreign Diplomats and Consular Officials. Any of the following contacts with a Foreign Diplomat and Consular Official will require notification to the United States Department of State at 202-647-4000.

1. **Traffic summons** – Foreign Diplomats and Consular Officials may be given a verbal warning or issued a traffic summons for motor vehicle violations. For enforcement purposes, Foreign Diplomats and Consular Officials will be treated in the same manner, and with the same courtesies, that would be extended to other persons claiming immunity.
2. **Physical arrest** – Foreign Diplomats (Diplomatic agents and members of administrative and technical staff) may not be arrested or detained. Reasonable restraints, however, may be applied in emergency circumstances involving self-defense, public safety, or the prevention of serious criminal acts. Career Consular Officers may be arrested and detained only for an indictable offense pursuant to a warrant. Honorary Consular Officer and Consular Employees may be detained and arrested.

F. **Military Personnel** – Military Personnel who are passing through our service area may be treated as non-residents or if from our service area, as residents. However, if any active member of the United States armed services commits a serious offense necessitating an arrest, the appropriate Provost Marshal's Office will be notified by the Chief of Police or his designee. Military personnel, who are passing through our service area, while operating military vehicles, are exempt from certain moving violations in accordance with N.J.S.A. Title 39:4-103.

III. **Uniform Enforcement Policies**

- A. **Driving While Intoxicated** - Driving While Intoxicated (DWI) is a serious offense. Each year more than half a million people are injured and over 13,000 are killed in DWI related crashes. Officers of this department will patrol diligently to apprehend any driver suspected of driving while under the influence of alcohol or drugs. Any driver found to be operating their vehicle in violation of the state's DWI laws should be arrested and prosecuted under the fullest extent of the law.
- B. **Driving Privilege Suspended or Revoked** - A traffic summons may be issued when an officer has stopped a vehicle and identified the driver as operating with a revoked or suspended license.
- C. **Speed Violations** - Excessive speed is the second greatest cause of death and injury on the American highways. Uniform methods of enforcement of speed laws should be applied by all officers and range from a warning for minor violation to a traffic summons for serious violations. Procedures for the enforcement of laws applying to speed will vary in accordance with the type of equipment used.

- b. When arresting the driver of a motor vehicle for an allowable offense (see above) the officer shall follow department policy in regards to the following:
 - i. Completion of an investigation report;
 - ii. Completion of an arrest report;
 - iii. Completion and issuance of a criminal complaint (complaint warrant, complaint summons, or special form complaint summons);
 - iv. Taking a written or verbal statement from the accused.
 - v. Fingerprinting; and
 - vi. Photographing.
- C. Officers should strive to make each traffic contact educational. It is the Department's intent to leave violators with the feeling that officers have performed a necessary task in a professional and friendly manner.

II. Traffic Law Violations by Special Classes of Violators

- A. The procedures outlined in Section I of this policy shall also be used in performing traffic enforcement related activities with any of the following special classes of drivers/violators. Listed below are additional "special" considerations an officer should take into account.
- B. **Non-Residents** - Residents and non-residents will be treated the same; fairly and impartially, in regards to motor vehicle enforcement. Officers may consider use of warnings for non-residents who commit a minor non-hazardous violation. Officers should consider the issuance of a summons for serious or hazardous violations, depending on the circumstances. If the officer "believes" the violator **will not** appear in court they should follow the procedure outlined in Section I of this policy.
- C. **Juveniles** – Juveniles may be issued a warning instead of a traffic summons. Officers should consider use of warnings for juveniles who commit a minor, non-hazardous violation. Warnings may include advice to parents. Officers should consider the issuance of a summons for serious or hazardous violations, depending on the circumstances. Officers will take appropriate enforcement action for juveniles who are found to be committing hazardous violations while driving on a graduated drivers license. Appropriate enforcement action should be understood as a measure taken to educate the driver while discouraging future hazardous violations. This decision should take into reasonable account the immediate incident, the driver's demeanor, the driver's driving history, and any other relevant factors the officer may encounter. The officer may make contact with the parent or guardian of a juvenile (person under the age of 18) to inform them of the incident and the enforcement action taken.
- D. **Legislators** - Members of the United States Congress going to, coming from, or while attending sessions, are immune from arrest, except for crimes of the first, second, or third degree (U.S. Constitution, Article I, Section VI). Members of the State Senate and Assembly going to, coming from, or while attending sessions, are immune from arrest,

record their observations and notes on the reverse side in the appropriate section.

- i. Officers will forward the white original copy to the court.

3. **Physical arrest** - this form of enforcement action is to be used in the case of only the most serious of motor vehicle violations.

