

*Keith Porch, Chief of Police*

// K. Porch //

# GENERAL ORDER 1

## LAW ENFORCEMENT DIVISION ROLE AND AUTHORITY

EFFECTIVE DATE: May 1, 2019

SUMMARY OF REVISIONS:

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**PURPOSE:** This chapter outlines the statutory authority of the Division of Police, the general guiding principals of the Division, enumerates the authority and limits of discretion of employees of this Division, and delineates Division policies concerning response to resistance/aggression, weapons, training, and review and analysis of response to resistance/aggression incidents.

## **1.1 LAW ENFORCEMENT DIVISION ROLE**

### **1.1.1 OATH OF OFFICE (LE1)**

Upon becoming a sworn member of the Division of Police, each person so appointed shall take and subsequently abide by the **Oath of Office**.

### **1.1.2 CODE OF ETHICS (LE1)**

All personnel within the Mansfield Division of Police shall abide by the Mission and Core Values contained in the **Code of Ethics** adopted by the Mansfield Division of Police. Training to include the Code of Ethics will be held biennially.

#### **IACP Code of Ethics adopted by the Mansfield Division of Police:**

“As an employee of a law enforcement Division, my fundamental obligation is to serve the citizens of the community and to uphold the Mission and Core Values of my Division”.

#### **Mission Statement:**

We are a professional law enforcement team dedicated to promoting safe, secure neighborhoods and improving the quality of life of our residents through Community Partnerships with the citizens of Mansfield.

Our **Core Values** are more than minimum standards, they remind us of not only what we stand for, but most importantly who we are; “one of the most trusted and respected members of our community”. These values not only guide our conduct, but inspire us to do our best.

#### **The Core Values of the Mansfield Division of Police are:**

**Integrity** – The willingness to do what is right even when no one is looking. Some say Integrity is a character trait, a moral compass or that inner voice. Integrity is imperative and covers many moral traits.

**Moral Courage** is to do what is right even if the personal cost is high. **Responsibility** is when a person of Integrity acknowledges his or her duties and acts accordingly. **Accountability** is a critical trait of a person with Integrity. No person of Integrity tries to shift the blame to others or take credit for the work of others; “the buck stops here” says it best.

**Honesty** – The single most significant mark of an officer’s value is to be able to admit when he/she is wrong and go forward.

**Respect** – “Service before self” is a common phrase in public service. Genuine respect involves viewing another person as an individual of fundamental worth. A person should never be judged on the basis of his/her possession of an attribute that places him or her in some racial, ethnic, economic, or gender-based category.

**Professionalism** – Being professional means being punctual, courteous, prepared, and respectful, even when challenged. Prepared means in mind, body, grooming and properly equipped.

Self-Discipline and Accountability – Members of the Division must recognize what job needs to be done, and then do that job well. Law enforcement officers have a responsibility to those they serve to be accountable for their actions.

**Code of Ethics Statement:**

“As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my Division.

I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service.

I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.”

**1.1.3 DIVERSION PROGRAMS**

The Division shall work in conjunction with the prosecutors, and victims in making recommendations **for diversion programs** in lieu of or in addition to traditional criminal justice punishments. Members of the Division may make recommendations for alternatives involving social service agencies or diversion programs rather than or in addition to formal criminal justice proceedings.

**1.1.4 CONSULAR NOTIFICATION FOR FOREIGN NATIONALS AND PERSONS ASSERTING DIPLOMATIC IMMUNITY**

**Consular Notification for Foreign Nationals**

**Foreign National Defined:** For the purposes of consular notification, a “foreign national” is any person

who is not a U.S. citizen. This includes persons who are alien or have a U.S. green card.

Whenever a foreign national is arrested or detained in the United States, there are legal requirements to ensure that the foreign national's government can offer him/her appropriate consular assistance. In all cases, the foreign national must be told of the right of consular notification and access. In most cases, the foreign national then has the option to decide whether to have consular representatives notified of the arrest or detention. In other cases, however, the foreign national's consular officials must be notified of an arrest and/or detention regardless of the foreign national's wishes. Whenever a foreign national is taken into custody, the detaining official should determine whether consular notification is at the option of the foreign national or whether it is mandatory.

- When arresting or detaining any person (traffic citation issuance does not apply), sworn personnel should attempt to ascertain if the person is a U.S. Citizen or a Foreign National.

- The shift supervisor should be advised when making an arrest or detention of a Foreign National.

- If the person is a U.S. Citizen, consular notification is not an issue.

- If the person is not a U.S. Citizen, determine what nationality or country the detainee is from.

- If the detainee is from a *special rule* country: the consular **must** be notified by the arresting officer without delay, even if the detainee does not wish to notify the consular.

- A list of *special rule* countries and the exact notification in various languages can be found in the United States Department of State Consular Notification and Access book which is kept in the holding facility.

- Suggested consular notification fax sheet, various language translations of exact consular notification statements, and phone numbers to various foreign country consulates can be found in the United States Department of State Consular Notification and Access book which is kept in the holding facility.

- Foreign consular officers must be given access to their nationals and permitted to communicate with them. Such officers have the right to visit their nationals, to converse and correspond with them, and to arrange for their legal representation.

- The foreign national should be informed that notification has been made and advised that he/she may also specifically request consular assistance from his or her consular officials.

- Sworn personnel will keep a written record of all actions taken including consular contact/notification and notification of contact with the foreign national on the General Offense Report or Supplement.

- If the detainee is *not* from a special rule country: the detainee **must** be notified of his/her right to notify their consular.

- If the detainee requests notification, the arresting officer must ensure that notification is given to the nearest consulate or embassy of the detainee's country without delay.

- The exact notification in various languages can be found in the United States Department of State Consular Notification and Access book which is kept in the holding facility. Suggested consular notification

fax sheet, various language translations of exact consular notification statements, and phone numbers to various foreign country consulates can be found in the United States Department of State Consular Notification and Access book which is kept in the holding facility.

- Foreign consular officers must be given access to their nationals and permitted to communicate with them. Such officers have the right to visit their nationals, to converse and correspond with them, and to arrange for their legal representation.

- Sworn personnel will keep a written record of all actions taken including offer of consular contact, detainee's decision, and any notification made to consulate on the General Offense or Supplement Report.

### **Deaths of Foreign Nationals**

If federal, state, or local government officials become aware of the death of a foreign national in the United States, they must ensure that the nearest consulate of that foreign national's country is notified of the death. This will permit the foreign government to make an official record of the death for its own legal purposes.

- The exact notification in various languages can be found in the United States Department of State Consular Notification and Access book which is kept in the holding facility. Suggested consular notification fax sheet, various language translations of exact consular notification statements, and phone numbers to various foreign country consulates can be found in the United States Department of State Consular Notification and Access book which is kept in the holding facility.

