

**POLICIES AND PROCEDURES**

Subject: Motor Vehicle Enforcement Policy Reference: E-XXXVIII

Source: Vice President, Finance & Administration Eff. Date: Fall 2018

Approval Auth: President Approved: \_\_\_\_\_

Remarks: New Policy

Date: September 25, 2018

**I. Purpose**

The purpose of this policy is to establish guidelines regarding the McLennan Community College (MCC) Police Department's (Department) enforcement of traffic laws and regulations, as well as consent searches developed from a traffic stop. This policy was written to insure compliance with the Sandra Bland Act, Senate Bill 1849 Legislative Session 85(R).

This policy is not a substitute for the judgment and discretion of the officers. Sworn peace officers (Officers) should continue to use discretion to determine what type of citation, if any, to issue in a given situation. A balance between uniformity and officer discretion is needed to gain public compliance with traffic laws for safety at MCC.

In contacting traffic violators, officers should be aware that while the immediate objective is to take appropriate enforcement action, the ultimate objective is to favorably alter the violator's future driving behavior.

**II. Policy**

Officers will fairly and consistently enforce traffic laws to ensure the safety of the campus community and the extended patrol response area. It is the policy of MCC that traffic laws be enforced in a fair, consistent, and uniform manner at a level sufficient to ensure the safe and expeditious movement of traffic.

1. Officers will prevent and detect violations of traffic laws.
2. Disposition of violators (ticket or written warning) will be based on the degree and severity of the violation. The decision should also consider the goal of education and gaining compliance.
3. The constitutional rights and privileges of all people will be observed and respected by officers.
4. All enforcement actions will be accomplished in a firm, fair, impartial, and courteous manner, without regard for violator's attitude.
5. Officers will demonstrate a professional attitude that serves to improve the relationship between the campus community, public and the Department.

It is the policy of the Department that procedures utilized by its officers should minimize conflict with the violator and facilitate a professional interaction. Police officers will perform vehicle stops only when they have justifiable reason to do so and then only when operating a marked police vehicle and in Department uniform. The Department will not ask for consent to search unless there is reasonable suspicion that there is contraband in the vehicle or a concern for the safety of others.

### **III. Authority**

The authority to enforce the Texas Transportation Code is found in the Transportation Code itself as well as the Texas Education Code. Section 600.003 of the Texas Transportation Code controls which violations of the Code may be written on MCC's private roadways. Only Section 545 moving violations may be written on MCC owned roadways. These violations must be written using Waco Police Department citations requiring appearance before the Waco Municipal Court. On City of Waco Streets, all sections of the Transportation Code may be enforced by using the Waco Municipal Court citation.

### **IV. Procedure for Consent Searches**

The officer may not conduct a search based solely on a person's verbal consent to the search unless:

1. The officer verbally and in writing (Appendix A) informs of the person's right to refuse the search; and
2. The person signs an acknowledgment or makes a verbal statement that is recorded by the officer's body worn camera that the person:
  - a. Received the information described by Subdivision 1 (officer provides subject a copy of the consent to search form); and

- b. Consented to the search.

## **V. Racial Profiling**

When conducting traffic stops, officers will adhere to the guidelines outlined by the Texas Code of Criminal Procedure Article 2.131 that prohibits racial profiling through 2.133. Although the Department is not legally required to submit an annual report to the Texas Commission on Law Enforcement, the Department will track traffic stops and capture racial profiling statistics. A citation or written warning will be issued for any moving, registration or equipment violation. The officer's body camera must be activated for all traffic stops.

## **VI. Traffic Violator Dispositions**

1. New Law Grace Period
  - a. In cases of a new law, Department will normally extend a grace period to help educate the community on the new law.
  - b. During the grace period, violators may be stopped and informed of the law and issued a warning citation.
  - c. When the violation endangers other vehicular or pedestrian traffic and the violator could reasonably be expected to know the act was a traffic law violation, the grace period may be waived and a citation issued.
  - d. The grace period established under this provision is subordinate to any that may be specifically mandated by a higher authority.
2. Written Warnings
  - a. An officer may issue a written warning to a violator when:
    - i. The officer has confirmed the violator has a valid driver's license, even though that license may not be in the violator's physical possession at the time of the violation;
    - ii. In the officer's opinion, the violation is apparently unintentional and nonhazardous in nature; and
    - iii. Conditions indicate the Department's goal is achieved as effectively as if a citation were issued.
3. Hazardous Violations
  - a. Enforcement action, including warnings and citations, should be taken against all violators who jeopardize the safe and efficient flow of vehicular and pedestrian traffic.

- b. Violations of this nature include hazardous moving violations, such as:
  - i. speeding;
  - ii. running a red light/stop sign;
  - iii. operation of unsafe and/or improperly equipped vehicles;
  - iv. traveling the wrong way on a one-way street;
  - v. disregarding a traffic control device;
  - vi. failing to yield the right of way;
  - vii. failing to maintain a single lane of travel; and
  - viii. failing to signal intent
- 4. Multiple Violations
  - a. No Class C traffic citations will be filed in the following cases:
    - i. DWI;
    - ii. Vehicular Homicide (Involuntary Manslaughter and Criminally Negligent Homicide);
    - iii. Evading Arrest in Motor Vehicle;
    - iv. Evading Arrest (foot);
    - v. Fleeing the Scene of an Accident;
    - vi. Failure to Stop and Render Aid;
    - vii. Controlled Substance violations; exception: possession of drug paraphernalia;
    - viii. Any felony case involving a traffic violation; and
    - ix. Any others as approved by the McLennan County District Attorney's Office
- 5. Citations may also be filed for any Class C violations of the Texas Penal Code such as PC 22.01 Assault, PC 31.03 Theft, PC 28.03 Criminal Mischief.
- 6. Use of occupant restraints can significantly reduce the deaths and severity of injuries resulting from traffic collisions, officers are encouraged to take enforcement action when they observe violations of occupant restraint laws.

