



City of Asheville
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1/16/15

Jon Ostendorff
Asheville Citizen Times
PO Box 2090
Asheville, NC 28802

Jon,

The attached documents are being provided to the Asheville Citizen-Times in response to your request for:

1. A survey conducted by Matrix Consulting of police officers that the company said would be released after the holidays.
2. Any initial reports from the consultant about suggested changes that could be made now at the police department.

These documents are incomplete preliminary documents provided to the City by Matrix Consulting Group. No conclusions can be made until the data is verified and recommendations are aligned with North Carolina Law.

North Carolina General Statutes related to personnel are also attached.

Sincerely,

Dawa Hitch
City of Asheville
Communication &
Public Engagement Director

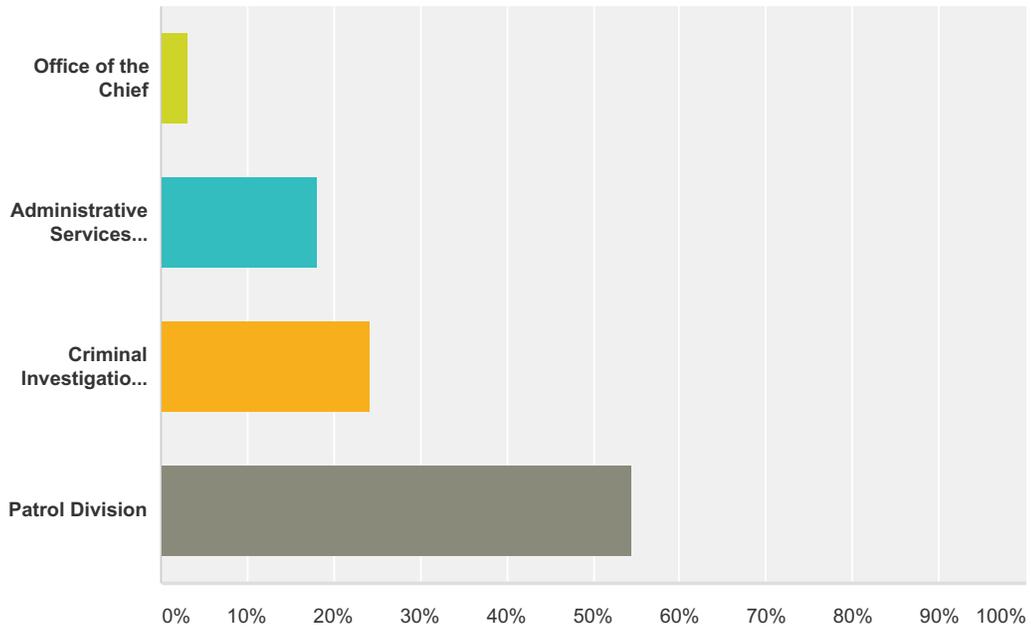
Attachments:

Matrix Consulting Group Draft Police Department Survey Results
Matrix Consulting Group Draft Key Issues Identified in Police Department
G.S. 160A-168

Asheville Police Department Employee Survey

Q1 First of all, what is your current work assignment (check one)?

Answered: 99 Skipped: 1

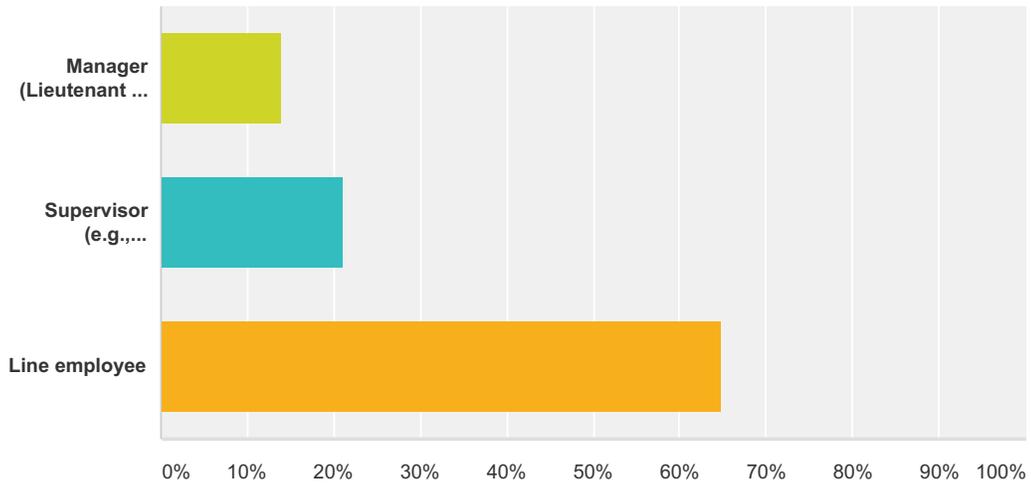


Answer Choices	Responses
Office of the Chief	3.03% 3
Administrative Services Division	18.18% 18
Criminal Investigations Division	24.24% 24
Patrol Division	54.55% 54
Total	99

Asheville Police Department Employee Survey

Q2 What is your current level in the organization (check one)?

