

 <b>Kinston Police Department</b>	<b><u>POLICY: Traffic Operations</u></b>						<b><u>POLICY #:</u></b>  <b>500-1</b>
	<b><u>NCLEA Standards: 6.19;</u></b>						
	<b><u>CALEA Standards: 61.1.2; 61.1.4; 61.1.5</u></b>						
	<b><u>NCLM Standards:</u></b>						
<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised	<b>Revision Dates:</b>	<b>01/01/21</b>					<b>Effective Date:</b> <b>07-01-2019</b>
<b>Approval: Chief of Police</b>							

## I. PURPOSE

The purpose of this policy is to establish a clear definition of the function of the traffic enforcement team. The Kinston Police Department traffic enforcement team shall provide primary traffic enforcement functions for the City of Kinston and the Patrol Major shall have overall responsibility of this unit.

## II. DEFINITIONS

- A. Rotation Wrecker: A wrecker service established on a rotating list maintained by Lenoir County Central Communications Center (911).
- B. CAD: Computer Aided Dispatch System. Located at the Lenoir County Central Communications Center (911) and the Department Records office.
- C. 911 Center: Lenoir County Central Communications Center

## III. POLICY

- A. The Patrol Major shall have overall responsibility for planning, analyzing, monitoring and coordinating traffic enforcement activities. Traffic enforcement and control duties shall be performed by all Patrol Division personnel. However, Traffic Officers shall have the primary responsibility for conducting the department's traffic enforcement and control function.
- B. The Department, through the specialized efforts of the Traffic Officers, will strive to reduce the number of traffic crashes, provide for the safe and efficient flow of vehicular traffic, effect the enforcement of motor vehicle laws and city ordinances within the City of Kinston, and provide assistance to motorists as outlined in this directive by utilizing the following guidelines:
  - 1. Enforcement of motor vehicle laws and ordinances as established by Chapter 20 of the General Statutes of North Carolina and Chapter 21 of the Code of Ordinances of the City of Kinston.
  - 2. Operation of speed measuring devices.
  - 3. Targeted traffic enforcement.
  - 4. Operation of breath analysis equipment.
  - 5. Set up and operation of Speed Monitoring and Awareness Trailers (SMART).

6. Perform community service and community relations activities to include traffic safety education and liaison with traffic safety groups.

C. Implementation of Targeted Enforcement Techniques and Procedures (**NCLEA 6.19 a**)

This policy shall establish guidelines for appropriate enforcement action when violations of North Carolina General Statute, Chapter 20 - Motor Vehicle Laws are witnessed, evidenced, or brought to the attention of members of the Department.

1. Implementation of selective enforcement techniques should target specific problems as determined by factors including: Traffic analyses; Citizen Complaints, Needs identified by Department personnel; Needs identified by other appropriate City of Kinston personnel.
2. Implementation of selective enforcement techniques may include enforcement actions such as: license traffic checks, stationary observation of intersections, use of speed measuring devices, or other approved techniques as appropriate to the situation.
3. Traffic Officers should take enforcement action against those violations determined to cause collisions, and should use countermeasures most effective for specific enforcement problems involved.
4. Enforcement countermeasures may include: use of speed measuring devices, line and/or area patrol, stationary observation, or license or traffic checks.

D. Deployment of Traffic Enforcement Personnel

1. It is the policy of the Kinston Police Department that traffic law enforcement and the delivery of law enforcement related services will be applied consistently and courteously to foster a positive public attitude and acceptance of the level of enforcement and control necessary to achieve the goals of the department. The responsibility for enforcing traffic laws and regulations shall be shared by all sworn personnel.
2. Deployment of traffic law enforcement personnel shall include factors based on an analysis of traffic collisions and traffic-related calls for service pursuant to the following guidelines:
  - a. Traffic officers shall be deployed to the areas having the greatest concentration of collisions and traffic-related calls for services.
  - b. Deployment shall be in accordance with the times of day or night determined to have a high incidence of occurrence of collisions and calls for service.

E. Analysis of Traffic Collisions and Related Factors

The Kinston Police Department will use traffic enforcement practices with the ultimate goal of reducing traffic collisions. Marked and unmarked police vehicles may be used. Equipment should be appropriate to the enforcement actions used. The Patrol Major shall use the following procedures and guidelines to assist in determining effective enforcement techniques and locations:

1. Analysis of reported collisions should: be based on a numerically significant sample; consider fluctuations caused by seasonal variations, be used to target locations with a high frequency of collisions, be used to determine what type of violations appear to

contribute to collisions at targeted locations, or be used to evaluate traffic complaints and/or requests for selective enforcement.