Additional Information on this topic can be found in the United States Department of State Consular Notification and Access book which is kept in the holding facility. Additional information on this subject(s) can also be found at <http://travel.state.gov/law/notify.html>

### **Persons asserting Diplomatic or Consular Immunity**

International law requires that law enforcement authorities of the United States extend certain privileges and immunities to members of foreign diplomatic missions and consular posts. The purpose of these privileges and immunities is not to benefit individuals but to ensure the efficient and effective performance of their official missions on behalf of their governments. Most of these privileges and immunities are not absolute, and law enforcement officers retain their fundamental responsibility to protect and police the orderly conduct of persons in the United States.

- Sworn personnel may issue traffic citations to persons who enjoy Diplomatic or Consular Immunity.

- If the person who enjoys Diplomatic or Consular Immunity refuses to sign the citation, officer should write “refused” on the signature line.

- Sworn personnel who are faced with an arrest situation involving a person asserting Diplomatic or Consular Immunity should attempt to establish immunity and contact the shift supervisor. If the person possesses Diplomatic or Consular Immunity, he/she should not be arrested.

- Indicators of Diplomatic or Consular Immunity, include, but are not limited to:

- Department of State Identification Card
      - Foreign Diplomatic Passports and U.S. Diplomatic Visas
      - Diplomatic License Plates, Registrations, and Drivers License

- Tax Exemption Cards
- **The Department of State can be contacted 24 hours a day (202) 647-7277 to verify the status of Diplomatic or Consular Immunity.**
  - While persons enjoying Diplomatic or Consular Immunity may be prohibited from being arrested, detained or prosecuted, sworn personnel may take action to protect public safety or prevent the commission of a serious crime.
  - If a person who enjoys Diplomatic or Consular immunity is alleged to have committed a crime, the investigating officer should forward copies of all reports associated with the incident to the Department of State through supervisory personnel.
  - If sworn personnel have established probable cause to arrest or detain a person who they suspect of a serious traffic violation (for example O.V.I.) and the officer has also established the person enjoys Diplomatic or Consular Immunity from arrest or detention, the officer should:
    - Contact the shift supervisor.
    - Arrange for a ride for the suspect or transport the suspect to a safe location. The suspect vehicle should not be impounded, but it may be moved or towed to a safe location.
    - Issue the appropriate citation(s).
    - Incidents such as these should be documented on standard report forms and copies should be forwarded through the supervisor to the Department of State.

Additional information on this subject(s) can be found at:  
[www.travel.state.gov/consularnotification](http://www.travel.state.gov/consularnotification)

## **1.2 LIMITS OF AUTHORITY**

### **1.2.1 LEGALLY MANDATED AUTHORITY (LE1)**

The **authority** of the Division of Police is granted by Ohio Revised Code §737.11 and the Charter of the City of Mansfield. Sworn members of the Division of Police shall preserve the peace, protect persons and property, and obey and enforce all ordinances of the legislative authority of the City of Mansfield, and all criminal laws of the State of Ohio.

## 1.2.2 AUTHORITY TO CARRY WEAPONS

The **authority for a peace officer to carry and use weapons** is established through the training requirements in Ohio Administrative Code §109:2-1-11, §109:2-1-12, and §109:2-1-16 regarding initial certification as a peace officer; Ohio Administrative Code §109:2-13 regarding annual re-qualification and certification as a peace officer; and Ohio Revised Code §109.801 regarding re-qualification. The Ohio Revised Code §2923.12 provides for peace officers to carry concealed weapons or weapons at hand.

The Chief of Police has the authority to disapprove an officer in his/her official capacity from carrying any issued or authorized weapon(s).

## 1.2.3 CONSTITUTIONAL RIGHTS – COMPLIANCE (LE1)

A. **Interview:** An interview is a voluntary conversation between two or more persons in which facts or statements are elicited from another through a series of questions and answers.

– It must be apparent to the person who is being interviewed that they are not in custody otherwise they should be advised that his/her statement is voluntary and not being made while in custody.

The **use of field interviews** is intended to provide documentation of persons who, due to circumstances of time, location, current crime statistics, etc., appear suspicious to an officer.

– Police officers are encouraged to conduct field interviews. Field interviews are an important tool for police officers to aid in the prevention and investigation of criminal activity. Police officers must gather information with proper observance of constitutional safeguards.

– There are two methods of contact for field interviews: consensual encounters and investigatory stops.

– Consensual Encounter: A consensual encounter occurs when a police officer contacts a person in such a way that would cause a reasonable person to believe that he was free to leave or disregard the police. Police officers may approach a person(s) on the street, sidewalk, in a public place, or on private property open to the public in order to make inquiries for investigative or other legitimate policing purposes. A person approached by a police officer in a consensual encounter does not have to answer any questions, may not be compelled to identify themselves, may decline to listen to the questions, and/or may go on his/her way at anytime. A person cannot be compelled to answer questions during a consensual encounter and Miranda warnings are not required during a consensual encounter. A person may not be detained even momentarily during a consensual encounter without reasonable, objective grounds for doing so. A mere refusal to listen to or answer questions does not furnish sufficient grounds for detainment. A person is free to walk or drive away at any time in the course of a consensual encounter. A consensual encounter requires the voluntary cooperation from the person.

– Investigatory Stop: An investigatory stop allows a police officer to stop an individual(s) when the officer can articulate reasonable suspicion that a crime has been or is about to occur. Such an investigatory stop is permissible by a police officer when prompted by both the observation of unusual conduct leading to a reasonable suspicion in light of his experience that criminal activity may be afoot and the ability of the police officer to point to specific and articulable facts to justify the suspicion and stop. Miranda warnings are not required during an investigatory stop and a person cannot be compelled to answer questions during an investigatory stop.

– There is no rigid time limit for the length of an investigatory stop. The following should be considered in determining the reasonableness for the duration of the stop: 1) purpose of the stop, 2) reasonableness of the time used for the investigation that the officers want to conduct, and 3) reasonableness of the means of the investigation used by the officers.

All field interview contacts will be logged into the Computer Aided Dispatch System and the interviewing officer should attempt to obtain the persons name, race, gender, physical description, address, phone numbers, social security number, clothing description, vehicle information, details of the contact, and any other pertinent information to be documented on the Field Interview Card.

**B. Interrogation:** An interrogation is an in custody questioning about matters closely related to a crime. When sworn members of this Division conduct an interrogation, the suspect will be afforded every right under the U.S. Constitution, State of Ohio Constitution and the Ohio Revised Code.