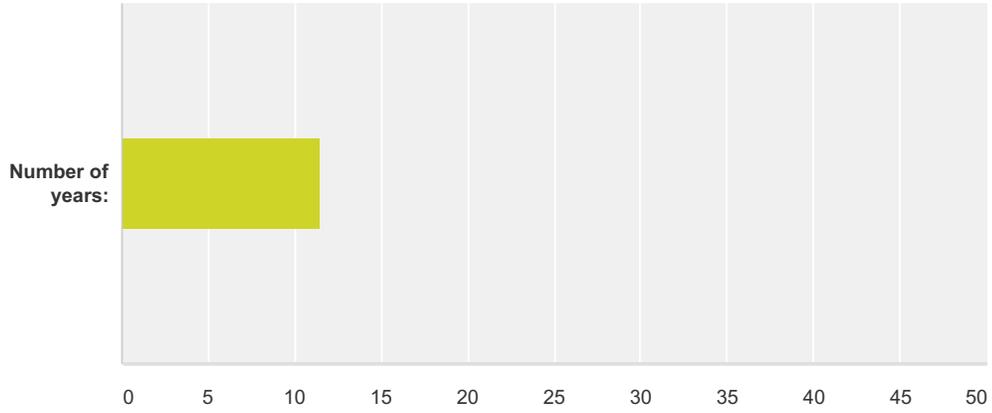
Answered: 100 Skipped: 0



Answer Choices	Responses
Manager (Lieutenant and above)	14.00% 14
Supervisor (e.g., Sergeant)	21.00% 21
Line employee	65.00% 65
Total	100

Q3 How long have you been employed by the Asheville Police Department?

Answered: 97 Skipped: 3

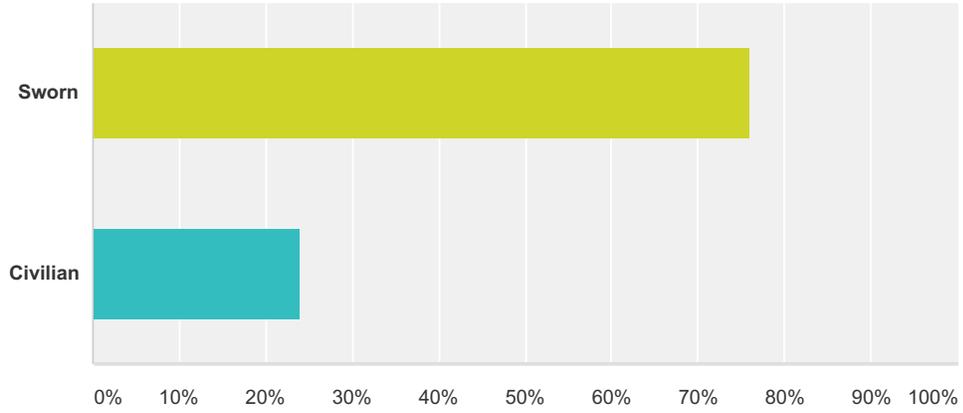


Answer Choices	Average Number	Total Number	Responses
Number of years:	12	1,116	97
Total Respondents: 97			

Asheville Police Department Employee Survey

Q4 Finally, are you a sworn or civilian employee (check one)?