2. Effective proactive targeted enforcement activities shall be based on analyses of traffic collision experience with the following provisions:
  - a. The Crime Analysis Unit shall conduct traffic analyses and studies pursuant to requests by the Patrol Major submitted through the appropriate chain of command. When such requests are made the Crime Analysis Unit shall provide a written traffic collision analysis report to the Patrol Major. The Patrol Major shall disseminate the information to appropriate personnel. Analyses of traffic collisions shall include geographic, temporal, and causative factors such as: Kinds of vehicles involved; Environmental factors; Types of violations; Day, date and time of occurrence.
  - b. Data concerning volume of traffic, intersection counts, etc., is available through the City of Kinston Engineering Department.
- F. The Patrol Major shall conduct an annual evaluation of traffic enforcement programs to determine the effectiveness of those efforts. To ensure that traffic enforcement policies are uniform and equitable, mandatory as well as optional enforcement actions exist. Enforcement options include warnings, citations, and physical arrest.
- G. Officers have the option to make a physical arrest under the following circumstances: **(NCLEA 6.19 d) (CALEA 61.1.2 a)**
  1. Violators of traffic laws pertaining to driving while impaired (DWI) statutes except when the offender is hospitalized or similarly incapacitated as a result of the offense.
  2. Whenever a felony has been committed involving a vehicle.
  3. Whenever the operator attempts to elude a law enforcement officer.
  4. When the operator cannot produce sufficient identification to verify his/her identity and he/she is going to be charged with a violation.
  5. Whenever the operator is licensed by a non-reciprocal state.
  6. When the officer has reason to believe that the person will not comply with the summons if issued. Refusal to sign a citation is not reason to believe the person will not comply.
  7. In those cases where physical arrest of traffic violators is authorized by statute, the following procedures will apply:
    - a. The arrestee(s) will be informed of the specific charge(s).
    - b. If the officer intends to question the arrestee(s) about the offense, the arrestee will be advised of his/her Miranda Rights.
    - c. If necessary, the arrestee's vehicle will be towed according to departmental policy and procedure.

- H. In most cases, Officers shall issue a Uniform Traffic Citation for those violators who commit a minor traffic misdemeanor or infraction pursuant to Chapter 20, Motor Vehicle Laws of the North Carolina General Statutes. Should a violator be issued a Traffic Citation, the officer will: explain why the traffic stop was made, write the citation, and explain the contents of the citation. **(CALEA 61.1.2 b)**

1. Preparation of Citations/Reports

Traffic citations and arrest reports form the basis for prosecution of traffic offenders and Kinston Police Departmental guidelines for the preparation and processing of traffic citations.

- a. All written citations will be neatly and legibly printed using a ballpoint pen writing non-erasable black ink or on E-Citation.
  - b. All spaces requiring information relevant to the situation will be completed.
  - c. A court date will be designated according to the officer's assigned court dates.
  - d. The officer shall give the offender the "Defendant's Copy" (pink copy) of the citation or E-citation equivalent.
  - e. Officers shall write any notes in reference to facts about the violation on the "Officer's Copy" of the citation. This copy shall be retained by the officer.
  - f. The "Court's Copy" (original) shall be submitted to the Records Section.
  - g. On non-mandatory court appearance citations, the Officer should inform the citizen of the availability of the appearance opportunity in the Lenoir County Clerk's Office on Friday afternoons between 2:00 p.m. and 4:30 p.m. for guilty pleas before the District Attorney.
2. All North Carolina Uniform State Citation Books shall be issued by a supervisor. The control numbers of the citation book shall be recorded next to the name of the officer receiving the citation book. Citations completed during the officer's tour of duty will be submitted to the on-duty supervisor to be reviewed and forwarded to the Records Section.
3. If an error is made while writing a citation, or if citations have been damaged and are unusable, they may be administratively canceled by the officer. The officer shall write "VOID" across the citation and it must be visible on the copies. All copies will be left in the citation book.
- a. If an officer wishes to void a citation for another reason, the officer may talk to the District Attorney, explaining the reason for the request.
  - b. A supervisor may direct an officer to seek dismissal of a citation if, upon investigation, it appears the citation was improperly or inappropriately issued. This type of dismissal will require the approval of the District Attorney.
  - c. In no case will any department employee cause a traffic citation by another officer to be dismissed, except under the condition previously stated above.
4. Periodic audits of citation books will be accomplished at the direction of the Patrol Major.

