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|  Kinston Police Department | <u>POLICY: Use of Force</u> | | | | | | <u>POLICY #:</u> 800-1 |
| | <u>NCLEA Standards: 1.25; 2.03; 5.01; 5.02; 5.03; 5.06; 5.07; 5.09;</u> | | | | | | |
| | <u>CALEA Standards: 1.2.10; 4.1.1; 4.1.2; 4.1.6; 4.1.7; 4.2.1; 4.2.4; 4.3.2; 4.3.3; 41.1.5</u> | | | | | | |
| | <u>NCLM Standards: I.2; II.1; II.2; II.3; II.10; II.20;</u> | | | | | | |
| <input type="checkbox"/> New <input checked="" type="checkbox"/> Revised | Revision Dates: | 01/01/21 | 06/01/22 | 1/5/26 | | | Effective Date: 07-01-2019 |
| Approval: Chief of Police | | | | | | | |

I. PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner. An officer shall use only that force reasonably necessary to bring an incident under control effectively. Every attempt should be made to de-escalate an incident prior to the use of force if practical. **(CALEA 4.1.1) (NCLEA 5.01)**

II. DEFINITIONS

Definitions related to this policy include:

- a. **Aerosol/Chemical Agents (OC):** The use of Oleoresin Capsicum or other chemical agents to control resistance and/or end flight.
- b. **Canine:** canine handlers will utilize their assigned departmental service dogs in a manner consistent with KPD training and guidelines. If the department canine is deployed, and the canine bites a suspect, this will be considered a less lethal use of force. The mere release of department canine is not considered a use of force.
- c. **Choke Hold:** Any technique restricting the intake of oxygen for the purpose of gaining control of a subject.
- d. **Conducted Electrical Weapon:** A device which deploys electric current into a subject's body to affect the central nervous system.
- e. **Deadly Force:** That force which is readily capable of inflicting serious bodily injury or death.
- f. **Force:** The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.
- g. **Less Lethal Weapons:** Impact weapons utilized in a manner consistent with current Kinston Police Department training, in order to reduce the probability of serious bodily injury. This includes the collapsible baton, OC spray, CEWs, bean bag munitions and SAGE weapons.
- h. **Physical Control:** The use of bodily contact, to include; touching, assisting, grabbing, joint manipulations, kicking or striking. Physical control includes "soft" and "hard" hand options. "Soft" hand techniques are those with a low probability of injury, such as joint locks and pressure points. "Hard" hand techniques are those with a higher risk of injury to include, punches, kicks or stuns.

- i. **Passive resistance:** Resistance without any accompanying action. Examples include, but are not limited to: sitting/standing and refusing, either verbally or non-verbally to move, when given a lawful command; using arms and/or legs to wrap around an object to avoid being moved. While attempting to use soft-hand techniques, passively resistant suspects may become actively resistant, usually by pulling away, swinging their limbs, fleeing, or becoming assaultive. If/when that happens, the officer should respond to the increased level of force displayed by the suspect.
- j. **Active resistance:** Is the level of resistance shown by suspects who display affirmative behavior in defiance of verbal or physical efforts at control by officers. Examples include, but are not limited to, jerking limbs away during attempts at handcuffing, shouting “leave me alone!”, or attempting to run away. This type of resistant suspect is likely the most frequently encountered by officers.
- k. **Assaultive resistance:** Is defined as the suspect’s showing by his/her words or actions that he/she clearly intends to resist the officer by causing harm to the officer or someone else. The assaultive resistant suspect, rather than pulling or running away, turns to confront the officer and may either advance on the officer or indicate that if the officer performs a lawful duty, the suspect will assault, rather than comply with or flee from, the officer. This group is the one most likely to fall into the area of “risk of imminent danger” such that officers would be justified in using objectively reasonable force to overcome the resistance.
 - NOTE: Stunning techniques to the neck (brachial plexus origin) are appropriate in cases of an aggressive assault and/or high level of resistance of such a manner the assault/resistance approaches a situation in which deadly force would be appropriate.
- l. **Presence:** A form of psychological force established through the officers appearance and demeanor at a scene.
- m. **Reasonable Belief:** That set of facts or circumstances that would cause a reasonable person in the officers position to believe it was actually or apparently necessary to use the force which was actually used. (CALEA 4.1.2)
- n. **Serious Bodily Injury:** That which creates a substantial risk of death. It may cause serious permanent disfigurement or result in long-term loss of the function of a bodily member or organ. (CALEA 4.1.2)
- o. **Vascular Neck Restriction:** Any use of force application intended to gain control of a subject by restricting blood flow to the brain for the purpose of incapacitation.
- p. **Verbal Direction/Control:** The verbiage utilized by an officer to control or de-escalate a situation.

III. POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers should always attempt to de-escalate an incident, if possible using communication, tactical repositioning and distance to gain time. Appropriate back-up units and supervisory assistance should be considered if circumstances allow.

Officers must understand, and have a true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties. Recognizing that the legal and moral obligation is to use force wisely and judiciously, it is the policy of the Kinston Police Department that deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted. This requires that deadly force only be used as a last resort, after all methods, including verbal requests and the use of less than deadly force, have been tried and not

succeeded. An officer is required to use reasonable alternatives, if available. For example, an officer need not hesitate to employ deadly force against an individual who is shooting at him / her. He /She should, of course, use his/her weapon in such a manner as not to endanger the lives of innocent bystanders or fellow officers, but he/she is not required to seek alternatives to deadly force if he/she is under immediate attack on his or other's lives.

The Kinston Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests. **(CALEA 4.1.1) (NCLEA 5.01)**

IV. DUTY TO INTERVENE (CALEA 1.2.10)

Any officer present and observing another law enforcement officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force. A officer who observes another use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

V. USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Only department personnel demonstrating proficiency in the use of departmental-authorized weapons are approved to carry such weapons. **(CALEA 4.3.2)**

This policy governs all members of this agency who are sworn as officers.

VI. USE OF FORCE IN SELF-DEFENSE, DEFENSE OF OTHERS, OR TO EFFECT AN ARREST

An officer may use necessary force to effect an arrest. (N.C.G.S. § 15A-401(d)):

- a. When a situation exists, wherein an officer determines there is a reasonable belief of the need to use force upon another person, all such uses of force will comply with the provisions of North Carolina General Statute 15A-401(d). This Statute allows those officers are justified in using force upon another person:
 1. When the officer reasonably believes the force is necessary
 2. And to the extent the officer reasonably believes the force is necessary. Officers may use this reasonable force to:
 - i. Prevent the escape, or effect the arrest of, a person whom the officer reasonably believes has committed a criminal offense. This provision does not apply to any arrest which the officer knows to be unauthorized.
 - ii. Defend him / herself, or other person, from what the officer reasonably believes is the use, or imminent use of, physical force. This provision applies to situations where a officer is affecting or attempting to affect an arrest, or while the officer is preventing or attempting to prevent an escape.

- b. Officers will rely on the standards as set forth in N.C.G.S. 15A-401(d) (2) to determine if the use of deadly force is appropriate. N.C.G.S. 15A-401(d)(2) (a, b &c) allows that officers are justified in using deadly force upon another person when the officer reasonably believes deadly force is necessary; **(CALEA 4.1.2) (NCLEA 5.03)**
 - 1. To defend the officer, or another person, from what the officer reasonably believes to be the use or imminent use of deadly physical force. **(CALEA 4.1.2)**
 - 2. To effect the arrest, or prevent the escape from custody of, a person whom the officer reasonably believes is attempting to escape by means of a deadly weapon. **(CALEA 4.1.2)**
 - 3. To effect the arrest, or prevent the escape from custody of, a person whom the officer reasonably believes presents an imminent threat of death or serious physical injury to others unless apprehended without delay. **(CALEA 4.1.2)**
 - 4. N.C.G.S 15A-401(d) (2)(c) speaks to the use of deadly force by a officer to “prevent the escape of a person from custody imposed upon him/her as a result of conviction for a felony”. This provision is written primarily for prison and jail staffs and will not be considered by Kinston Police Department officers when determining if the use of deadly force is appropriate. Refer to paragraphs “a” and “b” above. **(CALEA 4.1.2)**

Request assistance from a private person when effecting an arrest or preventing an escape. In such cases, the person summoned to assist has the same authority as the officer (N.C.G.S. § 15A-405). The private person is not required to provide assistance in making an arrest or preventing escape.

V. FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- a. Immediacy and severity of the threat to officers or others.
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c. Officer/subject factors (i.e., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- d. The effects of drugs or alcohol.
- e. Individual’s mental state or capacity.
- f. Proximity of weapons or dangerous improvised devices.
- g. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- h. The availability of other options and their possible effectiveness.
- i. Seriousness of the suspected offense or reason for contact with the individual.
- j. Training and experience of the officer.
- k. Potential for injury to officers, suspects and others.
- l. Whether the individual appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- m. The risk and reasonably foreseeable consequences of escape.
- n. The apparent need for immediate control of the individual or a prompt resolution of the situation.
- o. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- p. Prior contacts with the individual or awareness of any propensity for violence.
- q. Any other exigent circumstances.

VI. USE OF AUTHORIZED LESS LETHAL WEAPONS (CALEA 4.1.4)

The subject control options listed below are intended as a guide. The subject control options are listed in the order of least amount of force, i.e. presence, to the highest level of force, i.e. deadly force. This list does not necessarily follow a preset order of escalation. An officer's decision to utilize any force in a situation is a response to the behavior of the subject(s) involved, and other relevant factors known to the officer. For example, based upon an officer's assessment of the totality of the circumstances, it may be reasonable to immediately use an electronic impulse device, or even deadly force, without first attempting lesser force. An officer must also continually assess the totality of the circumstances and escalate, de-escalate, or completely cease the use of any force. The options are:

- Presence
- Verbal Direction/Control
- Physical Control
- Aerosol/Chemical Agents
- Intermediate Weapons
- Law Enforcement Canine (**CALEA 41.1.5. i**)
- Conducted Electrical Weapon
- Deadly Force

Officers should rely on lower levels of force to control an individual prior to resorting to higher levels of force, unless the suspect's actions or other situations preclude such an approach. For example, the close proximity of officers or innocent bystanders in a confined area might rule out the use of OC Spray. Officers must be prepared to document on a Use of Force Report reasons for escalating to a given level of force. The level of non-deadly force, progressing from lower to higher, are defined as follows:

- a. Physical Presence (deterrent). In general, Officers should strive for numerical superiority and mere presence to control low threat situations.
- b. Verbal Commands. Verbal commands must be given in a concise manner likely to be understood by the suspect. The subject must be allowed an opportunity to comply with verbal commands unless violence or other circumstances are already occurring which would make total reliance on verbal commands inappropriate.
- c. Restraining Techniques. The use of restraining techniques consists of come-along holds or other grabbing techniques which do not involve an actual striking of the subject being controlled and where the risk of injury is minimal. Restraining techniques do not include vascular neck restrictions or chokeholds. These techniques are a use of deadly force and are prohibited for the purpose of gaining control of a suspect. (**CALEA 4.1.6, 4.1.7**)
- d. OC Spray. The use of OC spray consists of the use of police department issued, handheld chemical aerosols that are not likely to cause injury. OC Spray may be used at the discretion of the officer. This can be done at any point in the continuum at which the suspect begins to make aggressive actions toward or against the officer. (Refer to Policy 800-4 Weapon Use on use of OC Spray).
- e. Striking Techniques. Striking techniques involve the use of the standard expandable baton, riot baton or parts of the body, such as the hands or feet, which may be used both offensively and defensively.

- f. Striking techniques involve physical force where some risks of injury are to be expected. When possible, avoid striking the vital areas of the temples, eyes, throat and genital area. (Refer to Policy 800-4 Weapon Use on use of Impact Weapons).
- g. Conducted Energy Device. The use of a conducted energy device consists of the use of Police Departments issued device. This device in some cases has resulted in death. It is still a less than lethal option for officers to use in certain situations where the threat of imminent danger to the officer or another of serious injury or death is present but has not elevated to the degree of lethal force. (Refer to Policy 800-4 Weapon Use on use of the conducted energy device).