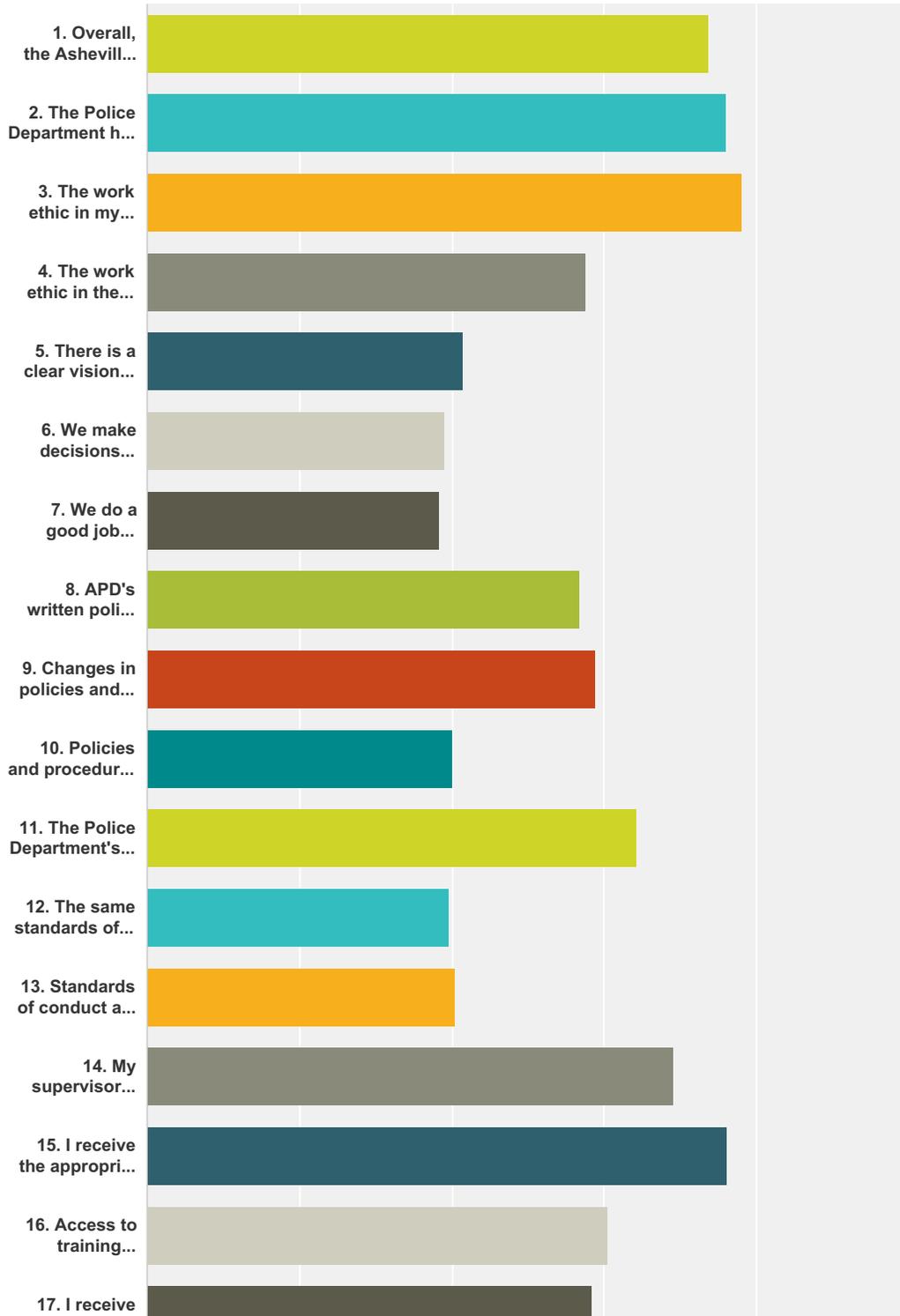
Answered: 100 Skipped: 0



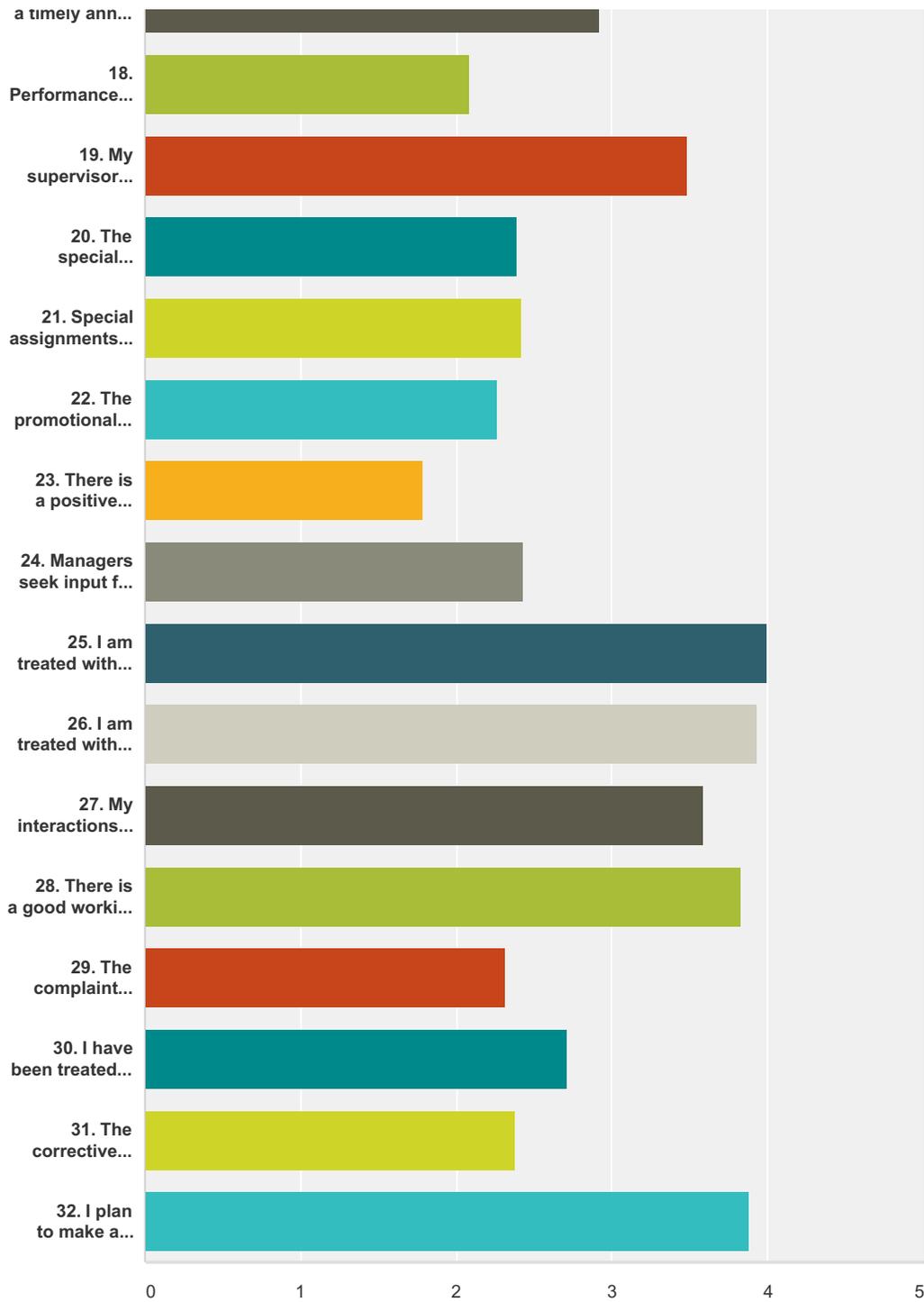
Answer Choices	Responses
Sworn	76.00% 76
Civilian	24.00% 24
Total	100

Q5 Listed below are a number of statements about the Asheville Police Department. Please indicate the answer which most closely reflects your opinion. If you have no opinion on a question, indicate “no response”.

