 Kinston Police Department	<u>POLICY: Consular & Military Personnel</u>						<u>POLICY #:</u> 700-8
	<u>NCLEA Standards: 9.07:</u>						
	<u>NCLM Standards:</u>						Effective Date:
<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised	Revision Dates:	01/01/21					07-01-2019
Approval: Chief of Police							

I. PURPOSE


The purpose of this policy is to establish guidelines for personnel when dealing with members of a consulate and/or the military.

II. DEFINITIONS

- A. Consular: A consul is an official representative of the government of one state in the territory of another, normally acting to assist and protect the citizens of the consul's own country, and to facilitate trade and friendship between the people of the two countries.


III. POLICY

- A. Members of the United States Congress will, in all cases except treason, felony and breach of the peace, be immune from arrest during their attendance at the session of their respective house, in going to and returning from the same, and for any speech or debate in either house.
- B. For the Governor, Lieutenant Governor, Attorney General, State Supreme Court Justices and members of the State Legislature, there are no North Carolina laws that exempt any state, or local official, either appointed or elected, from federal, state or local laws. The issuance of a traffic citation, warning ticket (or verbal warning), or a physical arrest in those cases where physical arrest is authorized, is allowed.
- C. Ambassadors and ministers are the highest ranking diplomatic representatives of a foreign government. Other diplomatic titles are Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary, and Attaché. These officials are located either in Washington, DC, or in New York City. Diplomatic officers, their families, official staff, and servants, who are not nationals of or permanently reside in the receiving state, are protected by unlimited immunity from arrest, detention, or prosecution with respect to any civil or criminal offense.
- D. Consular officers are Consuls-General, Deputy Consuls-General, Consuls, and vice consuls. They are also official representatives of foreign governments. Consular officers are required to be treated with due respect, and all appropriate steps are to be taken to prevent any attack on their person, freedom, or dignity. They are entitled to limited immunities and considerations as described below:
- Immunities: Under prevailing international law and agreement, a foreign consular Officer is not liable to arrest or detention pending trial, except in the case of a grave crime (felony offense that would endanger the public safety) and pursuant to a decision by the competent judicial authority. This immunity for criminal jurisdiction is limited to

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acts performed in the exercise of consular functions and is subject to court determination.

2. Identification: Career Consular Officers can be identified by credentials issued by the State Department and by other locally issued official identification papers. The State Department credential bears its seal, the name of the officer, his title, and the signature of the State Department officials.
3. Honorary Consuls: Often nationals or permanent residents of the receiving state are appointed and received as Honorary Consular Officers to perform the functions generally performed by Career Consular Officers. Such officers do not receive identification cards from the State Department of the type issued to Career Consular Officers, though they may exhibit reduced-sized copies of the executor or diplomatic note evidencing recognition by the United States Government. These individuals are not immune from arrest or detention. They are also not entitled to personal immunity from the civil and criminal jurisdiction of the receiving state, except as to official acts performed in the exercise of their consular functions. However, appropriate steps must be provided to accord them the protection required by virtue of their official positions.
4. Family of Consular Officers: Family members of Consular Officers do not enjoy the same privileges and immunities with respect to the civil and criminal jurisdiction of the receiving state as to Consular Officers; however, they should be accorded appropriate courtesy and respect.
5. Consular premises: Consular premises used exclusively for the work of the consular post cannot be entered without explicit permission of the head of the consular post or designee or by the head of the diplomatic mission. This permission may be assumed in the case of fire or other disaster that may require prompt protection action.
 - a. Methods of handling selected incident violations or minor offenses committed by Consular Officers:
 - i. Moving violations: When a Consular Officer is stopped for moving violation, the officer on the scene, upon being advised by the driver that the individual is consular Officer and verifying that the consular Officer possesses the proper credentials, should exercise discretion based on the nature of the violation and either let the Consular Officer go with a warning of the danger of the actions or proceed with issuance of the appropriate citation. Mere issuance of a traffic citation does not constitute arrest or detention in the sense referred to above.
 - ii. Driving while impaired: The primary consideration in this instance should be to see that the Consular Officer is not a danger to himself or the

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public. Based upon a determination of the circumstances, these options are available:

- Take the Consul to a telephone so that the Consul can call a relative or a friend to come for the consul.
 - Take the Consular Officer home.
- b. Offenses involving family members: Family members of a Consular Officer cannot claim immunity. However, consideration should be given to the special nature of this type of case.
- c. Reporting incidents to the Office of the Governor: If a Consular Officer or member of the Consul's family is stopped and cited by an officer for an alleged violation of municipal or state laws, the Office of the Governor shall be notified and furnished with all pertinent information. This notification will be made by the Director or a designee.
- E. Armed forces personnel, for purposes of this policy, shall include regular members of the Army, Navy, Air Force, Marine Corps, Coast Guard, and reservists who are on active duty. Generally, no person who is a member of an organized militia is subject to arrest while going to, remaining at, or returning from any place at which that individual may be required to attend for military purposes. However, on occasion, it may be necessary to issue a traffic citation, affect a physical arrest, or investigate a traffic collision involving a member of the armed forces.
1. Traffic Collision: The above also shall apply when armed forces personnel are involved in a traffic collision and either are killed or injured to the extent that they require hospitalization. In this latter case, it will also apply to civilian employees of the armed forces when acting within the scope of their employment.
 2. Military Personnel/Nonresidents: Military personnel whose permanent residence and/or permanent duty station is located outside the state of North Carolina will be treated as nonresidents.