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Approval: Chief of Police	Manual: Policy and Procedure			

I. PURPOSE

The purpose of this policy is to establish the agency’s role and limits of authority in Law Enforcement.

II. DEFINITIONS

N/A

III. POLICY

- A. Each officer of Kinston Police Department shall swear or affirm to the oath of office as a Law Enforcement Officer for the City of Kinston. This oath shall confirm that the officer will uphold the United States Constitution and enforce the laws of North Carolina. This oath of office shall be sworn or affirmed by a city or county official retaining the power to administer like oaths of office.
- B. Each person entering the position of a Law Enforcement Officer with the Kinston Police Department must agree to abide by the Code of Ethics of a Law Enforcement Officer. The Code of Ethics shall be read during the officers’ swearing-in ceremony.
- C. The Kinston Police Department encourages its personnel to use established criminal justice and social service programs designed to divert individuals from the criminal justice system when such programs effectively accomplish department objectives. The Department recognizes and supports criminal justice and social service diversion programs established and coordinated by the Lenoir County Mental Health Department, Lenoir County Department of Social Services, and State of North Carolina Courts
- D. A Law Enforcement Officer acts as an official representative of government who is required and trusted to work within the law. The officer’s powers and duties are conferred by North Carolina State Statutes Chapter 15A, 160-A-285, 160A-286, and City of Kinston Code of Ordinances Sec. 18-2, 18-4, 18-5, and 18-6. The fundamental duties of a Law Enforcement Officer include serving the community, safeguarding lives and property, protecting the innocent, keeping the peace, and ensuring the rights of all to liberty, quality, and justice. An officer shall perform all duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief or aspiration. All citizens will be treated equally with courtesy, consideration and dignity. Officers will never allow personal feelings, animosities or friendships to influence official conduct.

Laws will be enforced appropriately and courteously and, in carrying out their responsibilities, officers will strive to obtain maximum cooperation from the public. They will conduct themselves in appearance and department in such a manner as to inspire confidence and respect for the position of public trust they hold.

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- E. The Kinston Police Department may contract with the local North Carolina ABC Board for enforcement of North Carolina ABC laws within the territorial jurisdiction of the Department. When such a contract for enforcement exists, designated officers of the Department shall have the same authority to inspect ABC permitted premises under N.C.G.S. 18B-502 that an ABC Officer employed by the local North Carolina ABC Board would have under N.C.G.S. 18B.
- F. The legally authorized geographical area of the Kinston Police Department is the city limits of Kinston, North Carolina, and the areas within one mile of the primary corporate limits, property that has been placed in a satellite status of the corporate limits, and the property owned by the City outside the City limits. The enforcement of North Carolina state statutes and the City of Kinston ordinances is authorized in the City of Kinston, unless specifically prohibited elsewhere by law.
- G. The United States Constitution's Bill of Rights, Amendment II, ensures the right of people to bear arms. The people of the State of North Carolina have legislated through General Statutes the legal authority to carry and use weapons by law enforcement personnel in the performance of their duties. Sworn personnel of the Kinston Police Department have been vested by the State of North Carolina with the duties and responsibilities of obtaining and practicing the skills and knowledge necessary to perform those tasks essential to function in law enforcement to include the use of weapons.
- H. North Carolina General Statute 17C creates the North Carolina Justice Education and Training Standards Commission and establishes responsibilities of the Commission in the administration of a program of basic law enforcement training, instruction, and evaluation. The Commission sets standards of a professional nature for persons who seek to become or are serving as officers in the criminal justice system.
- I. The course of instruction developed by the North Carolina Justice Education and Training and Standards commission requires training and proficiency in those weapons used by law enforcement personnel in the performance of their duties. A minimum firearm proficiency level is required for certification as a law enforcement officer. The Commission further requires annual in-service firearms training and establishes annual minimum qualifications for firearms proficiency. Failure to meet the requirements of annual in-service firearms qualifications may result in the suspension of the officer's certification.
- J. North Carolina General Statute, 14-269, permits the carrying of concealed weapons by law enforcement personnel. North Carolina General Statute 15A-401 provides for the use of force to include deadly force, and establishes the provisions under which progressive levels of force may be used.
- K. The Kinston Police Department endorses and confirms the authority of sworn personnel to carry and use weapons in the performance of their responsibilities as defined and assigned by the Department and as resulting from the sworn duty to enforce the criminal laws of this state. The authority to carry and use weapons shall be at all times in accordance with all state and local laws and within the perimeter of all policies and procedures of the Kinston Police Department.