Answered: 96 Skipped: 4



Asheville Police Department Employee Survey



	No Response	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Total	Weighted Average
1. Overall, the Asheville Police Department meets or exceeds service expectations of the community.	2.08% 2	23.96% 23	44.79% 43	11.46% 11	16.67% 16	1.04% 1	96	3.68
2. The Police Department has set high performance expectations of me.	1.05% 1	30.53% 29	37.89% 36	15.79% 15	13.68% 13	1.05% 1	95	3.80
3. The work ethic in my work unit (e.g. patrol team) is high.	0.00% 0	43.75% 42	27.08% 26	10.42% 10	12.50% 12	6.25% 6	96	3.90

Asheville Police Department Employee Survey

4. The work ethic in the Police Department is high.	2.08% 2	10.42% 10	25.00% 24	22.92% 22	27.08% 26	12.50% 12	96	2.88
5. There is a clear vision for the Police Department.	3.13% 3	2.08% 2	5.21% 5	21.88% 21	43.75% 42	23.96% 23	96	2.08
6. We make decisions effectively in the Department.	0.00% 0	1.04% 1	8.33% 8	11.46% 11	42.71% 41	36.46% 35	96	1.95
7. We do a good job anticipating problems in the organization.	1.05% 1	3.16% 3	2.11% 2	17.89% 17	37.89% 36	37.89% 36	95	1.92
8. APD's written policy and procedures provide appropriate direction and guidance.	1.04% 1	3.13% 3	34.38% 33	22.92% 22	23.96% 23	14.58% 14	96	2.84
9. Changes in policies and procedures are appropriately communicated in the Department.	2.08% 2	6.25% 6	38.54% 37	13.54% 13	28.13% 27	11.46% 11	96	2.94
10. Policies and procedures are consistently applied in the Department.	1.04% 1	2.08% 2	7.29% 7	14.58% 14	41.67% 40	33.33% 32	96	2.00
11. The Police Department's expectations regarding standards of conduct are clear to me.	0.00% 0	12.50% 12	38.54% 37	18.75% 18	17.71% 17	12.50% 12	96	3.21
12. The same standards of conduct are applied to managers as those applied to line staff.	1.04% 1	3.13% 3	11.46% 11	11.46% 11	29.17% 28	43.75% 42	96	1.98
13. Standards of conduct are consistently applied.	0.00% 0	1.04% 1	8.33% 8	15.63% 15	41.67% 40	33.33% 32	96	2.02
14. My supervisor creates a motivating environment for my work unit.	2.08% 2	26.04% 25	33.33% 32	16.67% 16	9.38% 9	12.50% 12	96	3.45
15. I receive the appropriate training to do my job well.	3.13% 3	33.33% 32	37.50% 36	15.63% 15	7.29% 7	3.13% 3	96	3.81
16. Access to training opportunities is available to all employees equally.	3.16% 3	16.84% 16	28.42% 27	12.63% 12	28.42% 27	10.53% 10	95	3.03
17. I receive a timely annual written performance evaluation from my supervisor.	5.21% 5	12.50% 12	35.42% 34	10.42% 10	19.79% 19	16.67% 16	96	2.92
18. Performance evaluations are a useful tool in the Department.	2.08% 2	0.00% 0	11.46% 11	15.63% 15	45.83% 44	25.00% 24	96	2.09
19. My supervisor listens to me and evaluates me fairly.	3.13% 3	26.04% 25	35.42% 34	15.63% 15	10.42% 10	9.38% 9	96	3.49
20. The special assignment selection process is fair.	9.38% 9	4.17% 4	18.75% 18	23.96% 23	27.08% 26	16.67% 16	96	2.39
21. Special assignments match employee skills with the assignment.	8.33% 8	2.08% 2	23.96% 23	20.83% 20	28.13% 27	16.67% 16	96	2.42
22. The promotional process fairly tests the qualifications of the candidates for the position.	11.46% 11	6.25% 6	15.63% 15	19.79% 19	26.04% 25	20.83% 20	96	2.26
23. There is a positive organizational culture at APD.	1.04% 1	2.08% 2	5.21% 5	7.29% 7	40.63% 39	43.75% 42	96	1.78
24. Managers seek input from staff on their ideas about how to improve operations and services.	0.00% 0	3.13% 3	18.75% 18	18.75% 18	36.46% 35	22.92% 22	96	2.43
25. I am treated with respect by the other employees I work with everyday.	2.08% 2	38.54% 37	40.63% 39	7.29% 7	11.46% 11	0.00% 0	96	4.00
26. I am treated with respect by my immediate supervisor.	2.11% 2	40.00% 38	38.95% 37	6.32% 6	6.32% 6	6.32% 6	95	3.94
27. My interactions with the managers in my division are positive.	4.17% 4	25.00% 24	40.63% 39	15.63% 15	10.42% 10	4.17% 4	96	3.59

