

**AGREEMENT BETWEEN THE UNITED STATES AND
ALAMANCE COUNTY SHERIFF TERRY JOHNSON**

UNITED STATES OF AMERICA,

Plaintiff

v.

ALAMANCE COUNTY SHERIFF TERRY JOHNSON,

Defendant

SETTLEMENT AGREEMENT

I. Introduction

The United States of America and Sheriff Terry Johnson of Alamance County (collectively, “the Parties”) enter into this agreement (“Agreement”) to further their mutual goal of ensuring that the people of Alamance County are served effectively and in compliance with the Constitution and laws of the United States and State of North Carolina.

The Parties have reached this accord in response to the district court’s judgment in favor of Sheriff Johnson in *United States v. Johnson*, No. 1:12-cv-1349 (M.D.N.C. Aug. 7, 2015). The United States issued a findings letter on September 18, 2012, alleging that the Alamance County Sheriff’s Office had engaged in a pattern and practice of discriminatory law enforcement activities in violation of the United States Constitution, and the United States made the same allegations in the complaint that it filed against Sheriff Johnson in December 2012. After a two-week trial, the district court dismissed the United States’ lawsuit, holding that the Alamance County Sheriff’s Office’s “law enforcement practices do not constitute an unlawful ‘pattern or practice’ of constitutional deprivations in violation of federal law.” *United States v. Johnson*, 2015 WL 4715312, at *94. Although the United States filed a notice of appeal of the district court’s decision, the United States agrees as part of this settlement to dismiss the appeal, and to accept the district court’s judgment. The United States further agrees that, in light of the district court’s judgment and this settlement agreement, the allegations in the United States’ Findings Letter and complaint do not provide a basis for denying to the Alamance County Sheriff’s Office any federal financial assistance to which it may otherwise be entitled.

II. The ACSO Bias-Free Initiative

The Alamance County Sheriff’s Office (“ACSO” or the “agency”) agrees to undertake a new Bias-Free Initiative to demonstrate its ongoing commitment to bias-free policing. The components of this Bias-Free Initiative are:

1. Bias-Free Policing Policy: The ACSO will adopt and implement the bias-free policing policy (the “Bias-Free Policing Policy”) that is attached to this Agreement as Exhibit A. Allegations of bias-based profiling or discriminatory practices, real or perceived, critically injure the relationship between the ACSO and the community it is entrusted to protect and serve. The ACSO does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial, cultural/ethnic, and gender profiling by its members. The ACSO has an obligation and is committed to identifying and eliminating any instances of bias-based policing in all areas. ACSO leadership and supervising officers will continue to unequivocally and consistently reinforce to subordinates that such biased policing is unacceptable.
2. Complaint Policy: The ACSO will implement a revised policy on intake and investigation of complaints related to the ACSO’s policing activities. The revised complaint policy (the “Revised Complaint Policy”) is attached as Exhibit B. The Revised Complaint Policy enumerates specific investigative procedures and documentation requirements for investigating complaints of biased policing. After a complaint is received, the individual conducting the investigation should conduct as necessary the following investigatory steps: (a) interview the complainant (unless the complaint is filed anonymously) and any witnesses; (b) interview the officer(s) involved; (c) gather and review any relevant evidence, including CAD reports, traffic stop reports, C-COM recordings, and video evidence; and (d) document the interviews and analysis of the evidence and explain the reasoning for the Complaint Finding (Exonerated, Sustained, Unfounded, Unresolved). The Revised Complaint Policy also defines the categories of complaints subject to these procedures to ensure that all complaints of activity that may possibly involve bias will be thoroughly investigated using these procedures. These categories include, for example, allegations of civil rights violations, violations of the Bias-Free Policing Policy, use of derogatory language or racial/ethnic slurs, or a traffic enforcement action that was taken without a valid basis.
3. Data Collection and Analysis:
 - A. The ACSO will continue to collect and analyze data on its traffic enforcement operations. The ACSO will continue to use the North Carolina Traffic Stop Form, attached as Exhibit C, to collect information about each person stopped by ACSO deputies. This information includes the race, gender, and ethnicity of each person stopped; the reason for the stop; whether ACSO deputies issued a traffic citation, made an arrest, or took other enforcement action during the stop; whether ACSO deputies conducted a search during the stop; and whether any contraband was found during such a search. The ACSO will continue to post summary information from these stop records on its website on a monthly basis and provide all required information to the North Carolina State Bureau of Investigation.
 - B. The ACSO will continue to collect information utilizing the Checking Station Authorization Form, attached as Exhibit D, to record the location, authorizing official, and purpose of each checkpoint the agency conducts. All stops of

individual vehicles during checkpoints will be recorded on the North Carolina Traffic Stop Form, which will indicate that the stop was made at a vehicle checkpoint.