VII. STRANGLE/CHOKE HOLDS AND HEAD BLOWS WITH IMPACT WEAPONS:

- a. Strangle and choke holds and other similar holds that choke or restrict a person's ability to breathe or the flow of blood to the brain are prohibited except when the officer reasonably believes there is an imminent threat of serious physical injury or death to himself/herself or a third person and that he/she has no other reasonable alternative for defending himself/herself or another person. **(NCLEA 5.02)**
- b. An officer's use of any inanimate object to strike a blow to a person's head is prohibited, except when the officer reasonably believes there is an imminent threat of serious physical injury or death to himself/herself or a third person and that he/she has no other reasonable alternative for defending himself/herself or another person.

VIII. DISPLAY OF FIREARM

- a. Except for general maintenance, storage, or authorized training, officers should not draw, point, or exhibit their firearms unless circumstances create reasonable cause to believe that it may be necessary to lawfully use the weapon in conformance with state law and departmental directives.
- b. The pointing of a firearm toward another person constitutes a use of force but does not constitute the use of deadly force. After such an incident occurs, the officer will verbally notify his/her supervisor as soon as possible, complete an Incident Report, if appropriate, or written memorandum detailing the circumstances of the incident and forward through his/her supervisor to the Shift Captain.
- c. The Shift Captain will conduct a preliminary investigation of the incident and will submit an overview memorandum to the appropriate Major, along with the Incident Report or officer's memorandum. The appropriate Major, will review all reports and may refer the incident to the Professional Services Division for further follow-up. The appropriate Major, will advise the Chief of Police of the incident and any recommendations. A Use of Force Form should be completed if weapon is pointed at subject except during a SWAT operation
- d. **Officers are prohibited from discharging their firearms for the purpose of firing warning shots. (NCLEA 5.09)**

IX. USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

X. DEADLY FORCE APPLICATION (CALEA 4.1.2)

Deadly Force is defined by any means of force likely to cause serious physical injury or death. "Serious physical injury" means bodily injury which causes serious permanent disfigurement, or which causes permanent or protracted loss, or impairment of the function of any bodily member or organ.

The discharge of a firearm by an officer is always deadly force. If feasible, an officer will issue a warning before resorting to deadly force.

Use of deadly force is justified in the following circumstances:

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- b. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible. Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:
 1. The individual has a weapon or is attempting to access one and it is reasonable to believe the individual intends to use it against the officer or another.
 2. The individual is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the individual intends to do so.
 3. It is necessary to effect an arrest or to prevent the escape from custody of a person who he/she reasonably believes is attempting to escape by means of a deadly weapon, or who by the individual's conduct or any other means indicates that he/she presents an imminent threat of death or serious physical injury to others unless apprehended without delay (N.C.G.S. 15A-401(d)(2)). Deadly force may be used under the following circumstances:
 4. As a last resort in the defense of oneself, when there is reasonable cause to believe that one is in imminent danger of death or great bodily harm.
 5. As a last resort in the defense of another person, or persons, whom the officer has reasonable cause to believe is being unlawfully attacked and is in imminent danger of death or great bodily harm.
 6. Deadly force may be used, after all other means of capture are exhausted, to effect the arrest or prevent the escape of a suspect whom the officer has reasonable cause to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force, and the officer reasonably believes the suspect cannot be apprehended later without the use of deadly force.

Use of a deadly weapon or deadly force to resist arrest (N.C.G.S. 15A-401(f)):

- A person is not justified in using a deadly weapon or deadly force to resist an arrest by an officer using reasonable force, when the person knows or has reason to know that the officer is a law-enforcement officer and that the officer is effecting or attempting to effect an arrest.
- The fact that the arrest was not authorized under this section is no defense to an otherwise valid

criminal charge arising out of the use of such deadly weapon or deadly force.

Neither of the two items above shall be construed to excuse or justify the unreasonable or excessive force by a officer in effecting an arrest N.C.G.S. 15A-401(f) (2).

The use of deadly force against an animal is justified for self-defense, defense of a third person or the euthanizing of an injured undomesticated animal.

If a domesticated animal is injured badly and requires relief from suffering, an Animal Control Officer should be notified.

If an undomesticated animal is injured badly and requires relief from suffering the Supervisor may authorize an officer to euthanize the animal with their agency issued primary handgun. When euthanizing the animal, the officer will ensure a safe line of fire and take care to avoid the possible deflection of projectiles. The officer shall also attempt to minimize civilian exposure to the euthanizing of the animal.