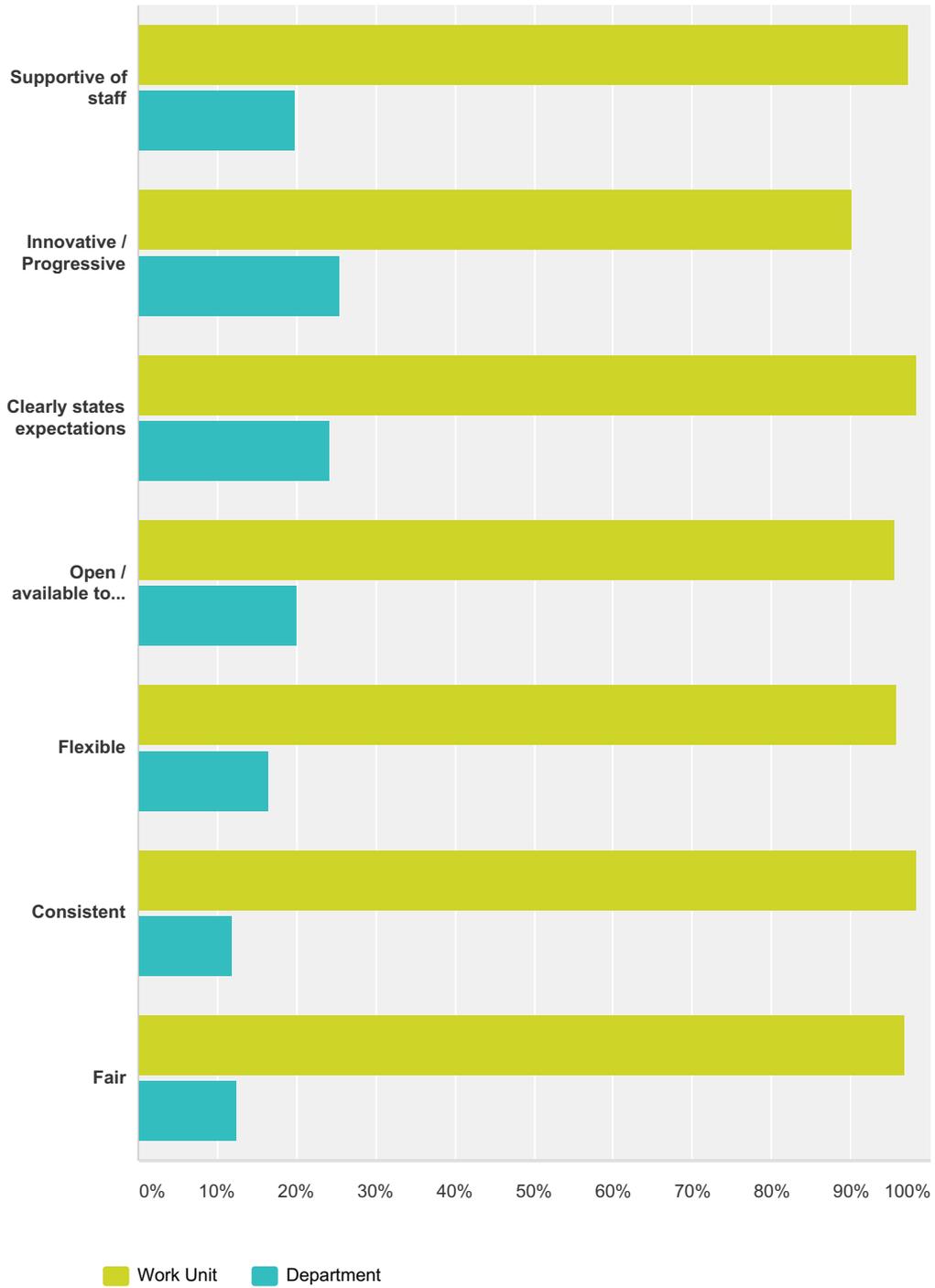
Asheville Police Department Employee Survey

28. There is a good working relationship between sworn and civilian staff.	1.04% 1	20.83% 20	53.13% 51	17.71% 17	6.25% 6	1.04% 1	96	3.83
29. The complaint investigation process is administered fairly.	7.29% 7	5.21% 5	11.46% 11	28.13% 27	28.13% 27	19.79% 19	96	2.32
30. I have been treated fairly in the complaint investigation process (leave blank if you have not been involved in the process).	4.41% 3	4.41% 3	33.82% 23	16.18% 11	23.53% 16	17.65% 12	68	2.71
31. The corrective discipline that resulted from the complaint investigation(s) was appropriate.	15.07% 11	2.74% 2	27.40% 20	20.55% 15	19.18% 14	15.07% 11	73	2.38
32. I plan to make a career with the Asheville Police Department.	6.32% 6	44.21% 42	27.37% 26	15.79% 15	4.21% 4	2.11% 2	95	3.88

Q6 33. Listed below are a variety of statements which could characterize the management and supervision of the Department. Please check the statement(s) which most closely reflect you attitude towards the management and supervisory approaches which prevail in you work unit and the Department. More than one statement can be checked.

Answered: 85 Skipped: 15

Asheville Police Department Employee Survey



	Work Unit	Department	Total Respondents
Supportive of staff	97.37% 74	19.74% 15	76
Innovative / Progressive	90.20% 46	25.49% 13	51
Clearly states expectations	98.28% 57	24.14% 14	58
Open / available to staff	95.71% 67	20.00% 14	70

Asheville Police Department Employee Survey

Flexible	95.89% 70	16.44% 12	73
Consistent	98.31% 58	11.86% 7	59
Fair	96.88% 62	12.50% 8	64

Asheville Police Department Employee Survey

Q7 34. Please list one to three positive attributes about the Department.

Answered: 81 Skipped: 19

Answer Choices	Responses	
(1)	100.00%	81
(2)	77.78%	63
(3)	58.02%	47

Q8 35. Please list one to three changes which could be made to improve the organizational culture and morale in the Department.

Answered: 88 Skipped: 12

Answer Choices	Responses	
(1)	100.00%	88
(2)	87.50%	77
(3)	73.86%	65

Q9 36. What is the single highest priority to address during this study?

Answered: 85 Skipped: 15

Q10 37. Please use this space to provide any additional feedback to the project team.

Answered: 51 Skipped: 49

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Key Issues Identified in Police Department Personnel File Reviews

ASHEVILLE, NORTH CAROLINA

DRAFT

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December 2014

KEY ISSUES IDENTIFIED IN POLICE DEPARTMENTAL PERSONNEL FILE REVIEWS

Asheville, North Carolina

As part of the Matrix Consulting Group's study for the Asheville Police Department, the project team conducted a review of personnel files for sworn officers in the Department during the first week of December 2014. The following **draft** document provides analysis of the key issues identified during the review.