5. The officer shall return used citation books to the issuing supervisor. The supervisor shall inspect the used citation book to ensure that all the necessary copies are accounted for, and record the used citation book as being returned, next to the name of the officer submitting the book. The supervisor shall return the used citation books to the assigned supervisor.
  6. Arrest Reports: The officer shall complete an arrest report when a physical arrest of a traffic violator is made. The report will be submitted to the Records Section after review by a supervisor.
  7. Supplemental Reports: Supplemental Reports should be completed when the information concerning an incident is too lengthy to fit on a citation and/or arrest report. A supplemental report will be used when the officer receives information after the original report has been submitted. Supplemental reports will be reviewed by a supervisor and submitted to the Records Section.
- I. Officers may issue verbal or written warnings as a proper enforcement alternative in response to a minor traffic infraction. Verbal warnings or other non-punitive enforcement actions should be substituted for arrests or citations when circumstances warrant. **(CALEA 61.1.2 c)**
1. North Carolina General Statute, Chapter 20, Article 1A and 1B, N.C.G.S. 20-4.1 through GS 20-4.20 govern reciprocity agreements between North Carolina and other states and regulate the circumstances under which an officer may arrest a non-resident for a violation of the motor vehicle laws of North Carolina. States that do not have reciprocity agreements with North Carolina are listed on the front cover of all citation books. Pertinent provisions of these sections are:
    - a. Non-resident members - Violators who are residents of states that have entered a Non-resident Violators Compact with North Carolina are entitled, under certain circumstances, to be issued a citation for certain offenses rather than face arrest and the requirement of posting bond. Violators who are residents of these other states are, for the purpose of this outline, referred to as “non-resident member violators.”
    - b. North Carolina GS 20-4.19 provides that an officer shall issue a citation to a nonresident member violator if the offense is one that would not result in the suspension or revocation of the person’s license under the laws of North Carolina. An officer issuing a nonresident member violator a citation is forbidden from requiring the nonresident member violator to post bond. Furthermore, the officer is required to release the nonresident member violator upon personal recognizance.
    - c. In those circumstances in which a non-resident member violator is issued a citation, executes a personal recognizance, and subsequently fails to comply with the citation, North Carolina General Statute 20-4.19 directs the Clerk’s Office to report the non-compliance to the Division of Motor Vehicles.
  2. All citations issued to and arrests of residents of member or non-member states must be governed by the applicable provisions of North Carolina General Statutes, Chapter 15A. Pertinent provisions of North Carolina General Statute 15A-401(b) authorize an officer to “arrest without a warrant any person whom the officer has probable cause to believe has committed a criminal offense in the officer’s presence.” For offenses committed out of the presence of the officer, an officer may arrest without a warrant any person whom the officer has probable cause to believe has: Committed a felony; 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;

- J. When a juvenile (an individual under 16 years of age) commits a misdemeanor or infraction, the officer shall follow all applicable procedures in accordance with N.C.G.S. 15A-505. An individual 16-18 years of age charged with a misdemeanor or infraction may be issued a Uniform Traffic Citation and processed as an adult (pending the 2019 Juvenile law). In all cases where a juvenile is taken into custody, the officer is responsible for notifying the juvenile's parents of the circumstances as soon as possible.
- K. When issuing a citation to a traffic law violator, officers shall provide the following information: court appearance schedule, whether court appearance by the motorist is mandatory, whether the motorist may be allowed to enter a plea and/or pay the fine by mail or at a specific location, and any other information that must be provided to the motorist prior to release. **(NCLEA 6.19 c) (CALEA 61.1.4)**
- L. The uniform application of enforcement action for traffic violations is based upon principles of sound judgement and consideration of the circumstances and conditions surrounding the violation. Officer discretion is the key to equitable application of traffic law enforcement with the ultimate goal being the achievement of voluntary compliance of traffic laws. The intent of this policy is to set forth general guidelines for uniform enforcement action for routine situations. It is not the intent of this directive to limit the officer's use of judgement, but to encourage each officer to use his training and experience to the fullest extent. The following are general guidelines when encountering the indicated violations. **(NCLEA 6.19 b)**
1. The Department recognizes that drivers impaired by alcohol and/or other intoxicants represent a serious threat to the safety of others. Because of the seriousness of this problem, the department maintains a program that includes provisions for uniform enforcement of DWI laws and public education concerning alcohol/drugs. **(CALEA 61.1.5 a)**
  2. Officers frequently encounter drivers who are unable to produce a valid driver's license. When a driver is unable to produce a valid license, the officer may check through a Mobile Data Terminal when access to a MDT is available. If access to a MDT is not available, the officer should request the Communications Center to check by computer through the Department of Motor Vehicles (DMV) records for the current license status of the driver. If the computer indicates that the driver has a valid license, the officer's actions should then be dictated by the initial violation or contact.
  3. When the driver is unable to produce a valid license, the officer has the discretion to cite the driver under North Carolina GS 20-7(n) for operating a motor vehicle without carrying a license.
  4. If the computerized records indicate an invalid license, and elements exist the officer should cite the driver for not having a valid license under North Carolina GS 20-7(a) unless circumstances that warrant physical arrest (e.g., no supporting driver identification, out of state resident, etc.) exist.
  5. If the computerized records indicate that the driver was issued a operator's license in North Carolina or another state, and the driver's license has been suspended or revoked, and elements exist the officer has the option to cite the driver for driving while license revoked or suspended, under North Carolina GS 20-28, unless circumstances that warrant physical arrest (e.g., no supporting identification, out of state resident) exist. **(CALEA**
  - 6.