Any discharge of firearm will result in the officer filing a Use of Force report - The discharge of firearm by an officer, either deliberate or accidental, is to be reported immediately to a supervisor (would not apply during approved training). A use of force report is to be forwarded to the appropriate supervisor and Professional Services Internal Affairs Sergeant. **(NCLEA 5.06)**

XI. SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. If reasonably possible officers should move out of the path of an approaching vehicle instead of discharging their firearms at the vehicle or any of its occupants. A officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

XII. REPORTING THE USE OF FORCE (NCLEA 5.04)

Any use of force by a member of this office shall be documented promptly, completely and accurately in an appropriate incident report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Office may require the completion of additional report forms, as specified in office policy, procedure or law.

- a. Mere physical restraint is defined as physically overpowering without striking or using weapons. Scuffling, holding, tackling, or the application of assisted come-alongs, etc., may or may not be mere restraint, depending on the circumstances. Whenever doubt exists as to whether the level of restraint/control used constitutes a reportable use of force, an immediate supervisor will be notified of the incident and the supervisor will make the determination.
- b. Whenever an employee uses force against another person, immediate notification of the employee's supervisor is required. The officer shall complete a "Use of Force Report", in addition to any other incident or arrest reports, prior to the end of the officer's tour of duty.
- c. The following situations are reportable uses of force:
 1. Discharging a firearm, for other than training or recreational purposes; **(CALEA 4.2.1 a)**
 2. Taking an action that results in, or is alleged to have resulted in injury or death to another person; **(CALEA 4.2.1 b)**
 3. Applying force through the use of any lethal or less than lethal weapons; **(CALEA 4.2.1 c)**

4. Applying force through weaponless physical force, including the use of subject control techniques; **(CALEA 4.2.1 d)**
5. The use of the Precision Immobilization Technique
6. Apprehension / Enforcement Canine bite **(CALEA 41.1.5f)**

Use of force reports shall be completed by the officer and turned into their immediate supervisor. Once the supervisor approves the use of force report it shall be forwarded through the chain of command to the Office of Professional Standards. **(CALEA 4.2.2)**

XIII. MEDICAL CONSIDERATION & ASSESSMENT

Whenever law enforcement actions in which injuries have been sustained, obvious severe injuries have occurred, medical distress is apparent or the individual is unconscious the officer will determine the physical condition of any injured person and render first aid when appropriate, and ensure the individual receives appropriate medical treatment by activating the emergency medical system. **(CALEA 4.1.5) (NCLEA 5.07)**

XIV. SUPERVISOR RESPONSIBILITIES

When a supervisor responds to an incident in which there has been a reported application of force, the supervisor is expected to:

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. Notify the On-Call Administrator if serious injury or death occurs
- d. If a firearm was used as deadly force, a supervisor will take the weapon from the officer and submit it to the Evidence Custodian for entry as evidence. If possible, the officer's supervisor should take the weapon from the officer after returning to the department. The weapon will be handled in the same manner as any other firearm seized as evidence. Another firearm will be issued and training will be conducted only after receiving approval by the Chief of Police or appropriate Major.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

The Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

XV. INVESTIGATION OF DEADLY FORCE

- a. Should a death result from a use of force a The Chief of Police may request that the State Bureau of Investigation (SBI) assume responsibility for any criminal investigation arising from an incident involving the use of deadly force (see Kinston Police Department Policy and Procedure 200-15 for additional policy for Officer Involved Shootings).
- b. An administrative investigation will be conducted for each incident involving the use of deadly force. This investigation will be the responsibility of the Professional Standards Section and will be subordinate to any criminal investigation.
- c. The Chief of Police will submit deadly force data to the Uniform Crime Records Section of the Federal Bureau of Investigation (FBI) for every incident that culminates in the death of a citizen as a result of the use of force by a police officer employed by the department.
- d. The department will compile data on every non-training shot fired by departmental employees.