Out of 202 sworn officers in the Department, the files of twenty-one (21) officers were reviewed (about a 10.5% sample). For each officer, the police personnel file was reviewed, followed by the corresponding City Human Resources personnel file. The review was conducted to determine, among other things, whether personnel files: were complete, contained required documentation, were appropriately segregated (with confidential information separate from the main personnel file), and contained information that should not be in the file. Inconsistencies, missing documentation, and inappropriately included documentation were noted.

1. RESULTS OF PERSONNEL FILE REVIEW

The sections below detail the frequency of specific issues in the files, indicating the frequency with which each issue occurred in Police and City HR personnel files. The first section addresses issues of missing documentation. The second section details issues of inappropriately included documentation. The issues in each section are arranged in order of decreasing frequency, and a narrative explanation is included in each.

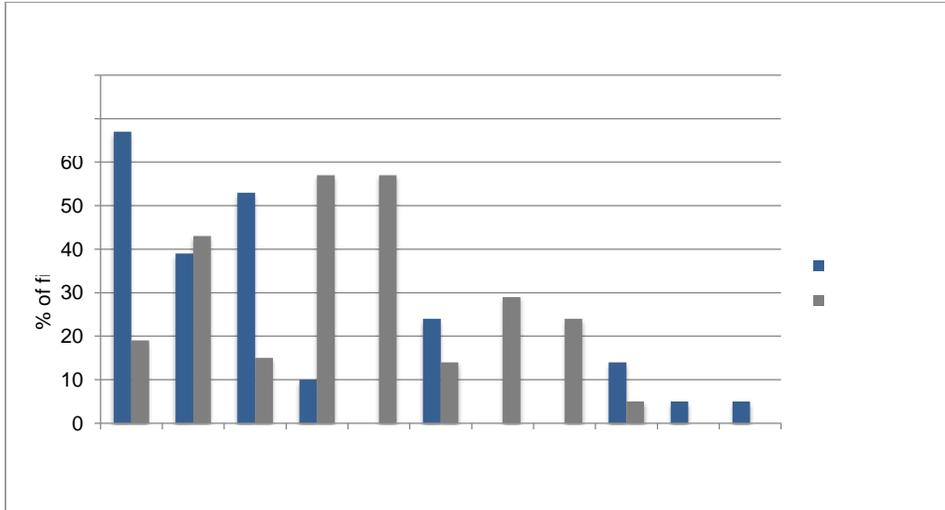
(1) Missing Documentation or Disorganization

About half of the issues identified during the review had to do with documentation that should have been easy to find in personnel files, but was missing or disorganized. The following table summarizes each of the issues of this type and shows the percentage of police personnel files and citywide human resource files where the issues were noted.

Issues of Missing Documentation or Disorganization		
Issue	Missing From	
	Police File	City HR File
1. Scattered or disorganized documents, or duplicate documents in multiple sections of the file.	67%	19%
2. Performance evaluations missing, out of date (most common), or out of order.	39%	43%
3. Acknowledgement documents missing (employee handbook, online policies, nepotism, sexual and workplace harassment, drug testing, background consent)	53%	15%
4. Corrective action forms or disciplinary notices from one file missing in the other.	10%	57%
5. Vehicle accident documentation from one file missing in the other.	0%	57%
6. Employment offer letter missing.	24%	14%
7. Commendations/awards from one file missing from the other.	0%	29%
8. Documentation of promotions and/or transfers from one file missing in the other.	0%	24%
9. Training documentation missing.	14%	5%
10. Pay change documentation missing.	5%	0%
11. Firearm certification missing.	5%	0%

The following chart provides a visual depiction of the frequency with which each issue was found in police personnel files and citywide human resource files.

ASHEVILLE, NORTH CAROLINA
DRAFT Key Issues in Police Department Personnel File Reviews



- Scattered or disorganized documents were the most common issue with the files reviewed, particularly in the police department file. Promotion / transfer documents, commendations and discipline, and documents acknowledging policies were commonly spread throughout files rather than being in once section of the file. Secondary employment forms were scattered in some city personnel files.
- Policy acknowledgement documents were missing or partial in several files, particularly in police files. The fact that they were rarely found in one place within the file made it difficult to account for all of them.
- Performance evaluations are not up to date for a number of employees. The last evaluation for many officers was in early or mid-2013.
- Corrective action / discipline forms, vehicle accident reports, commendations / awards, and promotions / transfers are often not making it into City personnel files – numerous officers’ City files were missing documents from the police file.
- Numerous files – both police department and citywide – were missing the offer of employment and/or the contract for the officer’s current position.
- None of the files reviewed included a current job description for the position held by the officer.
- Training documents were each found to be missing in a handful of employees’ police and citywide files, and firearm certification was missing in one officer’s police file.

Comment [AP1]: I would not expect that the personnel file would include the job description of the position held.

- There was more than one instance of documents for the wrong employee ending up in an officer's file.

Police and City personnel files were compromised by different issues. For Police files, scattered and duplicate documents were a common problem, making it difficult to find vital information, ensure that training and policy acknowledgement documents are current, and redact the appropriate private information in the case of a records request. About two-thirds of Police files were characterized by disorganized file maintenance. Police personnel records also lacked signed policy acknowledgement documents for more than half of sworn officers. Additionally, a quarter of files reviewed did not contain an offer of employment letter.

Comment [AP2]: I'm not sure if the offer of employment belongs in department file anyways.