**Miranda warning:** Persons who are interrogated while in custody shall be given their Miranda rights prior to questioning and shall be afforded the opportunity to counsel. (Escobedo v Illinois, 84 SCt 1758 (1964)) (Ohio Revised Code §2935.14) (Ohio Revised Code §2935.20).

– There shall be documentation that the defendant(s) has been read and informed of his/her rights (Miranda v. Arizona and U.S. v. Dickerson).

– The question of coercion or the involuntary nature of confessions and admissions will be addressed by requiring a suspect to acknowledge their rights before making a statement, indicating that the confession is completely voluntary. The acknowledgement and waiver shall be documented.

– If the suspect wishes to make a statement, but refuses to sign a waiver, the suspect's oral waiver should be witnessed whenever possible.

**C. Access to counsel:** Defendants shall not be deprived of counsel. It is incumbent upon the defendant after being advised of his/her rights to affirmatively request the right to counsel if he/she desires to invoke such right.

– After the arrest, detention, or any other taking into custody of a person, with or without a warrant, such person shall be permitted facilities to communicate as soon as practical with an attorney at law of his choice who is entitled to practice in the courts of this state, or to communicate with any other person of his choice for the purpose of obtaining counsel.

– Such communication may be made by a reasonable number of telephone calls or in any other reasonable manner. Such person shall have a right to be visited immediately by any attorney at law so obtained who is entitled to practice in the courts of this state, and to consult with him privately.

– No officer or any other agent of this state shall prevent, attempt to prevent, or advise such person against the communication, visit, or consultation provided for by this section (ORC §2935.20).

**Arraignments:** There shall be no delays in arraignments. The timetable for arraignments is governed by the Ohio Revised Code (ORC 2945.71).

**Pre-trial publicity:** The Division will avoid pre-trial publicity that would tend to prejudice a fair trial by balancing the rights of the accused with the public's right-to-know.



– The Division of Police will act in accordance with the Ohio Public Records Act (Ohio “Sunshine Laws”) as it pertains to the release of information and will release only such information as is applicable under rules of discovery (Ohio Criminal Rule 16).

## 1.2.4 SEARCH AND SEIZURE WITHOUT WARRANT (LE1)

Whenever practical, officers will secure a search warrant rather than relying on judicially recognized exceptions to the necessity for a warrant. When obtaining a search warrant is not practical, any search and seizure without a warrant performed by Division personnel shall conform to state and federal constitutional guidelines.

A. **Search by consent:** Search by consent may be conducted only when consent is given without force, duress or compulsion of any kind and must be limited to the area of search agreed upon by a person who has the capacity to consent, namely a property owner or one who has control over the property (State of Ohio v Robinette, 73 OhioSt.3d 650 (1995)).

– An officer will obtain an oral or written waiver indicating the consent was voluntary. Signed consent may be revoked at any time which may require the approval of a search warrant to continue.

B. **Stop and frisk:** The stop-and-frisk doctrine allows an officer to stop an individual when the officer can articulate reasonable suspicion that a crime has been or is about to occur. The stop-and-frisk doctrine also allows an officer to conduct a pat down search of an individual only for weapons when the officer can articulate reasonable suspicion to fear for his safety or the safety of others. (Terry v Ohio, 88 SCt 1868 (1968)).

C. **Search of a vehicle:** A search of a vehicle under a movable vehicle exemption allows an officer to search a movable vehicle or object when there is probable cause to believe there is contraband or evidence in the vehicle or object. The exemption applies only when the vehicle or object is about to be moved or could be moved and obtaining a warrant is impractical. (Chambers v Maroney, 90 SCt 1975 (1970), U S v Jones, 105 SCt 881 (1985)).

– An officer may not forcibly open containers, but should inquire of the owner or custodian of the container to provide access. (Florida v Wells 110 SCt 1632 (1990))

– A search warrant based on probable cause will be required to forcibly open containers absent the consent of the owner or custodian of the container to provide access.

D. **Search at the scene of a crime:** A warrantless search may be conducted at the scene of a crime only when exigent circumstances exist or when consent to search has been given by a property owner or person in control of the property.

E. **Exigent circumstances:** When exigent circumstances exist, particularly if the public safety is threatened, officers may conduct limited searches and seizures without warrants, the scope of which is limited to actions that would eliminate suspected threats.

Definition: Exigent circumstances exist when the societal costs of obtaining a warrant, such as the danger to law enforcement officers or the risk of loss or destruction of evidence, outweigh the reasons for prior recourse to a neutral magistrate, an officer could conduct a limited search and seizure. Examples of exigent circumstances: need to rescue, danger of escape, and destruction/removal of evidence. (Anderson v Sanders 99 SCt 2586 (1979), Mincey v Arizona, 98 SCt 2408 (1978), U S v Blasco 702 F.2d 1315 (11<sup>th</sup> Cir)(1983), U S v Santana 427 US 38 (1976)).

F. **Inventory search:** If a vehicle or other property is to be impounded or seized, an inventory search will include a documented inventory search of the contents, including closed containers and the contents of the

vehicle or property to which reasonable access can be gained.

- The inventory search will be documented on an MPD vehicle tow/inventory form.
- An officer may not forcibly open containers, but should inquire of the owner or custodian of the container to provide access. (Florida v Wells 110 SCt 1632 (1990)).
- A search warrant based on probable cause will be required to forcibly open containers absent the consent of the owner or custodian of the container to provide access.

**G. Other situations:** Other situations that allow for warrantless searches and seizures include:

- **Search incident to a lawful arrest** and for the protection of the officer and to prevent the destruction of evidence. The scope of the search is limited to the person and to the immediate area the detainee might have access to obtain a weapon or destroy evidence. (State v Sperry, 351 NE(2d) 807; Maryland v Buie 110 SCt 1093 (1990); N Y v Belton 101 SCt 2860 (1981); Coolridge v New Hampshire 91 SCt 2022 (1971); Horton v California 110 SCt 2301); Arizona v Gant US 556 (2009).
- The **“plain view”** exception allows an officer to seize evidence or contraband when an officer locates it in a place or from a place where the officer has a right to be.
- Other situations include: **“plain feel”** and **“plain smell”** that allow an officer to seize evidence or contraband when an officer locates it in a place or from a place where the officer has a right to be.

### **1.2.5 PROCEDURES FOR ARREST (LE1)**

**A. Arrest information** will be recorded on a NIBRS Report.

- Subsequent arrests of an individual are included in the same electronic file, with updated arrest information. Photograph(s) and fingerprints are filled electronically in a separate file when available.

**B. Fingerprints** will be taken on all **adult physical arrests** processed at a holding facility (RCSO) using the digital fingerprinting system.