### **61.1.5 b)**

7. In either case, the driver should not be allowed to drive away from the traffic stop. If the driver is arrested, the vehicle does not need to be towed if it is legally parked or on private property unless the security of the vehicle or its contents are in jeopardy if left at the scene. **(CALEA 61.1.5 b)**
8. If there is a doubt about the status of a driver's license and verification of the license status cannot be obtained within a short time, and the identity of the driver is confirmed through supporting identification, then the officer should release the driver. The officer may obtain a warrant later if confirmation of the license revocation or suspension is received.
9. If there is a doubt about the status of a driver's license and verification of the license status cannot be obtained within a short time, and the officer cannot confirm the identity of the driver through supporting identification, then the police should arrest the driver and charge the driver with not having a valid license under North Carolina GS 20-7(a).
10. There is no legal defense for exceeding the posted speed limit or for driving faster than conditions permit. Drivers stopped for speed violations, however, may indicate certain factors unknown to the officer prior to the stop that may have contributed to the violation. Officers should exercise discretion when deciding if a warning or a citation is appropriate. Consideration should be given to such factors as weather conditions, traffic volume, pedestrian traffic, and location, while always being mindful that excessive speed correlates directly with high incidence of collisions. **(CALEA 61.1.5 c)**
11. Hazardous violations are those violations that pose a direct hazard to the safe and efficient flow of traffic. These violations contribute substantially to collisions and include reckless driving, moving violations, and other accident-related violations. An officer's enforcement action should be consistent with the severity of the violation. **(CALEA 61.1.5 c)**
12. Off-road recreational vehicles not licensed for street use include, but are not limited to: two-wheeled motorcycles and minibikes manufactured for off-road use; three-wheeled, and four-wheeled motorized "ATV's" (all-terrain vehicles); other motor vehicles modified for off-road use.
13. Officers should enforce registration, insurance, and licensing laws under Chapter 20 of the General Statutes of North Carolina when encountering off-road recreational vehicles being driven on the roadways, or involved in collisions on the roadways.
14. Equipment violations are defined as those violations that render the vehicle unsafe for operation on a public street or highway, i.e., unsafe tires, lights, either headlights or taillights not in operation, loud and/or smoking exhaust systems, and inspection not current. An officer's enforcement action should be consistent with the severity of the violation and the existing circumstances. **(CALEA 61.1.5 d)**
15. Public and commercial carriers who violate traffic laws will be treated in the same manner as the general public. **(CALEA 61.1.5 e)**
16. Enforcement efforts for nonhazardous traffic violations will be guided by officer discretion.
  - a. When multiple violations are committed by a single individual and arise from a

continuous activity, the enforcement action shall be predicated on the most serious offense committed consistent with the enforcement policy described in this directive. Officers may consolidate multiple violations in a single citation or complaint in the following situations: when the complaint incorporates all of the simultaneous violations; when the citation addresses overlapping or simultaneous violations. **(CALEA 61.1.5 f)**

- b. Officers may issue less than the authorized number of citations when it does not compromise their investigative and enforcement responsibilities and it accomplishes a legitimate police purpose, or they may incorporate all charges into a reckless driving charge under North Carolina GS 20-140. In all cases of multiple violations, the enforcement action taken should be sufficient to support a comprehensive and complete prosecutorial effort.

