

 <b>Kinston Police Department</b>	<b><u>POLICY: Law Enforcement Supply Office 1033 Program (LESO)</u></b>						<b><u>POLICY #:</u></b>  <b>100-21</b>
	<b><u>NCLEA Standards:</u></b>						
	<b><u>CALEA Standards:</u></b>						
	<b><u>NCLM Standards:</u></b>						
<b>X New</b> <b>□ Revised</b>		<b>Revision Dates:</b>	01/07/25				<b>Effective Date:</b> <b>12-01-2022</b>
<b>Approval: Chief of Police</b>							

## I. PURPOSE

The purpose of this policy is to establish clear standards for the acquisition of surplus military or Department of Defense (DoD) equipment for law enforcement operational.

## II. DEFINITIONS

A. LEA – Law Enforcement Agency

## III. POLICY

The Secretary of Defense is authorized by 10 USC § 2576a to transfer Federal and State/territory Law Enforcement Agencies (LEAs), personal property that is excess the needs of the DoD, including small arms and ammunition, that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with preferences for counterdrug/counter-terrorism or border security activities, under such terms prescribed by the Secretary. Authority to manage the program is delegated to the DLA and administered as the LESO Program or 1033 Program. Local agencies are admitted into the program through a State Coordinator and governed by a State Plan of Operation which outlines the terms in which the local agency must abide by. The State Plan of Operation is Annex I.

### A. Terms and Conditions

The Kinston Police Department is a municipal agency under the LESO Program and reports to the North Carolina State Point of Contact (SPOC) who in turn reports to the State Coordinator.

1. Kinston PD shall adhere to its responsibilities laid out in Annex I.
2. In addition, Kinston PD shall regulate its use of property and controlled property as outlined.

### B. Training

1. Any property received by Kinston PD that requires specific training will not be placed into service until the appropriate training has taken place and documented in the Kinston PD training database.
2. Any controlled property, in addition to initial training, may require annual on-going training for use, storage and maintenance. This training shall also be documented by the KPD training division.

**C. Acquisition of Controlled Property**

1. Prior to the acquisition of controlled property, the Chief of Police shall have the authorization of the city council.
2. All controlled property shall be stored in secure City of Kinston owned facilities or property.
3. Weapons
  - a) Any weapons transferred to the Kinston Police Department shall only be used for law enforcement purposes.
  - b) Any armor or armored vehicles transferred to the Kinston Police Department shall be used in accordance with legitimate law enforcement purposes for the preservation of human life in response criminal incidents, counter-drug or counter-terrorism, natural and man-made disasters, or other incidents that pose a significant risk to life.
4. Inventory and audit
  - a) All property transferred to the Kinston Police Department shall have record kept of its nature, serviceability status and location.
  - b) Certain property shall have a chain of custody such as small arms and armored vehicles as outlined in the State Plan of Operation.
  - c) No property shall be transferred from Kinston Police Department without SPOC approval.

**IV. PROCEDURE**

- A. Requests for surplus property shall be in accordance with requirements of the SPOC.
- B. Annual Certifications
  1. Kinston PD has specific requirements for annual certifications listed in ANNEX I.
  2. Additional controls may be designated individually for controlled items.
- C. Program Compliance
  1. The Chief of Police or designee shall ensure that the agency is compliant with state and federal LESO requirements.
- D. Lost/Stolen or Destroyed Property (LSD)
  1. The agency shall report all LSD property to LESO SPOC.
  2. The agency shall generate a police report.

3. The property, if controlled, shall be entered into NCIC.
4. Further requirements for non-controlled property is contained in ANNEX I.

E. Return of Property

1. Upon completion of department use, small arms must be returned to LESO according to procedure in ANNEX I.
2. Property may be transferred to another LESO LEA as approved by the SPOC.
3. No property may be sold.

F. Violations

1. Violations are subject to progressive discipline as outlined by contract or policy.

G. Policy & Procedure Compliance

1. Per the Presidential Executive order #14074, each LEA shall adopt and comply with the following general policing standards.
  - a) Community Policing – LEA policies/procedures should reflect the concept that trusts and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs therefore increasing LEA ability to investigate crimes and keep the peace. This item is covered by **KPD policy 600-6**.
  - b) Constitutional Policing – LEA policies/procedures must emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies/procedures must include First, Fourth, and Fourteenth Amendment principals in law enforcement activity, as well as compliance with Federal and State civil rights laws. LEA certified law enforcement officers receive training on the rights embodied by such Constitutional Amendments and how these amendments inform policing policies/procedures. This item is covered by **KPD policy 600-6**.
  - c) The Kinston Police Department shall adopt the following items required in Presidential Executive order #14074.
    - i. Appropriate Use of Controlled Property – LEA policies/procedures must define appropriate use of controlled property; officers who are authorized to use controlled property must be trained on these policies/procedures. LEAs should examine scenarios in which controlled property will likely be deployed, the decision-making processes that will determine whether controlled property is used, and the potential that both use and misuse of controlled property could create fear and distrust in the community. Policies/procedures should consider whether measures can be taken to mitigate that effect and any alternatives to use of such property and tactics to minimize negative effects on the community, while preserving officers