- **Fingerprints** will be taken on **juveniles arrested for the following crimes using the digital finger print system (RCSO)**.
- If the digital fingerprint system is not functioning or available, one set of prints will be taken on a juvenile fingerprint card and one set of prints on a disposition card.

"Fingerprints and photographs of a child may be taken by law enforcement officers when the child is arrested or otherwise taken into custody for the commission of an act that would be a felony if committed by an adult, without the consent of the juvenile judge, when there is probable cause to believe that the child may have been involved in the commission of the act. A law enforcement officer who takes fingerprints or photographs of a child under this Division shall inform the juvenile court that the fingerprints or photographs were taken, and the name and address of each person who has custody and control of the fingerprints or photographs or copies of the fingerprints or photographs." (Ohio Revised Code §2151.313(A)(2). This notification is normally made by the Juvenile Unit who will be responsible for investigative follow up in most cases requiring such processing.

Offenses for which juvenile fingerprints may be obtained include 2903.01 (Aggravated murder), 2903.02 (Murder), 2903.03 (Voluntary manslaughter), 2903.04 (Involuntary manslaughter), 2903.11 (Felonious assault), 2903.12 (Aggravated assault), 2903.13 (Assault - misdemeanor or felony), 2903.21 (Aggravated menacing), 2903.211 (Menacing by stalking), 2903.22 (Menacing), 2905.01 (Kidnapping), 2905.02 (Extortion), 2907.02 (Rape), 2907.05 (Gross sexual imposition), 2909.02 (Aggravated arson), 2909.03 (Arson), 2911.01 (Aggravated Robbery), 2911.02 (Robbery), 2911.11 (Aggravated Burglary), 2911.12 (Burglary), 2917.01 (Incite to violence), 2917.02 (Aggravated riot), 2917.03 (Riot), 2917.31 (Inducing panic), 2919.25 (Domestic violence), 2921.03 (Intimidation), 2921.04 (Intimidation of attorney, victim, or witness), 2921.34 (Escape), 2923.161 (Improper discharge of a firearm).

C. **Photographs** will be taken on all **adult physical arrests** processed at a holding facility (RCSO) using the digital mug shot system.

Photographs will be taken on **juveniles arrested for the following crimes using the digital mug shot system (RCSO)**.

"Fingerprints and **photographs** of a child may be taken by law enforcement officers when the child is arrested or otherwise taken into custody for the commission of an act that would be a felony if committed by an adult, without the consent of the juvenile judge, when there is probable cause to believe that the child may have been involved in the commission of the act. A law enforcement officer who facilitates fingerprints or photographs of a child under this section immediately shall inform the juvenile court that the fingerprints or photographs were taken, and the name and address of each person who has custody and control of the fingerprints or photographs or copies of the fingerprints or photographs." (Ohio Revised Code §2151.313(A)(2))

Offenses for which juvenile fingerprints must be obtained include 2903.01 (Aggravated murder), 2903.02 (Murder), 2903.03 (Voluntary manslaughter), 2903.04 (Involuntary manslaughter), 2903.11 (Felonious assault), 2903.12 (Aggravated assault), 2903.13 (Assault - misdemeanor or felony), 2903.21 (Aggravated menacing), 2903.211 (Menacing by stalking), 2903.22 (Menacing), 2905.01 (Kidnapping), 2905.02 (Extortion), 2907.02 (Rape), 2907.05 (Gross sexual imposition), 2909.02 (Aggravated arson), 2909.03 (Arson), 2911.01 (Aggravated Robbery), 2911.02 (Robbery), 2911.11 (Aggravated Burglary), 2911.12 (Burglary), 2917.01 (Incite to violence), 2917.02 (Aggravated riot), 2917.03 (Riot), 2917.31 (Inducing panic), 2919.25 (Domestic violence), 2921.03 (Intimidation), 2921.04 (Intimidation of attorney, victim, or witness), 2921.34 (Escape), 2923.161 (Improper discharge of a firearm).

D. **Felony:** When a felony has been committed, or there are reasonable grounds to believe that a felony has been committed, any person, without a warrant may arrest another whom he has reasonable cause to believe is guilty of the offense, and detain him until a warrant can be obtained. An arrest for a felony may be based on probable cause and that the actual offense need not actually be witnessed in order for an arrest to be made.

– Felony affidavits and warrants will be filed with the Municipal Court of the county in which the offense occurred as soon as practical, normally by the end of the officer's shift.

E. **Misdemeanor:** With the exception of offenses excluded by Ohio Revised Code, §2935.03 (B), an officer may only make a misdemeanor arrest for on-view violations of the law without a warrant. Those offense exceptions outlined in the Ohio Revised Code are:

- any offense of violence
- criminal child enticement

- public indecency
- domestic violence
- any theft offense

F. **Minor Misdemeanor:** An officer may only make an arrest for an on-view minor misdemeanor when:

- the offender refuses to sign the citation, if required
- the offender requires medical care or is unable to provide for his own safety
- the offender cannot or does not offer satisfactory proof of identity (Ohio Revised Code §2935.36)

G. **Arrest without warrant:** When an officer makes any arrest without a warrant, he shall inform the person arrested of such officer's authority to make the arrest. (Ohio Revised Code §2935.07). The officer shall inform the person arrested of the cause of the arrest unless the person is engaged in the commission of a criminal offense at the time of arrest.

- Such affidavits and/or complaints will be filed with the Clerk of Courts of the City of Mansfield.

- **“Fresh pursuit”:** “If a...police officer...is authorized by [Ohio Revised Code □§2935.03(A) or (B)] to arrest and detain, within the limits of the political subdivision...in which he is appointed...the peace officer may, outside the limits of the political subdivision...in which he is appointed... pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

- (1) The pursuit takes place without unreasonable delay after the offense is committed;

- (2) The pursuit is initiated within the limits of the political subdivision...in which the peace officer is appointed.

- (3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to division (C) of Section 4507.021 of the Revised Code.” (Ohio Revised Code □§2935.03(D)).

H. **Domestic Violence Arrests:** Domestic violence affidavits and warrants are filed with the Municipal Court which allows the victim to simultaneously file with the Clerk of Courts of the Municipal Court for a temporary protection order. The following guidelines for handling domestic violence complaints and arrests in accordance with the Ohio Revised Code have been approved by the Mansfield Municipal Court and City Law Director's office.

- **Authority**

- Sections 2919.26 and 3113.31 of the O.R.C. and Section 537.15 of C.O.M. governs enforcement of protection orders.

- Section 2919.25 of the O.R.C. and Section 537.14 of C.O.M. mandates domestic violence as an offense.

- Section 3113.032 directs that the Division shall keep a separate record of domestic disputes and violence problems.