- C. As part of this Agreement, Sheriff Johnson will extend the ACSO's current internal quantitative review practices and will incorporate such extensions into his Bias-Free Initiative. Specifically, the ACSO will analyze data on deputies' stops, searches, and arrests by: (1) tracking stops and searches by ethnicity at the individual deputy level; (2) matching deputies by area and/or duty assignment to compare the activities of deputies with similar assignments; and (3) comparing deputy behavior within area and/or duty assignment to identify possible disparities or outliers. Where any potential disparities or outliers are identified, the ACSO will conduct further analysis and investigation, including a comprehensive review of a deputy's policing activities. This method of internal benchmarking serves as a starting point for inquiry and possible intervention and does not conclusively establish that any noted disparity in deputy behavior is the result of bias.
- D. Where this review determines that bias may impact particular actions, the ACSO leadership will take appropriate corrective action, including the disciplinary actions available under Section V(A) of the Revised Complaint Policy.
- E. In addition to conducting proactive internal analysis of ACSO's own data, Sheriff Johnson will provide raw data on the ACSO's traffic enforcement activities to the U.S. Department of Justice ("DOJ"). The data available to DOJ will include:
 - a. Native data for all fields shown on the North Carolina Traffic Stop Form;
 - b. The following data on complaints filed against ACSO deputies:
 - i. The annual statistical summary, required by Section VII of the ACSO's Revised Complaint Policy, that aggregates all complaints made against the ACSO;
 - ii. The total number of civil rights complaints per officer, as defined by Section I.B(8) of the Revised Complaint Policy;
 - iii. The total number of civil rights complaints sustained and not sustained;
 - iv. The total number of civil rights complaints that were "Immediately resolved" and "Forwarded to Chief Deputy for assignment," as specified in the Revised Complaint Policy; and
 - v. Anonymized data from complaint forms relating to civil rights complaints (as defined by Section I.B(8) of the Revised Complaint

Policy) filed against ACSO deputies. This data will be provided in accordance with N.C. Gen. Stat. 153A-98(c)(5) (2015).

- c. The ACSO will provide the above data to the United States upon request, up to two times per year.
4. Access for the Spanish Speaking Community: The ACSO will implement procedures to ensure that all community members continue to be able to file complaints with the agency and that such complaints are investigated and tracked effectively. Specifically, the ACSO will create and maintain a Spanish-language web presence and will post a Spanish-language version of its Citizen Complaint Form on its website. The ACSO will allow for complaints to be submitted in person, via email, or on the agency's website. In addition, the ACSO will produce a brochure in both English and Spanish explaining how to complete and file the Citizen Complaint Form. The ACSO will make the brochure available on its website in both English and Spanish.

III. Training

- A. The ACSO will fully train all employees – including patrol deputies, detention officers, and deputies assigned to any specialized units – on the agency's Bias-Free Initiative. This shall include training on the Bias-Free Policing Policy and the Revised Complaint Policy.
- B. Within 30 days of the Parties executing this Agreement, Sheriff Johnson will implement the Bias-Free Initiative and distribute the Bias-Free Policing Policy and the Revised Complaint Policy to all ACSO personnel. All current ACSO personnel will be trained on these policies and procedures within 90 days of the execution of this Agreement. All new employees hired by the ACSO – including officers hired on a part-time or reserve basis – will be trained on these policies and procedures within 60 days of beginning work at the ACSO.

IV. Federal Financial Assistance

The United States further agrees that, in light of the district court's judgment and this settlement agreement, the allegations in the United States' Findings Letter and complaint do not provide a basis for denying to the Alamance County Sheriff's Office any federal financial assistance to which it may otherwise be entitled.

V. Implementation

- A. The ACSO will designate a point of contact for its Bias-Free Initiative who will respond to all inquiries from the United States related to the Initiative and requests for documents, data, or other access.
- B. This Agreement will last for five (5) years from the date it is finalized and signed by all Parties and shall immediately terminate at the expiration of five (5) years without need for further action by the parties.
- C. Upon execution of this Agreement, the United States affirms that the Findings Letter and the complaint in this case will not provide a basis for denying applications from the Alamance County Sheriff's Office for federal financial assistance. The Civil Rights Division of the Department of Justice will coordinate with other federal agencies to ensure they understand that the Findings Letter and judgment do not provide a basis for denying the ACSO any federal financial assistance to which it may otherwise be entitled.
- D. Each party will bear its own costs, fees, and expenses associated with the appeal and any remaining matters in the district court concerning this action, *United States v. Alamance County Sheriff Terry Johnson*, No. 15-2190 (4th Cir.) and No. 1:12-cv-1349 (M.D.N.C.). The United States shall promptly move to pay the court costs awarded by the district court in *United States v. Johnson*, No. 1:12-cv-1349 (M.D.N.C.) in its order dated December 8, 2015.
- E. The Civil Rights Division will post on the Division's website the district court's opinion in this matter, *United States v. Johnson*, 2015 WL 4715312, as well as this Agreement.
- F. This Agreement constitutes the entire agreement between the Parties, and it supersedes any and all prior representations and agreements, whether oral or written, between the Parties regarding the claims in this case. No such prior representations or agreements may be offered or considered to vary the terms of this Agreement, or to determine the meaning of any of its provisions.
- G. In the event that any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, said finding will not affect the remaining provisions of this Agreement.
- H. If a Party determines that the other Party is not in compliance with the Agreement in any respect, the Party will notify the other party of the alleged non-compliance. Any notification of alleged non-compliance will be in writing and will identify the specific non-compliance and the factual basis for any alleged non-compliance. The Parties will first attempt to resolve any dispute informally by notification and conferral. If the Parties are unable to agree on a resolution of the dispute concerning the alleged non-compliance within 60 days after initial conferral, the

Party alleging non-compliance may, without further notice to the other Party, seek enforcement of this Agreement with the United States District Court for the Middle District of North Carolina through any appropriate form of relief. Any motion or action to enforce this Agreement will be brought within one year of the occurrence of any alleged non-compliance.