safety. **The Kinston PD SWAT Team, led by the SWAT Commander, will supervise all controlled property and will decide when the property shall be used.**

- ii. Supervision of Use – LEA policies/procedures must specify appropriate supervision of personnel operating or utilizing controlled property. Supervision must be tailored to the type of controlled property being used and the nature of the engagement or operation during which the property will be used. Policies/procedures must describe when a supervisor of appropriate authority is required to be present and actively overseeing the property being used. **The Kinston PD SWAT Team, led by the SWAT Commander, will supervise all controlled property and will decide when the property shall be used.**
  - iii. Effectiveness Evaluation – LEA policies/procedures must articulate that the LEA will regularly monitor and evaluate the effectiveness and value of controlled property to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. LEAs should routinely review after-action reports and analyze any data on, for example how often controlled property is used or whether controlled property is used more frequently in certain law enforcement operations or on particular locations or neighborhoods. **The Kinston PD SWAT Team, led by the SWAT Commander, as well as the lead LESO Program representative for the agency, will evaluate which equipment should be kept or returned; this will be conducted on an annual basis.**
  - iv. Auditing and Accountability – LEA must establish policies/procedures that are designed to prevent misuse, unauthorized use and/or loss of controlled property. LEA will hold personnel accountable to agree and comply with State, local, Tribal and Federal controlled property use policies/procedures. **The Kinston PD will follow KPD Policy 100-21 regarding controlled property.**
  - v. Transparency and Notice – LEA policies/procedures must articulate that LEA will engage the community regarding controlled property, policies/procedures governing its use, and review of “significant incident” with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures. **The Kinston PD will continue to follow the procedure of seeking the City Council’s approval for controlled policy and will follow KPD Policy 100-21 regarding controlled property.**
- d) The Kinston Police Department shall adopt and comply with the following record-keeping requirements of controlled property:
- i. Upon LESO request, LEAs must provide a copy of the general policing standards and specific controlled property standards that were adopted, to include any related policies/procedures.
  - ii. Record-Keeping Requirement – LEAs must retain comprehensive training records, either in the personnel file of the officer who was trained or equivalent entity, for a period of at least (3) years, and must provide a copy of these records, upon LESO request.

- e) LEA's must collect and retain the information (listed below) when a law enforcement activity involves a significant incident which requires the use of controlled property. A significant incident is defined as an LE operation that involves:
  - i. A violent encounter among civilians or between civilians and the police,
  - ii. A use-of-force that causes death or serious bodily injury,
  - iii. A demonstration or other public exercise of First Amendment rights, or
  - iv. An event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed.
- f) Regarding a "Significant Incident," LEAs must:
  - i. Collect and retain documentation for controlled property used in a "Significant Incident" for a minimum of (3) years after the incident has occurred. The LEA must provide documentation to LESO upon request.
    - I. Documentation should also be made available to the community the LEA serves in accordance with applicable policies/procedures with exemptions made concerning the disclosure of any sensitive information.
  - ii. No new report or format is required for "Significant Incident" reports so long as information is easily accessible and organized. The required information may already exist in a police report, operations plan, officer daily log, incident report, after-action report or described in a use-of-force report. If required information (annotated below) is contained in a pre-existing report, the LEA must simply ensure that the report includes information that controlled property was used. Required information is listed below:
    - I. Name and quantity of controlled property used, including relevant details as make/model/serial number of controlled property used.
    - II. Description of the LEA action/operation involving the controlled property.
    - III. Identification of LEA personnel who used and directed the use of the controlled property.
    - IV. Identify or describe civilians who were the subject or target of LEA action/operation. For large crowds or multiple persons, the LEA must provide general description of the civilians (i.e., a crowd of approximately 250 people).
    - V. Result of the action/operation in which controlled property was used (i.e., arrests, citations, injuries or fatalities, use-of-force, victim extraction, or property damage).