- **Definitions**

- Domestic Violence – knowingly cause or attempt to cause physical harm to a family/household member; recklessly cause serious physical harm to a family/household member; by threat of force, knowingly cause a family or household member to believe the offender will cause imminent physical harm to the family/household member. (Report Required)

- Family Dispute – any incident between family/household members where police have been called to the scene, even when there are no reasonable grounds to believe the crime of domestic violence has been committed. (Report Required)

- Family or Household Member – According to Sections 2919.25 and 3113.31 of the Revised Code, any of the following apply:

- Any of the following who is residing or has resided with the offender:
  - A spouse, a person living as a spouse, or a former spouse of the offender;
  - A parent or child of the offender, or another person related by consanguinity (blood), or affinity (marriage), to the offender;
  - A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity (blood) or affinity (marriage) to a spouse, person living as a spouse, or former spouse of the offender.
  - The natural parent of a child of whom the offender is the other natural parent or is the putative (generally believed to be) other natural parent.
  - Person Living as a Spouse is a person:
    - Who is living or has lived with the offender in a common law marital relationship;
    - Who otherwise is cohabiting with the offender;
    - Who otherwise has cohabited with the offender within five years prior to the date of the alleged domestic violence in question.

- **Responsibilities**

- Telecommunicators are responsible for receiving the complaints, dispatching officers, and entering and maintaining the Protection Orders Index.
- Officers are responsible for responding to calls and taking legally mandated action.
- Records Section is responsible for forwarding all Protection Orders from the Courts to the Communications Center and submitting monthly reports to the Bureau of Criminal Identification and Investigation (BCI & I).

- **Procedures**

- Telecommunications
  - Obtain as much information as possible which will assist officers in evaluating and handling of the call, including but not limited to:
    - Caller's name, address, and phone number.
    - Location of the problem.
    - Caller's involvement in the problem.

- What the problem is and when it occurred.
- If there are any injuries.
  - If there are any weapons and/or threat of weapons.
  - The location of the parties involved.
  - Witnesses, if any, and where they are located.
- Listen for any background noises.
  - Evidence of assault in progress.
  - Condition of the caller, tone of voice, nature of statements made.
  - Conversation with others during the call, including suspect's statements or comments overheard during contact with caller.
- *Research*
  - Active warrants for parties involved.
  - Past history at location or by name.
  - Current protection order log. Law enforcement is now required to enforce a TPO or CPO issued by any Ohio Court regardless of whether the order is issued or registered in the county in which the agency is located pursuant to ORC §2919.26 and to enforce a protection order issued by a court of another state as defined by ORC §2919.27 and COM 537.15. It may be necessary to teletype other agencies for current TPO's or CPO's when that information is obtained.
- *Dispatch Without Undue Delay*
  - Sufficient officers to handle the call.
  - Provide all available information to officers and/or others.
- Officers
  - Respond to the scene, without undue delay to a report of an alleged incident of domestic violence or violation of a protection order (§2935.032).
  - Time arrival with back-up unit, if possible.
  - Survey scene and evaluate conditions based on information already received.
- *Assessment*
  - Determine participants and separate the victim and the offender.
  - Summon medical assistance if required.
  - Attempt to determine the problem by conducting separate interviews in separate locations and take a written report statement from the victim. Statements may be used that indicate the frequency and



severity of any prior incidents, the number of times the victim has called for assistance and the disposition of those calls, if known. (§2935.032).

- Determine if reasonable grounds exist, based upon a person executing a written statement alleging domestic violence. If no written statement is executed, but the officer, based upon trustworthy information given to him by the alleged victim or witness concludes that there are reasonable grounds; or the officer witnessed the offense, for an arrest to be made and/or other actions to be taken. (§2935.03 revision).

- Determine whether there is a valid TPO or CPO in effect, protecting the victim, family or household members.

- *Advising*

- Officers should emphasize to the victim and the offender that the criminal action is being initiated by the city (state for felonies), not the victim.

- The right of victim(s) to sign an affidavit and file charge. (55.2.3 a).

- The availability of a temporary protection order, (TPO) or civil protection order, (CPO) and actions to be taken should the suspect or relatives engage in conduct violating the conditions of the TPO. **THE VICTIM SHOULD BE ADVISED THAT THE TPO WILL NOT BE EFFECTIVE UNTIL AFTER THE DEFENDANT IS ARRAIGNED ON THE CHARGES.** The complainant may file a notice of the issuance of a TPO or CPO with any law enforcement official in any county other than the county in which the order is issued and law enforcement is mandated to enforce TPOs and CPOs statewide. Law Enforcement is also mandated to enforce protection orders which have been issued by other states pursuant to ORC §2919.27 and COM 537.15. The victim must also be advised that he or she must personally appear at the arraignment or a TPO shall not be issued, unless the victim cannot personally appear due to injuries caused by the offender. In such instances, a personal representative, such as the Victim Advocate will seek the TPO on behalf of the victim.

- Officers must give the victim a copy of the Victim's Rights Notification booklet, pursuant to Ohio Attorney General administrative rule 109.42 (B)(1)(6).

NOTE: Officers may file a TPO in an emergency where the victim is unable to file and an arrest has been made under ORC §2935.03.

- The need to contact the Law Director's Victim Advocate or Richland County Prosecutor Victim Advocate (if a felony) prior to 0830 on the next court date.

- The availability of other agency assistance, including, but not limited to, the services of the Shelter. (55.2.3 a).

- Tear off the top sheet of the domestic assault packet and check appropriate blocks.

- Complete Officer's name, badge number and report number blocks (§2935.032) (55.2.3 c).

- Provide information sheet about other agency assistance available and verbally review the same with the victim, including: (55.2.3 a d)