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- L. To protect the constitutional rights of persons involved in criminal investigations, the following guidelines shall be followed:
1. Kinston Police Department sworn law enforcement officers shall not coerce or obtain involuntary confessions from persons suspected of criminal involvement.
 2. When an individual is arrested, the arresting officer shall not unnecessarily delay the arrestee's appearance before a judicial official having jurisdiction over the offense.
 3. Prior to interrogating or interviewing an individual who is in custody or otherwise deprived of freedom, the police officer conducting the interview or interrogation shall first advise the individual of their constitutional rights guaranteed by the U.S. Supreme Court decision of *Miranda vs. Arizona*.
 4. Once an individual has expressed a desire to exercise the right to counsel, all interrogation and interview efforts shall be stopped until the individual has obtained counsel without legal justification.
 5. Department personnel shall not purposely seek pre-trial publicity in an attempt to prejudice a trial.
- M. Search and Seizure: See Kinston Police Department Policy and Procedure 700-2 regarding the Department's standards regarding search and seizure.
- N. Non-Testimonial Identification: A non-testimonial order is an investigative procedure authorized by N.C.G.S. 15A-271 which can be utilized to identify a perpetrator of a crime. It can also be used to exclude an individual from the pool of suspects.
1. Under this article, a solicitor may make application to a judge for an order requiring suspects to submit to certain non-testimonial identification procedures such as:
 - a. Fingerprints
 - b. Measurements
 - c. Urine, saliva, and/or hair specimens
 - d. Voice and/or handwriting samples
 - e. Photographs
 - f. Line-ups
 2. North Carolina Supreme Court requires a search warrant or consent be issued before obtaining blood from a suspect.

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- O. Urgent Necessity: When an officer reasonably believes that doing so is urgently necessary to save life, prevent serious bodily harm, or avert or control public catastrophe, the officer may take one or more of the following actions:
1. Enter buildings, vehicles, and other premises;
 2. Limit or restrict the presence of persons in premises or areas;
 3. Exercise control over the property of others.
- P. Under the authority of N.C.G.S. 15A Sub-chapter IV Article 20, police officer may arrest a person pursuant to the existence of a valid arrest warrant. Under the cited authority, an officer having a warrant in his possession may arrest the person named on or described in the warrant at any time and any place within the jurisdiction.
1. Under the cited authority, an officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does have the warrant in his possession, may arrest the person named in the warrant any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant on the person as soon as possible. This applies even though the arrest process has been returned to the Office of the Clerk of Court.
 2. Officers may arrest, without a warrant, any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.
 3. An officer may arrest, without a warrant, any person who the officer has probable cause to believe has committed a felony, or has committed a misdemeanor and will not be apprehended unless immediately arrested or may cause physical injury to himself or others, or damage to property unless immediately arrested.
 4. Probable cause has been interpreted as actions and circumstances that amount to more than mere suspicion but less than proof beyond a reasonable doubt that would lead a prudent person to believe a crime has been committed or is about to be committed.
 5. An officer may also arrest, without a warrant, any person who the officer has probable cause to believe has committed a misdemeanor under North Carolina Statutes 14-72.1 (larceny of property), and 14-134.3 (Domestic Criminal Trespass).
 6. An officer may also arrest, without a warrant, any person who the officer has probable cause to believe has committed a misdemeanor under North Carolina General Statute 14-33 (misdemeanor assaults) when the offense was committed by a person who is the spouse or former spouse of the alleged victim, or by a person with whom the alleged victim is living or has lived as if married, reference N.C.G.S. 50.B.
- Q. When making an arrest, a law enforcement officer must:
1. Identify himself as a law enforcement officer unless his identity is otherwise apparent;