- e. An officer directly involved in an incident involving the use of deadly force, that results in serious physical injury or death, will be placed on non-disciplinary suspension or will be assigned to an administrative duty assignment, as designated by the Chief of Police, during the investigation of the incident. This action is taken in order to protect the interests of the individuals involved, and the department, while an investigation is being conducted and does not imply or indicate that the officer acted improperly.
- f. If on non-disciplinary suspension without an administrative duty assignment, the officer will remain available for departmental interview and will be subject to recall to duty at any time. Upon returning to duty, the officer may be assigned to an administrative duty assignment for a period of time determined appropriate by the Chief of Police.

XVI. TRAINING

Officers will receive annual training on this policy and demonstrate their knowledge and understanding (12 NCAC 9E.0105; 12 NCAC 10B.2103). **(CALEA 4.3.3) (CALEA 4.1.2)**

XVII. REVIEW OF USE OF FORCE REPORTS (CALEA 4.2.2) (NCLEA 5.04)

- a. Use of Force Reports are used to determine personnel compliance with policy and are therefore part of the officer's personnel file and not subject to disclosure to the public.
- b. Use of Force Reports shall be promptly submitted to the on-duty supervisor by the primary officer using lethal or less-lethal force, within a timely fashion. The on-duty supervisor shall review, approve, and forward to the Professional Services Division through the chain of command.
- c. The Professional Services Division Sergeant will review each use of force report when received.
- d. The Professional Services Division Sergeant will have access to all available documents concerning the incident, including copies of investigative reports.
- e. The Professional Services Division Sergeant may solicit testimony from officers and witnesses.
- f. The Professional Services Division Sergeant will develop findings and make recommendations to the Chief of Police in consideration of the following:
 - 1. Compliance with departmental directives;
 - 2. Tactics used;
 - 3. Training issues;
 - 4. Quality of supervision;
 - 5. Disciplinary issues and;
 - 6. Critique of post-incident investigation
- g. The Professional Services Division Sergeant shall submit a comprehensive Use of Force Analysis on an annual basis, or as directed by the Chief of Police, to include:
 - 1. Date and time of incidents **(CALEA 4.2.4 a)**
 - 2. Impact of findings on policies, practices, equipment, and training **(CALEA 4.2.4 e)**
 - 3. Trends or patterns resulting in injury to any person including employees, and; **(CALEA 4.2.4 d)**
 - 4. Trends or patterns related to race, age and gender of subjects involved **(CALEA 4.2.4 c)**
 - 5. Types of encounters resulting in use of force **(CALEA 4.2.4 b)**
- h. The Kinston Police Department will follow Senate Bill 300 procedure and notify the Criminal Justice Standards Division when an officer is involved in a critical incident to include, an incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.
- i. The SBI will be contacted by the Chief of Police or District Attorney to investigate and prepare evidence if a sworn law enforcement officer with the power to arrest uses force against an individual in the performance of the officer's duties that results in the death or serious bodily injury of the individual.

XVIII. IMPROPER USE OF FIREARMS OR OTHER DEADLY FORCE

- a. A officer shall not deliberately strike another person with any impact weapon, whether an issued weapon or any other weapon, on the head, in the groin, solar plexus, throat, kidneys or on the spinal column unless the officer reasonably believes a situation exists in which deadly force would be appropriate to protect him/herself, or a third party.
- b. Officers will be subject to disciplinary action if the use of a firearm or other deadly force involves :
 1. A violation of the law by the officer
 2. A violation of departmental policies
 3. Disregard for public safety
 4. Misconduct on the officer's part
 5. Accidental discharge through carelessness or recklessness
 6. Firing of "warning shots"
 7. Other poor judgment involving the use of a firearm or other deadly force

XIX. EIGHT CAN'T WAIT

- a. The Kinston Police Department values the strong relationships we have developed with our community. We strive to protect and serve with the utmost integrity. We continually invest in our officers by sending them to various trainings that focus on de-escalating situations, crisis intervention and principled policing centered on justice, neutrality and addressing implicit biases. New laws, court decisions, City Council policies, new methodologies and other factors dictate the need for a continual review of these policies, initiating revisions where necessary and appropriate.
- b. The Kinston Police Department has implemented policy and practices that align with the National Campaign 'Eight Can't Wait' Recommendations. We have reviewed and revised all policies to align with the recommendations of 'Eight Can't Wait' recommendations and to reinforce the prioritization of de-escalation training and anti-racism in community policing.