- The Shelter

- The Center

- Helpline

- Victim Advocate through Law Director or Prosecutor

- The Law Director's Office

- The Prosecutor's Office

- An arrest is the preferred response to family violence and should be made when:
  - Reasonable grounds exists that a crime of domestic violence has been committed, or;
  - The victim signs a written statement and/or charge;
  - The officer witnesses the offense, or;
  - A temporary protection order, TPO, or a civil protection order, CPO, is in effect and is being or has been violated.
    - In the absence of the violator for an alleged violation of a TPO, CPO, Consent Agreement or Anti-Stalking Order, a TPO violation packet will be completed.
    - TPO Violation packets can also be used in the event LEADS is down or the information has not been entered and an arrest can be executed.
    - NOTE: A peace officer SHALL NOT require, as a prerequisite to arrest, that the victim consent to the filing of the charges or sign a complaint. A peace officer SHALL NOT consider allegations of an invitation by the victim as grounds to refuse to arrest for a violation of a TPO/CPO/Anti-Stalking order. An officer SHALL NOT consider as a factor any possible shortage of cell space at the detention facility, or that the arrest might cause or contribute to overcrowding.
- *Arrests are encouraged when:*
  - One party has recently threatened another with serious physical harm, or one party feels there is a significant threat of serious physical or bodily harm:
    - When reasonable ground exists to believe the threats have been made by the suspect.
    - When the individual so threatened signs an affidavit giving the officer the reasonable ground.
      - The victim has visible physical injuries, but is unable, or unwilling to sign a complaint; however, the victim's verbal statement clearly identifies the perpetrator, and supporting evidence establishes reasonable grounds that a crime of violence has occurred, and that the specified individual committed the crime. Officers shall list names and information of all other witnesses present and shall attempt to take a taped or written statement from the victim and any witnesses.
- *Dual complaints*
  - When both parties are injured, or claim to be injured, evaluate the circumstances and supporting evidence for reasonable grounds to make an arrest of one of the assailants giving first consideration to the initial complainant. It is the preferred course of action in the State of Ohio that the officer arrests the primary physical aggressor. In determining the primary physical aggressor, the officer should consider all relevant circumstances including: any history of domestic violence; whether the alleged violence was caused by a person acting in self-defense; the comparative severity of any injuries and whether these injuries appear to be defensive in nature; or, each person's fear of physical harm and the reasonableness of that fear.
    - If, after the victim of the domestic violence signs an affidavit, the other party (i.e. the assailant) also requests or demands to sign an affidavit, officers should explain that the second complaint will be submitted to the Law Director's office by the officer for review.

- Should the second party insist on completing an affidavit officers must use their discretion and judgment in allowing them to do so keeping in mind the following:

- Assailants will attempt to file charges against the person they have injured in order to use the charges as negotiating pressure.

- Victims of violence often strike out in their own defense.

- In occasional cases violence may escalate to the point where both parties have committed domestic assault and the arrest of both parties cannot be avoided.

- The responding officer(s) may offer transportation for the purposes of medical treatment or emergency housing, including but not limited to, the Shelter. As the victim's safety is paramount, such information regarding the destination or location of the victim should not be disclosed in front of the defendant.

- *Disposition of children*

- In the event children are present in the household where the parents are either arrested and/or taken to the hospital for treatment, the primary physical aggressor should not be asked who is to be contacted to take responsibility for the children. Rely on the victim for that determination. On Call Children Services staff should be notified.

- If no relatives or other adult named by the victim can be located or are available, contact the on-call Children Services staff for temporary placement.

- *Collection of Evidence is essential for criminal prosecution.*

- Physical injury.

- Officers shall document in the NIBRS report all observed injuries.

- Officers shall indicate to hospital personnel the necessity for detailed information noted on the victim's chart by a physician.

- Officers shall request that the victim sign a release for medical information

- Attempt to obtain color photos of the injuries as soon as possible after the assault and, if necessary, re-photograph several days after the assault when bruises are more visible.

- Note the areas of the body where the victim is complaining of pain.

- Note on the general offense report or supplemental the medical personnel who responded.

- Physical evidence

- Photograph and/or write a narrative description of the scene establishing an assault occurred, to include:

- Forced door lock

- Broken windows

- Broken or over-turned furniture

- Blood stains

- Areas where victim is complaining of injury or pain even if no injury is apparent

- Collect articles corroborating the occurrence of violence, regardless of the nature of the articles, such as:

- Weapons (such as a frying pan, hairbrush, or flower pot),
- Torn or blood stained clothing,
- Broken furniture.

- Statements of parties and/or witnesses

- Prosecution of these cases are enhanced by obtaining written statements, signed by the parties or witnesses at the time of the incident. (This would include neighbors who may have overheard evidence of the altercation).

- AFTER the defendant's arrest Miranda Warnings should be read if a statement is to be taken from the defendant.

- *Documentation*

- A NIBRS report shall be completed in all domestic violence complaints.

- Report circumstances, including officer's observations, any visible injuries, any weapons at the scene, actions or statements of the parties or witnesses, including excited utterances (spontaneous statements) which should be recorded verbatim and set apart in the statement or report within quotation marks, history of previous calls and their disposition, if known.

- In those instances where reasonable ground exists but no arrest has been made, the officers MUST articulate in the written report of the incident a clear statement their reason for not making an arrest.

- When no violence has occurred and/or reasonable grounds cannot be established at that time by the officer, the officer shall complete a NIBRS report indicating the circumstances of the call marking the heading as a "family dispute."

- NOTE: THERE WILL BE A REPORT FILED ON EVERY DOMESTIC CALL. STATE LAW REQUIRES THE REPORTING OF ALL DOMESTIC VIOLENCE CASES BY POLICE DEPARTMENTS TO INCLUDE VIOLENT OR NON-VIOLENT CONTACT AND ALLEGED VIOLATIONS OF A PROTECTION ORDER WHETHER OR NOT AN ARREST IS MADE.

- *Where an arrest will be made:*

- Develop the reasonable grounds necessary to make an arrest. Determine if the suspect has a prior conviction of any crime outlined in ORC §2919.25 or COM §537.14. Ask the complainant if they wish to sign an affidavit, or;

- If the complainant is willing to sign a complaint:

- Complete the affidavit prior to making the arrest when no other reasonable grounds exist.

- The victim should sign the charges, either (M-1, knowingly cause or attempt to cause, or did recklessly cause serious physical harm) or 2A (M-4, M-2, M-1), threat of force and the belief that imminent physical harm will result) which must be witnessed by a notary public at the same time as all other paperwork. If the suspect has a prior conviction of an offense of violence or the crime constitutes a felony, the officer will complete a felony F-4 or F-3 complaint, and not complete the misdemeanor complaint.

- A request for a Temporary Protection Order (TPO) should be made at this time by either the victim or the officer.

- A Warrant for the arrest of the defendant shall be sought as soon as practicable upon the arrest of the defendant and shall be served upon the defendant while he is in custody.

- If the defendant is not taken into custody at the scene, a warrant for the arrest of the defendant shall be sought as soon as practicable by the officer issuing the citation, but in no event, later than the end of that officer's shift.

- Victims who do not want to file charges, and the officer is not making an arrest at the time of officer intervention due to lack of reasonable grounds, shall be advised to contact the Law Director's Office for an appointment to file, if desired.

- All forms shall be completed in the field.

- Form packets are available from the Shift Commander. Contact a supervisor for completion of felony charges.

- Officers filing felony charges are to deliver to the Prosecutor's Office every general offense report, certified copy of the conviction entry or any other paperwork relating to prior domestic violence incidents regarding the suspect being charged regardless of whether the suspect was arrested or convicted of any previous charges. Also include, if possible, the CCH, local call history, and names of prior victims.