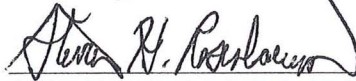
- I. The Settlement Agreement is binding upon all Parties hereto, by and through their officials, agents, employees, and successors. The Settlement Agreement is enforceable only by the Parties. No person or entity is intended to be a third-party beneficiary of the provisions of the Settlement Agreement for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under the Settlement Agreement.
- J. The Settlement Agreement is not intended to impair or expand the right of any person or organization seeking relief against the United States of America, the ACSO, or any officer or employee thereof, for their conduct or the conduct of any employee. Accordingly, it does not alter legal standards governing any such claims by third parties, including those arising from state or federal law. The Settlement Agreement does not expand, nor will it be construed to expand, access to any of the Parties' documents, except as expressly provided by the Settlement Agreement, by persons or entities other than the Parties. All federal and state laws governing the confidentiality or public access to such documents are unaffected by the terms of the Settlement Agreement.
- K. The Parties agree to defend the provisions of the Settlement Agreement. The Parties will notify each other of any court or administrative challenge to the Settlement Agreement. In the event any provision of the Settlement Agreement is challenged in any state, county or municipal court, removal to the federal court in the Middle District of North Carolina will be sought by the Parties.
- L. The Parties agree that, as of the date of entry of this Agreement, litigation is not "reasonably foreseeable" concerning the matters described in this Agreement. To the extent that either Party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Agreement, the Party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by this Agreement, including the document creation and retention requirements described herein.

Executed this 17th day of August, 2016

For the UNITED STATES OF AMERICA:

For TERRY S. JOHNSON, IN HIS
OFFICIAL CAPACITY AS SHERIFF OF
ALAMANCE COUNTY, ON BEHALF OF
THE ALAMANCE COUNTY SHERIFF'S
OFFICE

VANITA A. GUPTA
Principal Deputy Assistant Attorney General
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TERRY S. JOHNSON

Exhibit A

ALAMANCE COUNTY SHERIFF'S OFFICE (ACSO) BIAS-FREE POLICING POLICY

I. PURPOSE

- A. The purpose of this directive is to set forth the policies and procedures of the ACSO regarding the ACSO's prohibition against any form of discriminatory practices, particularly as it relates to all forms of bias-based policing.

II. POLICY

- A. The ACSO is committed to protecting the constitutional and civil rights of all persons.
- B. It is the policy of the ACSO to prohibit all police practices involving profiling or other biased-based decisions. No ACSO officer or employee may take an enforcement action based upon any common trait shared by any group of people, which is not in itself indicative of criminal activity. Violations of this policy shall result in disciplinary action up to and including dismissal from the department.

III. DEFINITIONS OF TERMS

- A. Bias-Based Policing: The intentional selection of individuals for detention, interdiction or other disparate treatment based on a common trait of a group that includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, age, cultural group, or any other identifiable characteristic that is a prohibited basis for disparate treatment.
- B. Bias-Based Profiling: The practice of detaining or stopping a suspect based on a broad set of criteria, which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.
- C. Suspect Specific Incident: An incident in which an ACSO deputy is lawfully attempting to detain, apprehend, or otherwise be on the lookout for one or more specific suspects who have been identified or described in part by race, ethnic background, gender, sexual orientation, religion, age, cultural group, or any other identifiable characteristic.

IV. GENERAL CONSIDERATIONS AND GUIDELINES

- A. The ACSO does not condone the use of any bias-based profiling in its enforcement programs as it may lead to allegations of violations of the constitutional rights of the citizens we serve, undermine legitimate law enforcement efforts, and may lead to

claims of civil rights violations. Additionally, bias-based profiling alienates citizens, fosters distrust of law enforcement by the community, invites media scrutiny, invites legislative action, and invites judicial intervention.

- B. Bias-based policing creates an increased safety risk to ACSO deputies and citizens and is a misuse of valuable ACSO resources. Such practices may lead to increased exposure to liability.
- C. Bias-based policing undermines the ability of the ACSO to realize its mission of protecting public safety and pursuing justice.
- D. It is imperative that the ACSO clearly demonstrates a process for preventing such practices. Allegations of bias-based profiling or discriminatory practices, real or perceived, critically injure the relationship between the ACSO and the community it is entrusted to protect and serve.
- E. This department does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial, cultural/ethnic, and gender profiling by its members. While recognizing that most members of the department perform their duties in a professional, ethical, and impartial manner, this department has an obligation and is committed to identifying and eliminating any instances of bias-based policing in all areas.