Citywide Human Resource personnel files, in contrast, were better organized than the Police files, and information was easier to find. There were several types of documentation, however, that appeared in employees' Police file but was not found in their City personnel file. More than half of employees, for example, had a corrective action or discipline form in their Police file that did not appear in their Human Resource file. Likewise, more than half of employees had a vehicle accident report or investigation in their Police file that could not be found in their City personnel file. Additionally, more than a quarter of City Human Resource files were missing commendations or awards from the employee's Police file, and just over 20% lacked documentation of a promotion or transfer that was recorded in their Police file.

Comment [AP3]: This is a potentially major issue. It gets lost in the middle of this paragraph. If these belonged in HR personnel file – major issue.

Comment [AP4]: Again, if it belonged in there – this is another potentially important issue.

Due to the prevalence of disorganized and difficult-to-find documents in personnel files, general categorization and organization of documents (particularly in police personnel files) is of primary concern. Additionally, focus should be placed on

maintaining up-to-date performance evaluations and making sure that documentation in police files is also maintained in city personnel files.

(2) Inappropriately Included Documentation

Approximately half of the issues identified during the review were documents that were found in personnel files when they should have been redacted as confidential. The following table summarizes each of these issues and shows the percentage of police personnel files and citywide human resource personnel files where inappropriate documentation was included.

Issues of Inappropriately Included Documentation		
Issue	Included In	
	Police File	City HR File
1. Social security number visible in documents, or copy of social security card in file.	90%	76%
2. Note informing of a negative drug/alcohol test (not the test results themselves, so this may be permissible).	57%	29%
3. W-4 and/or NC-4 forms in file with social security number visible.	52%	14%
4. FMLA leave requests and/or correspondence regarding leave visible in file.	38%	10%
5. Equal Employment Information (included with hiring documents for reporting compliance reasons only, so may be permissible).	24%	24%
6. Information about medical procedures and/or prescriptions included in file.	24%	5%
7. Correspondence regarding worker's compensation included in file.	15%	5%
8. I-9 form or comparable document with social security number visible included in file.	19%	0%
9. Documents discussing internal investigations included in file.	14%	0%
10. Results of drug/alcohol test included in file.	14%	0%
11. Departmental responses to employee grievances included that identify the grievance date and topic.	10%	0%
12. Internal letter of recommendation visible.	5%	0%
13. Background check results visible.	5%	0%

Comment [AP5]: Personally – not sure this is major issue but I defer to those in charge of this project.

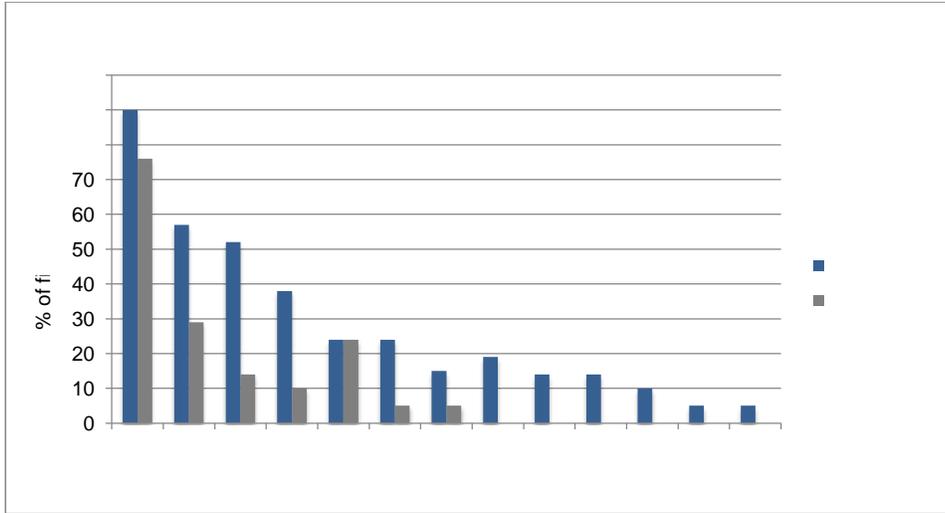
Comment [AP6]: To make this tighter, I think you need to know whether these items "are permissible".....saying "may be permissible" doesn't tell them what to do. Perhaps Robert knows (or the policy outlines) practice on this for Ashville

Comment [AP7]: Same comment as above regarding this phrase.

Comment [AP8]: I don't think this is an issue.

The following chart provides a visual depiction of the frequency with which each issue was found in Police personnel files and City Human Resource files.

ASHEVILLE, NORTH CAROLINA
DRAFT Key Issues in Police Department Personnel File Reviews



- Social security numbers were plainly visible in the files for all but one employee either in documents or as a copy of the officer's social security card. This was the most frequent concern identified during the review.
- In a similar vein, W-4 and NC-4 forms, along with I-9 (or a similar form) were included along with the officer's social security number in many files.
- Numerous examples of correspondence regarding sensitive information such as drug/alcohol tests, FMLA leave, medical appointments, and worker's compensation were noted. The information itself was not included in most cases, so many of these instances may be permissible, but sometimes the nature of medical conditions and reasons for leave or worker's compensation were revealed. They were not obviously sensitive circumstances, but this inclusion of documentation may still be an issue.
- Specific results of drug/alcohol tests, details about internal investigations, and departmental responses to specific grievances were included in some of the police files reviewed.
- A pre-employment background check was visible in one police file, and an internal letter of recommendation in another.

Comment [AP9]: This likely means that its in accordance with policy / practice. Though should e discussed before this is sent to client.