- This information is to aid the court in setting bond and assessing the level of charges against the defendant.

- A Warrant on Complaint must be completed by the arresting officer in front of a Deputy Clerk of Court prior to, at the time of, or as soon as practicable after the arrest of the defendant. If the defendant is not taken into custody at the scene, and a packet has been signed by the victim or the citing officer, a Warrant on Complaint must be completed, as soon as practicable, but in no event, later than the end of that shift for the officer involved in the preparation of the packet.

- In cases of serious injury, enhanced misdemeanor, and/or where felony charges will be obtained due to prior convictions of crimes of violence against family members, supplements from reporting officers will be completed.

- If the officer determines that a person has caused or attempted to cause serious physical harm by means of a deadly weapon, the officer SHALL treat the incident as felonious assault and shall comply with whichever of the following is applicable:

- unless the officer has reasonable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other person committed offenses against each other, the officer shall arrest the offender who committed the felonious assault; or,

- if the officer has reasonable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each other, the officer shall determine who is the primary physical aggressor;

- if the offender who committed the felonious assault is the primary aggressor, the officer shall arrest him; the officer is not required to arrest but may arrest any other person who committed an offense but who is not the primary physical aggressor;

- if the offender who committed the felonious assault is not the primary physical aggressor, the officer is not required to arrest that offender;

- if the officer determines that a person, while under the influence of sudden passion brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, shall treat the incident as aggravated assault committed by the offender;

- if an officer responding to a domestic violence incident determines that a deadly weapon has been used OR brandished, the officer SHALL seize the weapon, as well as any other weapons in plain view or weapons provided by the victim, as contraband pursuant to §2933.43.

- The Communications Center will maintain the protection order index and complete any required entering into LEADS and NCIC.

- The Records Section will forward all protection orders, received from the Courts, to the Communication Center and file domestic dispute/violence reports with BCI & I as required by law.

### **1.2.6 ALTERNATIVES TO ARREST/CONFINEMENT, PRETRIAL RELEASE**

**A. Alternatives:** If not otherwise outlined by written directive, an officer may consider the use of citation, summons, warning, referral, or informal resolution in lieu of arrest.

- An officer may issue a **minor misdemeanor summons or traffic citation** for those offenses or traffic offenses prescribed in the Ohio Revised Code or the Codified Ordinances of Mansfield as minor misdemeanors. (Ohio Revised Code §2935.26, Criminal Rule 4.1, Traffic Rule 3).

- An officer may issue a **summons** in misdemeanor cases where a law enforcement officer is empowered to arrest without a warrant, or where a warrant has been issued unless the issuing authority includes a prohibition against in the warrant when issuance of a summons appears reasonably calculated to assure the defendant's appearance. (Criminal Rule 4).

- An officer may issue a **warning, make referrals** to other agencies or may offer informal resolutions when it appears to the officer to be the most reasonable alternative for the offender under the circumstances, but should be utilized for minor offenses only.

- In determining whether to cite, summons, or use another alternative to arrest, the officer should consider the subject's past record, any history of failures to appear, subject's residence in proximity to our jurisdiction, and likelihood of their appearance in court.

**B. When alternatives to arrest may not be used:** Alternatives to arrest shall not be used in cases of:

- violent felonies;

- when it appears that the violator will not comply or will continue in his/her course of action if not arrested.

**C. Other releases without arrest:**

- If not otherwise outlined by written directive, an officer may consider the use of bond, citation, or summons in lieu of arrest.

- **Pretrial release of felonies** shall be determined by the court of jurisdiction as outlined in Criminal Rule 46 of the Ohio Rules of Criminal Procedure.

- **Pretrial release of misdemeanants** shall be designed to ensure the appearance of the violator and bond may be required. The bond schedule for the appropriate court will be utilized.
- A summons in lieu of arrest may be utilized.
- **Pretrial release of minor misdemeanants:** Citations or summons shall be issued in cases of minor misdemeanors except as provided or allowed by law. (Ohio Revised Code §2935.26).
- **Minor misdemeanor citations** require no bond if the citation is signed when required. (Ohio Revised Code §2935.36 describes exceptions, e.g. offender will not identify himself, offender refuses to sign, offender has previously failed to appear.)
- **Signature bond:** Ohio Revised Code §2935.27 and §4507.168 require an officer to inform a resident violator that by signing the citation, he or she has agreed to pay the citation and/or appear in court and that failure to appear may result in the cancellation of the license to operate a motor vehicle. Out-of-state offenders who live in violator compact states may agree to sign for minor misdemeanor citations in lieu of bond, provided they are properly instructed, pursuant to Ohio Revised Code §4511.95 and §4511.951.
- **Violator compact states** include: Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.

D. **Alternatives for juvenile offenders:** Separate laws dictate the handling of juvenile citations, arrests, and releases. If at all possible, **non-violent juvenile offenders** shall be released to a parent or legal guardian. This does not apply to traffic violations.

– Non-violent juvenile offenders may be released to a responsible adult if the parent or legal guardian cannot be contacted.

– As a last resort, a non-violent juvenile offender may be released on summons/citation at the scene if the issue does not involve the health, safety, or welfare of the juvenile or others and if the release in and of itself would not violate the law.

– If, for any reason, the juvenile is not to be released, the Richland County Children’s Services or the Richland County Juvenile Attention Center will be contacted to determine disposition of the juvenile arrest. If the parent or guardian is not notified of the custody, the applicable facility shall be apprised of this fact.

– Juvenile traffic violators should sign for minor misdemeanor citations. No bond shall be required of any juvenile nor from his/her parent or legal guardian. Juvenile court dates will be set by the applicable county court.

### 1.2.7 USE OF DISCRETION

Sworn officers shall use their best judgment, in accordance with their oath as a police officer for the City of Mansfield, the Code of Ethics of the International Association of Chiefs of Police as adopted by the Division, and the written directives of this Division, to perform the duties of their office. The members of this Division will have individual **discretion**, except when their decision is unlawful, and if the decision does not conflict with their oath, the Code of Ethics, or written directives of this Division.

### 1.2.8 STRIP/CAVITY SEARCHES (LE1)

Ohio Revised Code § 2933.32 governs procedures for strip searches and/or body cavity searches.

“(A) As used in this section:

(1) “**Body cavity search**” means an inspection of the anal or vaginal cavity of a person that is conducted visually, manually, by means of any instrument, apparatus, or object, or in any other manner while the person is detained or arrested for the alleged commission of a misdemeanor or traffic offense.