- a. In accordance with Title 39:5-25, police **may not** routinely arrest a motorist for a minor motor vehicle violation. An arrest is only authorized under the following two conditions (established in State of New Jersey v. Pierce):

- i. Protect public safety (i.e. “serious” motor vehicle violations). A serious motor vehicle violation is one that poses a “grave danger” to the public and includes a provision for license suspension. Examples include, but are not limited to the following:

1. Driving While Intoxicated DWI;
2. Possession of CDS in a Motor Vehicle;
3. Driving while Suspended or Revoked;
4. Excessive Speeding (30 + miles over the speed limit;
5. Reckless Driving;
6. Leaving the Scene of an Crash with Death or Serious bodily injury; and
7. Willfully disabling and abandoning vehicles.

- ii. Assure the motorist will respond to a summons (Rules 7:2-2(b) & 3:3-1(c)) or appear for court.

1. Defendant has been served with a summons and has failed to appear;
2. There is reason to believe that the defendant is dangerous to self, other persons, or property;
3. There is an outstanding warrant for the defendant;
4. Defendants identity or address is not known and a warrant is necessary to subject the defendant to the jurisdiction of the court;
5. There is reason (articulable) to believe that the defendant will not appear in response to a summons.

PROCEDURES

I. Procedures for Traffic Enforcement Action

- A. **PROFILING PROHIBITED:** Profiling (including but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable groups) is strictly prohibited as a justification for any police officer to conduct any type of stop or seizure of a citizen. Traffic enforcement shall be based solely on the basis of the violation observed and not the profile of the operator and/or occupants. See the department policy on ***Profiling & Discriminatory Practices***.
- B. The role of the officer is to observe and prevent violations of traffic laws and to take appropriate enforcement action when violations are observed. Enforcement policies cannot and should not supplant the officer's discretion, based on professional judgment, training, and experience. Remember that both qualitative and quantitative emphasis is integral to the success of the Traffic enforcement program. All officers shall take appropriate enforcement action for each violation witnessed or reported to them. All enforcement actions will be accomplished in a firm, fair, impartial and courteous manner, and may encompass the following: a verbal warning, a traffic citation, or actual physical arrest. Officers have the discretionary authority as to which form of enforcement is to be taken by them. These include but are not limited to the following:
 - 1. **Warnings** - used by the officer when it is obvious that the violation was unintentional and that the violator will now comply with the law due to the officer's warning. Officers shall explain the violation to the violator but shall not lecture them.
 - 2. **Traffic summons** – The following procedures shall be used when issuing a traffic summons:
 - a. All traffic summonses will be issued in compliance with this policy.
 - b. All summonses shall be completed in detail in its entirety.
 - c. Officers shall only use the court dates and times published by the court.
 - d. All summonses shall be carefully reviewed for accuracy prior to issuance.
 - e. Officers shall dismiss and void uniform traffic tickets in compliance with New Jersey Administrative Office of the Courts Directive # 02-08 (appendix 1).
 - f. When issuing citations, officers shall explain procedure the violator needs to follow in order to handle the citation, and educate the driver about the violation. Officer shall not lecture the violator.
 - g. Officers will retain their yellow copy of the summons in accordance with New Jersey Records Retention Schedule. Officers may discard their copy 30 days after final disposition of the case.
 - h. The blue "department" copy of the summons will be retained by the Department for their records. Prior to submission the citing officer shall

MANCHESTER TOWNSHIP POLICE GENERAL ORDER

VOLUME: 3

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SUBJECT: TRAFFIC ENFORCEMENT AND CONTROL



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BY THE ORDER OF:

Chief Brian Klimakowski

SUPERSEDES ORDER #:

PURPOSE: To establish guidelines for stopping and contacting traffic law violators that ensures the safety of both the violator and the police officer. The purpose of this policy is to establish uniform guidelines for officers to follow regarding traffic direction, control, and enforcement action(s) incidental to a violation.

POLICY: It is the policy of this department to enforce traffic laws for the purpose of reducing the number of traffic accidents and related injuries and deaths. Therefore, officers' enforcement actions, and their decisions about the type of enforcement action to take in any given situation, should include careful consideration of the nature and seriousness of the violation, the intent of the driver, and the effect of the violation on the violator other motorists and/or pedestrians.

Officers will initiate enforcement action based on a combination of training, experience, and common sense. In the absence of specific direction elsewhere, officers should operate on the premise that deliberate violations of traffic laws, and hazardous violations, deserve a more vigorous enforcement effort than do inadvertent violations or nonhazardous violations.

Further, the department places greater emphasis on the quality of an officer's traffic law enforcement efforts, rather than the quantity. All uniformed officers share responsibility for traffic law enforcement. Supervisors will consider these factors in evaluating the traffic enforcement work of subordinates. The department expects all uniformed officers to contribute to the traffic enforcement effort, but does not establish quantitative objectives for individual officers, such as ticket quotas.