Police personnel files were more likely than City Human Resource personnel files to be compromised by inappropriately included documentation. The most common of these issues was the visibility of employees' social security numbers throughout their

files. 90% of Police files were compromised in this way, and more than 75% of City personnel files. For more than half of Police files, the W-4 and/or NC-4 tax withholding forms (including the employee's SSN) were clearly visible, and nearly 20% of Police files contained the employee's I-9 or equivalent, also with the social security number visible.

Sensitive information was also visible throughout several police personnel files. More than half of police files included correspondence about the results of drug and alcohol testing, and over a third of them contained completed FMLA leave request forms and correspondence regarding the reasons for sick leave. Additionally, more than 20% of police files included information about medical procedures or prescriptions for the employee. A handful of police files (14%) also contained correspondence revealing the nature of internal investigations, and the actual results report of drug testing were contained in 14% of files as well. Correspondence about drug/alcohol testing results and equal employment opportunity reporting data each appeared in more than 20% of City personnel files.

2. RECOMMENDATIONS

The project team has developed the following recommendations for the maintenance and coordination of personnel files between the City and the Police Department.

1. The City should develop and enforce a clear policy about which documents must be present in both and each of the Department and City personnel files.
2. In order to ensure that records are kept up to date, synchronized, organized, and in compliance with City policy and applicable law, there should be a uniform format for both Police personnel files and City human resource files. The format may look similar to the following:

SECTION 1
Basic Employment Information <ul style="list-style-type: none"> • Employment application and resume • Offer of employment letter • Current job description • Current contract
SECTION 2
Acknowledgements and Certificates <ul style="list-style-type: none"> • Policy acknowledgement documents • Certifications and training records
SECTION 3
Career Progression Documents <ul style="list-style-type: none"> • Promotions • Transfers • Pay changes
SECTION 4
Performance Documentation (chronological) <ul style="list-style-type: none"> • Annual evaluations • Corrective action forms/discipline/reprimands • Commendations/awards • Vehicle accident documentation
SECTION 5 (confidential)
Sensitive Personal Information <ul style="list-style-type: none"> • Social security card • Marriage license • W-4 and NC-4 forms • I-9 form • Background checks and external references, interview notes • Drug test results, polygraphs, etc. • EEO information
SECTION 6 (confidential)
Sensitive Medical Records <ul style="list-style-type: none"> • Procedures/medications • Worker's compensation • FMLA leave records • Insurance information

SECTION 7 (confidential)
Sensitive Correspondence <ul style="list-style-type: none">• Record of grievances• Records of internal investigations• Internal references

This format would ensure that file contents are organized by type, and would allow various types of private and sensitive information to be speedily redacted when providing access during a records request.

3. **City Human Resources staff should conduct training with the Police Department Administrative Services staff to ensure that they understand the appropriate file format and the practices for synchronizing departmental and citywide personnel files.**
4. **City Human Resources staff should train current and future Administrative Services staff on the state statutes governing file maintenance and access.**
5. **A checklist should be developed to guide what should be included in a personnel file and what should not be included.**
6. **Police Department personnel files should only be accessible to Administrative Services staff, Human Resources staff, Legal staff, and the direct supervisor of an employee.**
7. **All City Human Resources staff and Police Administrative Services staff should sign a standardized confidentiality agreement.**
8. **All Police personnel files should remain in the Administrative Services office unless removed and supervised by an authorized staff member of City Human Resources or Police Administrative Services.**
9. **In the event of a records request, a City Human Resources staff member or Police Administrative Services staff member should first review the employee file in question and redact private or sensitive information that is inappropriate for the requester to view.**
10. **A City Human Resources staff member or a Police Administrative Services staff member should supervise the viewing of any employee files requested, and the staff member should personally make copies of any documentation requested.**
11. **The City Human Resources Department and the Police Administrative Services Division should maintain detailed records of all record requests and any copies made from files.**

The recommendations above will help to ensure that personnel files are kept secure so that only authorized personnel have access to the appropriate portions of employee records. These recommendations will also promote the organization and synchronization of employee records, and help the City maintain up-to-date files with easy-to-find documentation.

§ 160A-168. Privacy of employee personnel records.

(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files of employees, former employees, or applicants for employment maintained by a city are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the city with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, "employee" includes former employees of the city.

(b) The following information with respect to each city employee is a matter of public record:

- (1) Name.
- (2) Age.
- (3) Date of original employment or appointment to the service.
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or a record of the oral contract in its possession.
- (5) Current position.
- (6) Title.
- (7) Current salary.
- (8) Date and amount of each increase or decrease in salary with that municipality.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that municipality.
- (10) Date and general description of the reasons for each promotion with that municipality.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The city council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the city council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in a city employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

- (1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- (2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (3) A city employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- (5) An official of an agency of the State or federal government, or any political

subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

- (6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (7) The city manager, with concurrence of the council, or, in cities not having a manager, the council may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action. Before releasing the information, the manager or council shall determine in writing that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written determination shall be retained in the office of the manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file.

(c1) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

- (1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the city's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
- (2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.
- (3) Information that might identify an undercover law enforcement officer or a law enforcement informer.
- (4) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(c2) The city council may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the city as long as each personnel file examined is retained.

(c3) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees.

(d) The city council of a city that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty

of a Class 3 misdemeanor and upon conviction shall only be fined an amount not more than five hundred dollars (\$500.00).

(f) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars (\$500.00). (1975, c. 701, s. 2; 1981, c. 926, ss. 1-4; 1993, c. 539, ss. 1084, 1085; 1994, Ex. Sess., c. 24, s. 14(c); 2007-508, s. 7; 2008-194, s. 11(e); 2010-169, s. 18(f).)