V. OPERATIONAL PROCEDURES

- A. The ACSO prohibits officer use of proxies for demographic category, including language ability, geographic location, or manner of dress.
 - 1. When officers are seeking one or more specific persons who have been identified or described by their demographic category, or any proxy thereto, officers may rely on these descriptions only when combined with other appropriate identifying factors, and may not give exclusive attention or undue weight to demographic category.
- B. Preventing Perceptions of Bias-Based Policing
 - 1. As a means of offsetting and preventing inappropriate perceptions of biased law enforcement, each officer is expected to adhere to following protocols whenever engaging the general public.
 - a. Each stop shall conform to department policy and procedures and comply with General Statutes.
 - b. Be courteous and act professionally at all times.
 - c. Introduce him or herself to the individual(s); providing the officer's title, name, and agency affiliation; and state the reason for the interaction, as soon

as practical and appropriate to do so, unless providing such information will compromise the officer's safety or public safety. During the course of motor vehicle stops, the officer should provide this information before asking the driver for his or her license and registration.

- d. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and ensure that the individual understands the purpose of any delays that might be encountered.
- e. Answer any questions the individual(s) may have, including explaining options for traffic citation disposition, if relevant.
- f. Provide your name and badge number when requested, in writing or orally.
- g. Explain the reasons why an individual may have been stopped or detained, especially if no other official action is being taken (e.g., the officer determines that the person being detained is not the party being sought, if there was an investigative detention that did not yield any evidence of criminality or offense, etc.).

C. Identification of Possible Profiling.

1. To guard against and protect members of the department from allegations of bias-based policing, and to demonstrate for those who may make such allegations, supervisory personnel of the department will take the following steps.
 - a. It is the responsibility of supervisory personnel to continually assess and monitor the performance of those members of the department who are under their direction and supervision to always be alert for any forms of behavior or patterns of behavior that an employee may be engaged in and intercede when appropriate.
 - b. Often times, it is the direct supervisor who first becomes aware of a potential problem either by way of his or her observations of an officer's performance, enforcement actions, or when there appears to be a pattern of complaints that seem to be emerging.
 - c. At times it might even be triggered just in conversation when an employee speaks disparaging of persons of any particular race, ethnic group or cultural background, gender, sexual orientation, religion, economic status, age, or any other identifiable group (in which case, such type of behavior should be corrected).
 - d. Whenever a concern does arise, it is the duty and obligation of that supervisor to, at the very least, discuss such concerns with that employee. Often speaking with an employee in the form of informal counseling may be what is needed to rectify or clarify any concerns.

- e. Any confirmed or suspected acts leading a supervisor to believe that an employee may be engaging in some form of bias-based policing or discriminatory practices must be forwarded to the Internal Affairs Officer (IAO).
- f. All complaints of alleged bias-based policing or discriminatory practices against a member of this department are to be fully investigated (no matter the source) by the Internal Affairs Officer.

D. Response to Incidents Indicating Bias-Based Policing.

- 1. Generally speaking, when bias-based policing does take place, it is the result of one of three causative factors that include the following:
 - a. Intentional Acts: In any instance in which a member of this department is found by the IAO to have engaged in some form of bias-based policing or discriminatory practice, such behavior will result in the appropriate form of disciplinary action by the Sheriff.
 - b. Unintentional Acts: In such cases, the employee may receive additional training, guidance, supervisory review, additional monitoring for a specified period of time, as may be directed by a commanding officer in consultation with the Sheriff.
 - c. Institutional Practices: In the event that the department practices are discovered to promote or allow bias-based policing, the Sheriff shall address such practices through policy review and training.

VI. DATA COLLECTION

A. Officer Reporting Requirements

- 1. Officers shall complete the traffic stop form immediately following every traffic stop. The traffic stop data will be completed and submitted electronically, if feasible. In the case where the data cannot be submitted electronically, a paper form will be submitted.
- 2. Officers also shall complete an incident report following a traffic stop whenever:
 - a. A person is handcuffed or taken into custody.
 - b. There is a use of force by any officer.
 - c. There is any property seized.

B. Responsibilities of the Supervisors

1. It is the responsibility of all supervisory personnel to ensure that officers under their direct supervision, regardless of their assignment, are familiar with this directive and are adhering to the requirements of this directive. Supervisory personnel are also responsible for the following:
 - a. Ensure that all citations and summons are completed (particularly as it relates to whether or not a search was performed during the course of the motor vehicle stop).
 - b. Any incomplete citations or traffic stop data forms should be returned to the submitting officer for completion prior to their submission to the Records Division.
 - c. Ensure that officers complete any missing traffic stop data.

C. Processing by the Records Division

1. The Records Division shall maintain a database for all submitted citations. The Records Division serves as the repository for motor vehicle citations/summons and the traffic stop data. In addition to these functions, the Records Management Unit also shall be responsible for the following:
 - a. Maintain a database of all Traffic Stop Data.
 - b. Record the data obtained on the form in a computerized database.
 - c. Review all submitted motor vehicle citations and traffic stop data for accuracy and completeness.
 - 1) Any forms found to be incomplete, inaccurate, or illegible will first be copied prior to returning the copied form back through appropriate chain of command to the officer to make the necessary corrections.
 - 2) The original copy of the returned forms will remain in the Records Division.