17. Traffic Collisions and/or Misdemeanor Death by Vehicle

- a. Officers shall be responsible for responding to, investigating and reporting traffic collisions that occur within the jurisdiction of the Department and shall take enforcement action when such action is appropriate.
- b. Officers should enforce the bicycle laws mandated in Chapter 20 of the General Statutes of North Carolina in areas where the congestion and frequency of traffic collisions involving bicycles is predominant. Officers should exercise discretion in enforcing bicycle laws in areas where there is minimal traffic flow, unobstructed visibility, and few bicycle-involved traffic collisions. **(CALEA 61.1.5 i)**

M. Based on the premise that patrol in a marked vehicle is the most effective deterrent to traffic law violators, officers will be alert to the occurrence of violations while engaged in patrol duties and shall devote a portion of their duty tours to selective traffic law enforcement through the use of the following patrol techniques:

- 1. Area Traffic Patrol - The part of law enforcement traffic supervision that consists of driving an area or roadway for the purpose of providing protection, security, and service to the public patrol or stationary observation in an area that includes a number of streets, roads, or sections of highway.
- 2. Line Traffic Patrol - Moving patrol or stationary observation on a specified route between two points, usually on one street or a section of a highway.
- 3. Directed Traffic Patrol - Traffic enforcement or the assignment of personnel to traffic enforcement activities at times and locations where hazardous or congested conditions exist. Such assignments are usually based on such factors as traffic volume, collision experience, frequency of traffic violations, and emergency and service needs.
- 4. Covert or Overt Stationary Observation - Traffic observation at a selected place, usually one with an unfavorable collision experience or traffic flow problem for traffic law enforcement purposes - especially to detect violations and deter possible violators. When utilizing stationary patrol tactics, officers will park in such a manner so as not to impede or interfere with the traffic flow.
  - a. Covert stationary observation may be conducted in which the observer is not visible to persons, using ordinary powers of observation, from the roadway being observed. Overt stationary patrol may be conducted in which the observer is in full view but so located, such as on a side street, that effort is



required by those in the traffic stream to discover the observer.

- b. Use of Unmarked or Unconventional Vehicles - In all cases, the patrol tactics adopted should be suited to the enforcement objective. When appropriate, unmarked vehicles may be used to accomplish a traffic enforcement purpose. At all times, however, the actions of the officer shall be reasonable and consistent with the department's traffic enforcement policy. Officers will drive patrol vehicles in compliance with existing laws and in such a manner as to demonstrate exemplary driving behavior.
- 5. Roadside Safety Checks - Stationary traffic observation and intervention at selected places shall be used to assure the enforcement of safety requirements such as seat belts; child safety seats, Driving While Impaired checks, inspection stickers, etc.
- 6. Officers shall use emergency equipment only when required by the nature of their dispatched assignment, or when situations confronting them indicate the need for the use of emergency equipment. North Carolina General Statute 20-156 (b) and General Statute 20-145 does not protect officers operating vehicles and emergency equipment from the consequences of reckless disregard of the safety of others.
- 7. Emergency lights shall be used in the following circumstances:
  - a. In accordance with the provisions of Department Policy, regarding pursuit driving and procedures for responding to routine, urgent, and emergency calls
  - b. When stopping traffic violators
  - c. When assisting motorists who are parked or stopped in hazardous locations
  - d. When a patrol vehicle is stopped or parked on the roadway while the officer attends to a hazardous condition, or other circumstance such as traffic direction.
- 8. Sirens shall be used in the following circumstances:
  - a. The siren is to be used simultaneously with the emergency lights when in a pursuit situation or an emergency situation.
  - b. The siren may be used to signal drivers to stop or yield the right of way when other means of attracting the driver's attention have failed.
  - c. Hazardous Warning Lights may be used when a patrol vehicle is stopped or parked in the roadway to supplement the emergency lights.
- N. Traffic law enforcement is one of the many tasks performed by officers. For the traffic violator, it is frequently a stressful experience. The officer should be aware of this and should strive to make each contact informative. The officer should leave the traffic violator with the impression that the officer has performed a necessary task in a professional and friendly way. Traffic stops have two objectives that the officer seeks to achieve.

The first objective is to take appropriate enforcement action, and the second is to alter favorably the violator's future driving behavior. This requires a thorough understanding of human relations and demands flexibility on the part of the officer.

The following procedures are recommended to minimize conflict they may develop between the officer and the traffic violator and to assist the officer in achieving the two objectives. Once the

officer has stopped the traffic violator and approached to a point where communication can begin, the officer shall provide his department name (Officer xxx of the Kinston Police Department) and the purpose for the vehicle stop.

- O. Traffic safety educational materials will be made available, upon request and availability, through appropriate components of the Kinston Police Department.