## **VI. Specific Offense Procedures**

- 1. Driving Under the Influence of Alcohol/Drugs
  - a. Officers will be alert for signs of alcohol, drug or other substances impairment in all contacts with motorists.
  - b. Officers will investigate and take enforcement action when there is reason to believe a person is operating or about to operate a motor vehicle while under the influence of drugs or alcohol or other substances.

- c. If a driver refuses to submit to a breath test, the arresting officer will seek a warrant for a blood draw.
  - d. Citations may be issued for drug paraphernalia, minor in possession of alcohol, or minor in consumption of alcohol.
- 2. Insurance Violations
    - a. Insurance violations must be confirmed through TCIC before the officer can write a violation for no insurance.
  - 3. Driver License Violations
    - a. The driver license status of all traffic violators will be verified through a check of the computerized driving records maintained by the Texas Department of Public Safety (DPS).
    - b. If a violator is assigned a valid driver license, but cannot display it, the charge of no Operator's License on Demand is appropriate (TC 521.025).
    - c. If a violator is not assigned a valid driver license, the charge of No Valid Driver License (TC 521.021) is appropriate.
      - i. In most cases the subject will be allowed to sign a citation after being advised not to operate the vehicle further and will not be arrested.
      - ii. If the subject cannot arrange alternate transportation and persists in operating the vehicle, he/she may be arrested and, if deemed necessary by the officer, his/her vehicle impounded.
      - iii. A violator whose driver license is invalid per Texas Transportation Code 521.457 will be issued a citation for the offense of Driving While License Suspended.

#### **D. Pedestrian/Bicyclist Violations**

- 1. Officers have discretion to issue citations or written warnings for pedestrian and bicyclist violations.
- 2. Arrests will not generally be made unless necessary for the protection of the violators and other vehicular/pedestrian traffic.
- 3. Officers may write Texas Transportation Code Chapter 551 & 552 citations into the Waco Municipal Court for violations occurring on city streets.

#### **E. Off-Road Vehicle Violations**

- 1. The guidelines for pedestrian/bicyclist violations also apply to off-road vehicle violations.

2. Enforcement action may also be taken on criminal law violations such as disorderly conduct, criminal mischief, and criminal trespass that may be associated with off-road vehicle operation.

#### **F. Motor Vehicle Inspection Act**

1. For equipment violations, the officer will consider the nature of the equipment violation and the knowledge of the violation by the driver when determining whether to issue a citation or a warning citation [10.1.4 e].
2. Vehicles registered in Texas and bearing Texas license plates are subject to the Motor Vehicle Inspection Act.
3. All vehicles that are registered as federal government vehicles are exempt from the Motor Vehicle Inspection Act.
4. Vehicles registered in other American States participate in the American Association of Motor Vehicle Administrators (AAMVA), a reciprocal program that considers a vehicle to be validly inspected in Texas until the date of expiration of their other state inspection regardless of the date of the vehicle's registration in Texas.
5. Full reciprocity is granted to non-resident vehicle operators whose vehicles are current in their home state or county provided the operator is a visitor.
6. Public carrier/commercial vehicles will be shown no special consideration and must comply with all applicable traffic laws.

#### **VII. Parking Enforcement**

Department police officers may enforce MCC parking regulations, state law, and City of Waco parking regulations by issuing a ticket from the MCC citation book/ticket writer. Specific policy on parking and parking enforcement can be found in the MCC Campus Motor Vehicle Regulations Policy, Reference E-XII.

#### **VIII. Citation Review**

All Citations will be reviewed by the Chief of Police or his designee before citations are turned into court.

#### **VIIII. Acknowledgements and References**

References:

1. The State of Texas Traffic Code  
<https://statutes.capitol.texas.gov/?link=TN>
2. The State of Texas Penal Code

<https://statutes.capitol.texas.gov/?link=PE>

3. McLennan Community College: Campus Motor Vehicle Regulations Policy

<http://www.mclennan.edu/employees/policy-manual/docs/E-XII.pdf>

4. Article 2.13 Texas Code of Criminal Procedure.

<https://statutes.capitol.texas.gov/Docs/CR/htm/CR.2.htm>

5. Texas Alcohol Beverage Code

[https://www.tabc.state.tx.us/laws/code\\_and\\_rules.asp](https://www.tabc.state.tx.us/laws/code_and_rules.asp)

Appendix A  
Traffic Stop Consent to Search Form

McLennan Community College Police Department  
Consent to Search Form

I, \_\_\_\_\_, having been informed by the hereafter named McLennan Community College Police Department Officer that I have a constitutional right to be free from having this officer or other officers make a warrantless search of the hereafter mentioned premises, buildings, or vehicles under my control, and also constitutional right to refuse to give this officer or any other officer consent to make such a search, and that such rights are guaranteed to me both by the State of Texas, and the Federal Constitution of the United States of America, do hereby voluntarily waive these rights and authorize the following named officer, to-wit: \_\_\_\_\_ and any other officers working with this officer to conduct a complete search of the following premises, buildings, and vehicles located in McLennan County, Texas, at and namely:

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\_\_\_\_\_ and to seize and take therefrom or from me any item of personal property they may believe to constitute evidence in a criminal proceeding.

I have given this consent of my own free will and accord and without being subject to any threats, promises, compulsion, or persuasion of any kind. I know that any item of personal property seized by the above-named officer or other officers with them and taken by them from such premises can and will be used as evidence against myself or others in criminal proceedings.

Person giving consent signature: \_\_\_\_\_

Witness/Date: \_\_\_\_\_