VII. AGENCY-WIDE REVIEW AND CONTINUOUS IMPROVEMENT

The department will continue to improve its practices in all aspects of preventing bias-based policing as we learn from regular data collection, analysis, and evaluation and by:

1. Monitoring any legislative changes or court rulings that might impact the scope and procedural guidelines within this directive.

2. Identifying any updates on the evolution of interpreting bias-based policing data collection methods and procedures.
3. Identifying any training opportunities that might be useful in further educating officers on the implications of bias-based policing.
4. Coordinating with the Training Officer in determining the appropriate frequency of review of this policy, legal updates, and other associated training opportunities.

Exhibit B

ALAMANCE COUNTY SHERIFF'S OFFICE REVISED COMPLAINT POLICY

PURPOSE: The purpose of this standard is to establish guidelines and procedures for receiving, reporting, investigating, and adjudicating allegations and complaints against Alamance County Sheriff's Office personnel.

POLICY: The internal affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the agency depends on the personal integrity and discipline of each employee. To a large degree, the public image of the agency is determined by the quality of the internal affairs function in responding to allegations of misconduct by the agency or its employees.

It is the policy of the Alamance County Sheriff's Office to investigate, where feasible, all allegations of employee misconduct, whether received from a citizen or an employee of this agency and whether the complainant is known or anonymous. In addition, the agency conducts administrative investigations into certain incidents due to the sensitivity and/or magnitude of the incident, even when a complaint is not received.

PROCEDURE:

I. INVESTIGATIONS

A. Supervisory Investigations

Supervisory employees (Captains/Lieutenants or a Sergeant acting in their absence) shall conduct investigations into the following:

- 1) Routine citizen complaints
- 2) Minor violations of policy and procedure (subject to the discretion of the Chief Deputy)
- 3) Insubordination
- 4) Employee misconduct of a less than serious nature.

B. Office of Professional Standards Investigations

The Office of Professional Standards shall conduct internal administrative investigations into the following:

- 1) Inmate deaths
- 2) Inmate escapees
- 3) Gross misconduct
- 4) Use of deadly force
- 5) Allegations of the use of excessive force or brutality
- 6) Allegations of domestic violence

- 7) Allegations of sexual harassment
- 8) Allegations of civil rights violations, violations of the Bias-Free Policing Policy, use of derogatory language or racial/ethnic slurs, or a traffic enforcement action that was taken without a valid basis
- 9) Allegations of corruption
- 10) Incidents requiring investigations that are extremely lengthy, time consuming, involve multiple divisions/sections, or when other investigative resources are unavailable.
- 11) Any other investigations assigned by the Sheriff or Chief Deputy.

II. COMPLAINT PROCESSING

- A. Complaints shall be accepted from any source, whether made in person, by mail, or over the telephone. Where feasible, an inquiry will be made of all complaints and where warranted a formal investigation will be conducted, whether the complainant is known or not. All complaints shall be documented on the "Alamance County Sheriff's Office Citizen Complaint" form.
- B. All agency members are charged with the responsibility of courteously receiving all complaints which may be lodged against the agency or any member thereof, whether made in person, by mail, or telephone, regardless of nature.
- C. All persons making complaints shall be interviewed and a complaint form shall be prepared and processed. Anonymous complaints shall be received and processed as any other complaint.
- D. A parent or legal guardian must accompany minors that wish to file a complaint.
- E. Any non-ranking or nonsupervisory member of the agency receiving a complaint about a Sheriff's Office employee from a citizen which may constitute misconduct or violation of agency orders, policy, or procedures, shall immediately notify his or her respective supervisor. In the absence of the employee's supervisor, the next ranking supervisor within the chain of command shall be notified.
- F. The supervisor processing the complaint shall record pertinent information concerning the complaint on the Citizen Complaint form and make a preliminary determination as to responsibility for follow-up on the complaint. When appropriate, the supervisor shall conduct a preliminary investigation, including interviewing the complainant and any witnesses readily available. The Citizen Complaint form will be forwarded to the Chief Deputy within 24 working hours of the receipt of any complaint. When circumstances warrant differently, verbal notification of the Chief Deputy or an administrative staff member acting in his behalf, is acceptable prior to completing and forwarding the Citizen Complaint form. Further notification of any other personnel will be made as is deemed appropriate and necessary in each instance, but such additional notification(s) shall not be in written form.
- G. Whenever practical, supervisors shall take corrective action to resolve minor complaints which result from a misunderstanding, or which need little or no investigation to resolve

the issue. In this circumstance, the results and the findings will be documented and forwarded to the Chief Deputy using the Citizen Complaint form. If the supervisor does not satisfactorily resolve the complaint, or if the Chief Deputy does not concur with supervisor's findings, the Chief Deputy will direct the supervisor to conduct further investigation, will reassign the investigation to another supervisor, or will direct the investigation to the Office of Professional Standards, as is deemed appropriate.