(2) “**Strip search**” means an inspection of the genitalia, buttocks, breasts, or undergarments of a person that is preceded by the removal of some or all of the person's clothing that directly covers the person's genitalia, buttocks, breasts, or undergarments and that is conducted visually, manually, by means of any instrument, apparatus, or object, or in any other manner while the person is detained or arrested for the alleged commission of a misdemeanor or traffic offense.

A. **Strip searches and body cavity searches:** (B)(1) Except as authorized by this Division, no law enforcement officer, other employee of a law enforcement division, physician, or registered nurse or licensed practical nurse shall conduct or cause to be conducted a body cavity search or a strip search.

(2) A body cavity search or strip search may be conducted if a law enforcement officer or employee of a law enforcement division has probable cause to believe that the person is concealing evidence of the commission of a criminal offense, including fruits or tools of a crime, contraband, or a deadly weapon, as



defined in section 2923.11 of the Revised Code, that could not otherwise be discovered. In determining probable cause for purposes of this section, a law enforcement officer shall consider the nature of the offense with which the person to be searched is charged, the circumstances of the person's arrest, and, if known, the prior conviction record of the person.

(3) A body cavity search or strip search may be conducted for any legitimate medical or hygienic reason by the holding facility.

(4) Unless there is a legitimate medical reason or medical emergency justifying a warrantless search, a body cavity search shall be conducted only after a search warrant is issued that authorizes the search. In any case, a body cavity search shall be conducted under sanitary conditions and only by a physician, or a registered nurse or licensed practical nurse, who is registered or license to practice in this state (Ohio Health ER or other medical facility that is approved by a supervisor).

(5) Unless there is a legitimate medical reason or medical emergency that makes obtaining written authorization impracticable, a body cavity search or strip search shall be conducted only after a law enforcement officer or employee of a law enforcement division obtains a written authorization for the search from the person in command of the law enforcement division, or from a person specifically designated by the person in command to give a written authorization for either type of search. (Ohio Revised Code §2933.32)

**B. Provisions for privacy during searches:** A body cavity search or strip search shall be conducted by a person or persons who are of the same sex as the person who is being searched and the search shall be conducted in a manner and in a location that permits only the person or persons who are physically conducting the search and the person who is being searched to observe the search. (Ohio Revised Code §2933.32)

**C. Reporting requirements for strip or body cavity searches:** (C)(1) Upon completion of the body cavity search or strip search pursuant to this section, the person or persons who conducted the search shall prepare a written report concerning the search that shall include all of the following:

(a) The written authorization for the search obtained from the person in command of the law enforcement division or his designee, if required by division (B)(5) of this section;

(b) The name of the person who was searched;

(c) The name of the person or persons who conducted the search, the time and date of the search, and the place at which the search was conducted;

(d) A list of the items, if any, recovered during the search;

(e) The facts upon which the law enforcement officer or employee of the law enforcement division based his probable cause for the search, including, but not limited to, the officer or employee's review of the nature of the offense with which the searched person is charged, the circumstances of his arrest, and, if known, his prior conviction record;

(f) If the body cavity search was conducted before or without the issuance of a search warrant pursuant to division (B)(4) of this section, or if the body cavity or strip search was conducted before or without the granting of written authorization pursuant to division (B)(5) of this section, the legitimate medical reason or medical emergency that justified the warrantless search or made obtaining written

authorization impracticable.

(g) A copy of the written report required by division (C)(1) of this section shall be kept on file in the law enforcement division, and another copy of it shall be given to the person who was searched.” (Ohio Revised Code §2933.32).

### **1.2.9 BIAS BASED PROFILING (LE1)**

#### **Definitions:**

**Illegal profiling:** Unequal treatment of any person including stopping, questioning, detention or arrest on the basis of their racial or ethnic characteristics, religion, gender, or sexual orientation.

**Articulable suspicion (reasonable suspicion):** More than a mere hunch. Based on a set of articulable facts and circumstances that would warrant a person of average caution in believing that an offense has been committed, is being committed, or is about to be committed by a specific person. It can be based on an officer’s observations, training and experience, or information received from credible outside sources.

All officers are expected to enforce the law, and stop and detain persons whenever there is reasonable suspicion that they have committed, are committing, or are about to commit an infraction of the law. Officers must conduct themselves in a dignified and respectful manner and any and all contact with the public will be conducted in accordance with statute and applicable case law.

**A. Prohibition against profiling:** Officers are prohibited from stopping, questioning, detaining, searching or arresting anyone on the basis of any type of bias. Officers will make stops and conduct field interviews only on the basis of reasonable suspicion, and shall make arrests only on the basis of probable cause.

This policy shall not preclude officers from stopping a person to offer assistance. This policy does not prohibit stopping someone suspected of a crime based on a description that includes one or more of those identified attributes, or considering a person’s apparent age when investigating curfew or liquor law violations.

When an officer initiates contact with a person on any traffic stop or suspicious persons contact, the officer SHALL include in the clearance of the contact the race (or ethnicity), gender, and age of the person and the reason for the contact to include if a warning or citation was issued.

Supervisory personnel are expected to monitor officer’s activity to ensure practices are compliant with policy and are lawful, constitutional, and non-discriminatory.

**B. Bias based profiling training:** The Division will provide annual training on non-bias based policing and professional traffic stops.

**C. Biased based profiling corrective measures:** The Chief of Police or his designee will be notified as soon as practical of any complaints of discrimination and/or violations of civil rights.

These complaints will be thoroughly investigated, regardless of a formal complaint being filed, and if founded, shall result in a recommendation for corrective action including, but not limited to counseling, training, punitive actions, and/or policy review and revision.

Any person may file a complaint with the Division of Police if they feel they have been stopped or searched based on illegal profiling, or subjected to improper treatment and no person shall be discouraged, intimidated,

or coerced from filing such a complaint. No person shall be discriminated against because they have filed such a complaint.

**D. Administrative review of Division practices:** The Division will review traffic stops and suspicious person contacts to ensure compliance with the law and to determine any deficiencies.

A documented annual administrative review of data collected as a result of this directive will be conducted by the Chief or his designate. The Division of Police will analyze data from its various records programs to ensure that racial/ethnic characteristics are not being used as a basis for traffic and other enforcement efforts and to attempt to proactively identify potential training or policy issues.

**CROSS REFERENCE TO STANDARDS AND POLICIES:** General Orders 42.2.1, 52.1.6, 61.1.2, 61.1.5.

**CROSS REFERENCE TO FORMS:** Code of Ethics; Response to Resistance/Aggression Form; Deer Carcass (DNR 21); Weapons Inventory; Weapons Specifications; Ammunition Specifications; United States Department of State Consular Notification and Access book; Diplomatic and Consular Immunity guidance for Law Enforcement and Judicial Authorities; Domestic Violence Packet; Strip Search Form; ARC Form; Field Interview Card.