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2. Inform the arrested person that he is under arrest;
 3. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears evident.
- R. An arrest is complete when the person submits to the control of the arresting officer who has indicated his intention to arrest; or, the arresting officer, with the intent to make an arrest, takes a person into custody by the use of physical force. After the arrest is completed, the arresting officer will take the person without unreasonable delay before a judicial official. When the arrest is made without a warrant the officer will obtain a warrant for arrest or a magistrate's order.
- S. Under the authority of the Chief of Police, officers may exercise discretion in certain situations to the extent that an alternative to an arrest may be employed to resolve a situation. Warnings, referrals, informal resolutions, summons and citations shall be considered departmentally approved alternatives to arrest. Alternatives to arrest must respect the rights of the parties involved and must accomplish a police purpose. Some of these alternatives may include, but are not limited to:
1. Citations and Summons: these are enforcement procedures that constitute alternatives to arrest solely by the fact that they may be used to preclude physical custody or as less severe enforcement options. Citations may also be used as an enforcement option for nonmoving traffic and equipment violations.
 2. Warnings: Officers may exercise discretion in minor traffic and ordinance violations by delivering oral and/or written warnings. Police officers are reminded that voluntary compliance is the goal of minor enforcement actions.
 3. Referrals (used in lieu of formal action): Referrals may be made to other departmental components, to other police or governmental agencies, to social service agencies, or other organizations better suited to address and to resolve the problem(s).
 4. Informal Resolutions: Often, the interests of the parties involved are satisfied better by a mediated settlement on the scene rather than a formal prosecution in court. Resolutions of this nature should be by agreement with the affected parties and should not be employed as an excuse for not affecting an arrest. As a rule, informal resolutions should be documented by an incident report to record the police officer's motivation for utilizing this particular alternative to arrest.
 5. Pretrial Release Procedures: Pretrial release procedures are governed by Chapters 15A-532 through 15A-535 of the General Statutes of North Carolina. Only judicial officials as defined in North Carolina General Statute 15A-101 (5) may determine conditions for pretrial release. Department sworn officers shall appear and testify in pretrial release proceedings as necessary.
- T. An officer will responsibly use the discretion vested in the position and exercise it within the law. The principle of reasonableness will guide the officer's determination and the officer will consider all surrounding circumstances in determining whether any legal action shall be taken.

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Consistent and wise use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public. There can be difficulty in choosing between conflicting courses of action. It is important to remember that a timely word or advice rather than arrest, which may be correct in appropriate circumstances, can be a more effective means of achieving a desired end. There are certain circumstances where an officers' discretion not to arrest should not be used when arresting or charging a citizen:

1. If by not arresting a citizen it may endanger the public, i.e.: Driving While Impaired Suspects.
2. If by not arresting a citizen he or she is likely to commit the offense again.
3. If the crime is a capital offense or a violent felony.
4. Generally, it is not the role of law enforcement to decide whether an offender should be prosecuted; that decision lies with the District Attorney. Should any questions arise concerning a particular situation, the police officer involved should confer with a supervisor.

U. An officer must obtain a search warrant for a strip and/or body cavity search unless exigent circumstances would dissipate while the officer sought a warrant or the failure to immediately obtain evidence would present a serious threat to the safety of any one person involved in the search or arrest. When a suspect is in custody, the officer can search the entire body, except body cavities, including clothing and inside pockets. Although highly intrusive, strip and body cavity searches may make it impractical to obtain a warrant; such as, the evidence would be destroyed or sometimes be necessary to protect the safety of officers, civilians, and other prisoners; and to detect and seize evidence of the crime.

1. Strip Searches: Strip Searches are defined as any search of an individual requiring the removal of all clothing to permit the visual inspections of skin surfaces including genital areas. Strip Searches should be conducted only if the officer has a search warrant for the person, or the person is under arrest, or if the subject consents to be strip searched. An officer must have probable cause, articulable, reasonable suspicion, to believe that an individual is concealing contraband or weapons. Strip searches must be authorized by a supervisor and must be conducted out of the public view in a secured room and in a manner that protects the privacy of the person being searched. Only officers of the same gender as the subject may conduct the search and search may only be viewed by those officers involved in or called in to assist in the search.
2. Body cavity searches are defined as any search involving not only visual inspection of skin surfaces, but also the internal physical examination of body cavities; such as the rectal or vaginal cavity. If there is probable cause to believe that evidence of a crime or a weapon is being concealed within a body cavity, a search warrant that specifically orders a body cavity search must be obtained. A suspect may consent to the body cavity search. In the case of a body cavity search the following procedures shall be followed:

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- a. A body cavity search shall be performed pursuant to a search warrant or consent by a qualified physician or other medically trained personnel directed by the physician. Only officers of the same sex as the person being searched will be present when the search is conducted.
 - b. Body cavity searches shall be performed with due recognition and regard for the privacy and hygiene concerns.
 - c. The investigating officer should attempt to obtain a copy of the report by the authorized medical personnel conducting the search.
 - d. Only officers involved in or called in to assist in the search may be present during the search.
 - e. All searches shall be conducted with regard to safety, legal seizure of evidence, and shall be conducted in a manner to be considered reasonable and legal by applicable judicial authorities.
- V. The Department is committed to unbiased policing. This policy shall be used to clarify the circumstances in which race can be used as a factor to establish reasonable suspicion or probable cause, and to reinforce procedures that serve to assure the public that we are providing service and enforcing law in a fair and equitable manner.
1. All investigative detentions, traffic stops, arrests, searches and seizures of property by officers will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the U.S. Constitution and North Carolina statutory authority. Officers must be able to articulate specific facts, circumstances and conclusions which support probable cause or reasonable suspicion for an arrest, traffic stop, or investigative detention.
 2. Officers shall not consider race, ethnicity, or national origin in establishing either reasonable suspicion or probable cause. Officers may take into account the reported race, ethnicity or national origin or a specific suspect or suspects based on credible, reliable, locally-relevant information that links a person of specific race to a particular criminal incident or links a specific series of crimes in an area to a group of individuals of a particular race/ethnicity.
 3. Except as provided above, no person shall be singled out or otherwise treated differently on account of his/her race, ethnicity, or national origin.
- W. In an effort to prevent inappropriate perceptions of biased based law enforcement, officers are encouraged to utilize the following strategies when conducting pedestrian and vehicle stops:
1. Be courteous, polite, and professional.
 2. Introduce him or herself and explain to the citizen the reason for the stop as soon as practical, unless providing the information will comprise the safety of the

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- officers or the persons stopped.
3. Ensure that the length of the detention is no longer than necessary to take appropriate action for the known or suspected offense.
 4. Answer any question the citizen may have, including explaining options for the disposition of the traffic citation, if relevant.
 5. Apologize for an inconvenience and /or explain if the officer determines that the reasonable suspicions were unfounded, (i.e., after a BOLO stop).
- X. The Department is dedicated to the concept of non-biased based detentions, traffic stops, and arrest. To re-enforce this concept, the Department shall resort to remedial training and/or disciplinary action for any violation of this policy, or any portion thereof.
- Y. Supervisors shall ensure all personnel under their command are familiar with the content of this policy and shall monitor their personnel's compliance.
- Z. An annual review of the Department's practices shall be conducted by the Office of Professional Standards to include but not limited to:
1. A review of citizen complaints.
 2. Citizen concerns; via survey or other opinion gathering methods.
 3. Traffic Stop Report forms
- AA. All offices, desks, lockers, vehicles, work areas, computers, filing cabinets, containers or any facility provided or maintained by the City of Kinston are subject to inspection or search, without prior notice, by any superior officer of the Kinston Police Department or by any city official designated by the office of the City Manager. Such a search for any reason shall not be refused by any employee of the City of Kinston or the Kinston Police Department. Refusal to permit such a search at any time shall constitute insubordination, and shall be grounds for disciplinary action, including termination.
- BB. Employees of the Kinston Police Department may not possess, while on duty, any weapon of any type (excluding knives) other than those weapons issued by the Kinston Police Department or explicitly sanctioned, in writing, by the Chief of Police. No weapons other than those issued or sanctioned as set forth herein may be kept, maintained, transported, stored or possessed in any Kinston Police Department office, desk, locker, vehicle, work area, filing cabinet, container or any facility provided or maintained by the Kinston Police Department.
- CC. Personal locked containers and locks for lockers are allowed; however, any container of any sort which is located on or within any office, desk, locker, vehicle, work area, filing cabinet or any facility provided or maintained by the Kinston Police Department must be presented or provided for inspection, immediately upon demand by any supervisor of the Kinston Police Department or by any city official designated by the office of the City Manager.