III. PROFESSIONAL STANDARDS ADMINISTRATIVE INVESTIGATIONS

A. Investigative Process

- 1) An individual holding the rank of Captain or above will be responsible for the Office of Professional Standards; this individual will answer directly to the Chief Deputy and will be responsible for conducting investigations assigned to that division.
- 2) The chain of command will normally be utilized to inform the Sheriff of complaints against the agency or its employees. Nothing herein prevents employees with information about misconduct from going directly to the Sheriff, however.
- 3) The individual conducting the investigation should conduct as necessary the following investigatory steps: (a) interview the complainant (unless the complaint is filed anonymously) and any witnesses; (b) interview the officer(s) involved; (c) gather and review any relevant evidence, including CAD reports, traffic stop reports, C-COM recordings, and video evidence; and (d) document the interviews and analysis of the evidence and explain the reasoning for the Complaint Finding (Exonerated, Sustained, Unfounded, Unresolved).”

B. Employee Requirements

Employees who are interviewed about any matter under administrative investigation:

- Shall not refuse to answer questions related to the matter under investigations, shall not withhold any information, and must be truthful, as described in the Employees General Rules of Conduct and the Law Enforcement Code of Ethics.
- Are prohibited from discussing the matter in question with other personnel or persons other than their attorney, counselor, and/or immediate family, while the investigation is active, including showing any documentation in reference to the matter.
- Shall submit to all testing methods for the detection of illegal drugs and/or alcohol, when directed, at the expense of the Sheriff's Office.

- May be required to be photographed, fingerprinted, or participate in a lineup.
- May be required to submit financial disclosure statements
- May be required to submit to a polygraph, voice stress, or other truth verification examination. Such examinations are only an investigative tool; questions shall relate specifically and narrowly to the investigation; the answers cannot be used against the employee in any subsequent criminal prosecution. (Current law does not allow for the termination of employees based on the results of these examinations alone).
- Do not have the right to have their attorneys, supervisors, or anyone else present during any interview or inquiry.
- Privacy rights regarding Sheriff's Office or Alamance County property do not extend to any employee. Real and personal property including but not limited to desk, lockers, storage spaces, rooms, offices, equipment, work areas and vehicles are the property of this agency or the county and are subject to inspection or search to retrieve agency property or to discover evidence of misconduct, if there is reason to suspect evidence is there. Only those employees acting in their official capacity shall be authorized to search or inspect areas and/or property assigned to other employees.
- Refusing to cooperate or submit to a procedure herein described may result in disciplinary action, including termination.

C. Employee Rights

- Employees shall be notified, in writing, by the Chief Deputy that they have become the subject of an internal administrative investigation, and shall be advised of the allegations, complaint, and/or the nature of the investigation against them.
- Prior to interviewing an employee under investigation, the Professional Standards investigator must read and have the employee sign an "Alamance County Sheriff's Office employee Administrative Rights and Responsibilities" form.
- Employees who are being investigated administratively are entitled to know who file the complaint or initiated the investigation unless the investigator of the complaint believes that information will hinder the investigation, or will have a severe detrimental effect on the agency or any person; if so he may withhold that information from the accused employee, in which case the investigator must document in his

investigative report that this information was requested by the accused employee and was denied, and why.

- If the employee is given a polygraph, voice stress, or other truth verification examination, the employee is entitled, upon request, to receive the results of such an examination after the agency receives same.
- Employees will be notified, in writing, of the findings of the investigation at the conclusion of the investigation by the Chief Deputy.
- During criminal investigations, employees have all the rights and privileges of the US Constitution and the NC Constitution, and any and all applicable laws, regulations, and/or ordinances.

IV. COMPLAINT/ADMINISTRATIVE INVESTIGATION RESOLUTION

- A. Criminal investigations conducted against employees will not be conducted by the Office of Professional Standards; such investigations will be conducted either by this agency's Criminal Investigation Division, or by an outside agency such as the NC State Bureau of Investigation, as is appropriate and is determined by the Sheriff and/or District Attorney. Administrative investigations which are conducted into potential or alleged criminal activities of Sheriff's Office employees will be coordinated and conducted by the Office of Professional Standards in such a manner so as not to interfere with any ongoing criminal investigation into that same matter.
- B. As a general rule, supervisory complaint investigations will be completed within 15 working days. Professional Standards investigations will generally be completed within 45 working days. These investigations will be submitted, in writing, through the chain of command to the Chief Deputy. If necessary an extension of time for completing an investigation may be granted by the Chief Deputy.
- C. Upon conclusion of the investigation, the complainant, if known, shall receive written notification that the investigation has been completed. A copy of the letter to the complainant will be forwarded to the employee involved in the complaint.
- D. Completed complaint reports and Professional Standards investigation reports will be submitted to the Chief Deputy. Upon receipt of the completed complaint or Professional Standards investigation report, the Chief Deputy will complete the "Citizen Complaint" and "Notice of Findings of Investigation" forms as needed.

- E. Once the complaint/administrative investigation is completed and reviewed according to this procedure, the complaint and/or allegations will be classified as either.
- *Unfounded* – the investigation revealed sufficient facts to indicate that the incident did not occur.
 - *Unresolved* – the investigation disclosed insufficient evidence to clearly prove or disprove the allegation.
 - *Exonerated* – an incident occurred as described, but the employee was found not to be negligent or at fault.
 - *Sustained* – the investigation revealed sufficient facts that the allegation(s) were found to be true.
- F. Sustained complaints or allegations will be handled in accordance with the Sheriff's Office "Rules of Conduct/Disciplinary Procedures" policy, and documentation of same will be included in the employee's personnel file. If other violations of law or procedure are found during the course of any internal investigation other than the complaint being investigated, those violations will also be handled and investigated in accordance with this policy and procedure
- G. When completed, all complaint and internal administrative investigation reports, forms and findings shall be maintained in the Office of Professional Standards. The Sheriff shall be apprised of all findings and conclusions, and shall be updated on the progress of all investigations by the Chief Deputy.

V. DISCIPLINARY ACTIONS

- A. One or more of the following disciplinary actions may be imposed against an employee as the result of a sustained complaint, allegations, or internal administrative investigation:
- Counseling: Corrective training to ensure the employee understands proper procedure.
 - Personal Performance Notification: Entry into the employee's performance appraisal record.
 - Letter of Reprimand: A written form of censure.
 - Suspension: The employee is suspended from duty without pay.
 - Demotion: The employee is reduced in rank and/or pay.
 - Dismissal: The employee is separated from departmental employment.
- B. Employees who receive any type of disciplinary action(s) have the right to appeal same in accordance with this department's "Grievance Procedures" policy within 5 standard business days. Probationary employees are not entitled to appeal termination. The Sheriff shall be consulted and shall concur with any and all disciplinary actions recommended against an employee, and
-

may modify and/or suspend any disciplinary action(s) in view of mitigating circumstances or at his discretion.

VI. COMPLAINTS ARISING FROM OFF-DUTY EMPLOYMENT OR ACTIVITIES

Citizen complaints or inquiries resulting from off duty employment or activities of Sheriff's office personnel will be handled in accordance with this policy and procedure.

VII. ANNUAL STATISTICAL SUMMARIES

A. By calendar year, the Office of Professional Standards shall compile statistical information based on records of complaints and Professional Standards investigation issues. This report shall be restricted to the following information:

- 1) The total number of complaints received.
- 2) The total number of internal affairs investigations conducted.
- 3) The total number of issues resolved as:
 - a. Unfounded
 - b. Sustained
 - c. Exonerated
 - d. Unresolved
- 4) If applicable, the number of training hours held pursuant to internal affairs issues.
- 5) Any recurring issues recognized by the Office of Professional Standards brought forth by internal affairs issues, and how these issues were resolved.



Alamance County Sheriff's Office Citizen Complaint Form

Results of Initial Investigation
<input type="checkbox"/> Immediately resolved (detail in narrative) and forwarded to Chief Deputy for review.
<input type="checkbox"/> Forwarded to Chief Deputy for assignment.

Results of Chief Deputy's Review
<input type="checkbox"/> No further investigation needed.
<input type="checkbox"/> Assigned to employee's supervisor for further investigation.
<input type="checkbox"/> Assigned to another supervisor for further investigation.
<input type="checkbox"/> Assigned to Office of Professional Standards for investigation.

Investigator Assigned	Name:	Rank:	ID #:
Complaint Investigation #:	Date Assigned:	Date Completed:	
Date Complainant Notified of Conclusion of Investigation:			
Date Notice of Findings Served on Employee:			

Complaint Finding	<input type="checkbox"/> Exonerated	<input type="checkbox"/> Sustained	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Unresolved
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Chief Deputy	Name:	Signature:	Date:
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Alamance County Sheriff's Office
Employee Administrative Rights and Responsibilities

I wish to advise you that you are being questioned as part of an official administrative investigation for the Alamance County Sheriff's Office. You are being questioned regarding _____

_____ You will be asked questions specifically directed and narrowly related to the issue(s) being investigated.

Neither your statements nor any information gained by reason of such statements can be used against you in any subsequent criminal proceedings. In that regard, you are not being compelled to waive your Constitutional right against self-incrimination. Since no statement you make nor information resulting from it can be used as part of a criminal charge, you do not have the right to refuse to answer questions in this strictly administrative interview.

I advise you that if you refuse to answer questions relating to the performance of your official duties, you will be subject to Sheriff's Office disciplinary action, which could result in your dismissal from the agency.

I repeat that neither your statements nor any information gained by reason of such statements can be used against you in any subsequent criminal proceedings. These statements and resulting information can, however, be used against you in regard to any administrative violations.

I advise you that, as required by Sheriff's Office rules, all of your statements must be truthful. Any untruthful statement may result in a separate Sheriff's Office administrative violation being lodged against you.

I advise you that you are not to discuss this investigation with anyone other than your attorney, professional counselor, or member of your immediate family without the specific permission of the Internal Affairs Investigator assigned to investigate this investigation or the Major of Administration until this investigation is closed.

I understand the above information and realize that my statement is being given pursuant to a Sheriff's Office administrative investigation.

Name: _____
(Signature) (Print Name) (Date)

Witness: _____
(Signature) (Print Name) (Date)

Alamance County Sheriff's Office

NOTICE OF FINDINGS OF COMPLAINT/INVESTIGATION

Employee:

Professional Standards File #:

You were recently the subject of an investigation concerning an allegation(s) of misconduct and/or policy and procedure violation. This investigation has been completed and the findings from that investigation have been discussed with the Sheriff. This notice is to inform you of the conclusions of this investigation with regard to each of these issues, and what, if any, actions are being taken toward you as a result of these findings:

Issue #1:

Unfounded Exonerated Sustained Unresolved

Issue #2:

Unfounded Exonerated Sustained Unresolved

Issue #3:

Unfounded Exonerated Sustained Unresolved

Action Taken:

Supervisor Signature

Date

Chief Deputy Signature

Date



Alamance County Sheriff's Office

Terry S. Johnson
Sheriff

Tim Britt
Chief Deputy

Shelton Brown
Major

Monte Holland
Major

Alan Miles
Major

Dear:

This letter is to inform you that the complaint you filed against has been thoroughly investigated and appropriate action has been taken.

While North Carolina General Statute 153A-98 prohibits this office from publicly commenting on personnel matters, I want to thank you for bringing this incident to our attention since citizen complaints often aid this office in supervising our personnel in a proper and professional manner.

This office strives to maintain the highest standards in our employees' contact with citizens. The investigation and review of citizen complaints are important parts of maintaining those standards. I hope that any further contacts you have with our employees will be of a positive nature.

If I can be of assistance, please feel free to contact me at 570-6309.

Sincerely,

Tim Britt
Chief Deputy

Street & Mailing Address
109 South Maple Street
Graham, NC 27253

Office: (336) 570-6311
Fax: (336) 227-0614

Exhibit C

NORTH CAROLINA TRAFFIC STOP REPORT FORM

Traffic Stop Report

Part II

Type of Search (check only one)

Consent Search Warrant Probable Cause Search Incident to Arrest Protective Frisk

Basis for Search

Erratic/Suspicious Behavior Observation of Suspected Contraband Suspicious Movement
 Informant's Tip Other Official Information Witness Observation

Person(s)/Vehicle Searched

Was the Vehicle Searched? Yes No
Was the Driver Searched? Yes No
Was a Passenger(s) Searched? Yes No
Were the Personal Effects of the Driver and/or Passenger(s) Searched? Yes No

Identify the sex, race, and ethnicity of each passenger searched

	Age	Sex		Race				Ethnicity		
		Male	Female	White	Black	Native American	Asian	Other	Hispanic	Non-Hispanic
Passenger 1										
Passenger 2										
Passenger 3										
Passenger 4										

Contraband Found

Contraband found as a result of the search: None **OR** complete the following:

Drugs _____ Ounces _____ Pounds _____ Dosages _____ Grams _____ Kilos
 Alcohol _____ Pints _____ Gallons
 Money _____ Dollar Amount
 Weapons _____ Number of Weapons
 Other _____ Dollar Amount

Property Seized

Property seized as a result of the search: None **OR** complete the following:

Motor Vehicle Personal Property Other Property

Office Use Only	Date	Initials
Reviewed		
Entered		

Exhibit D

ALAMANCE COUNTY SHERIFF'S OFFICE

CHECKPOINT AUTHORIZATION FORM



Alamance County Sheriff's Office

Checkpoint Authorization Form

Primary Programmatic Purpose (Check One)				
<input type="checkbox"/> Driver's License	<input type="checkbox"/> Registration	<input type="checkbox"/> Seatbelt	<input type="checkbox"/> Insurance	<input type="checkbox"/> DWI

Details					
Date:		Start Time:		End Time:	
Location:					
Participants (ID #'s): <small>(List Agency & Name if not ACSO.)</small>					
Supervisor (Name & ID):				<input type="checkbox"/> Present	

Shall ask the driver of every vehicle for the following:		
<input type="checkbox"/> Driver's License	<input type="checkbox"/> Registration	<input type="checkbox"/> Insurance

Additional Instructions

Basis for Checkpoint	
Location Selected By:	
Reasoning for Location:	
Reasoning for Time Span:	



Alamance County Sheriff's Office

Checkpoint Authorization Form

Considerations for Checkpoint	
Potential for Traffic Interference:	
Predetermined Checking Pattern:	Every _____ car will be checked.
Allow Stalled Traffic to Pass:	<input type="checkbox"/>
Appropriate Notice of Checkpoint:	<input type="checkbox"/> Marked Patrol Vehicles <input type="checkbox"/> Emergency Lights On

Vehicle Checking Stations shall be operated pursuant to Policy #VIII-4, Alamance County Sheriff's Office Policy and Procedure Manual.

Authorizing Supervisor Signature

Primary Deputy Signature

Date

Date