

Chapter 01	Law Enforcement Role and Authority
Effective: 03/01/2014	By the Order of: Patrick L. Gallagher, Chief of Police
Revised: 03/25/2024	

Chapter 1 Law Enforcement Role, Responsibilities and Relationships

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1.1.1 Oath of Office

All personnel, prior to assuming sworn status, shall take and subsequently abide by the oath of office to enforce the law and uphold the Constitution of United States and the State of North Carolina.

1.1.2 Code of Ethics

The New Bern Police Department prescribes to the following law enforcement code of ethics:
“On my honor, I will never betray my badge, my integrity, my character or the public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the constitution, my community and the agency I serve”

Ethics training will be conducted for all personnel, at a minimum, biennially.

1.1.3 Role in Criminal Justice and Social Services Programs

The New Bern Police Department encourages its personnel to use established criminal justice and social services programs to divert individuals from the criminal justice system when such programs effectively accomplish the department’s objectives. The New Bern Police Department recognizes and supports criminal justice and social diversion programs including the diversion of juveniles pursuant to guidelines established in Chapter 44 of the Policy and Procedures Manual as well as other diversion programs established by the Craven County Social Services, state courts and other similar agencies.

1.1.4 Consular Notification

As directed by international law and federal statute, diplomatic and consular officers are accorded certain privileges, rights, and immunities. It is also a well-established principle of international law that, without prejudice to their privileges and immunities, it is the duty of those foreign officials to respect local laws and regulations.

Diplomatic Immunity: Diplomatic immunity is broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, staff, and servants. Persons enjoying diplomatic immunity may not be arrested, detained, or prosecuted for any civil or criminal offense. Diplomatic officers are generally identified by one of the following titles: Ambassador, Minister, Minister Consular, Consular, First Secretary, Second Secretary, Third Secretary, and Attaché.

NOTE: Honorary Consuls do not enjoy diplomatic immunity.

Consular Privilege: Consular officers are official representatives of foreign governments but enjoy only limited immunities as opposed to diplomatic officers who enjoy unlimited immunity. Limited immunity extends only to the consular officer, and not to his family, staff, or servants. Consular officers may not be arrested or detained for any criminal offense except felonies that endanger the public safety. Prosecutions for other offenses may ensue only upon the issuance of an arrest warrant. Consular officers are subject to being cited for civil infractions. Consular officers are generally identified by one of the following titles: Consul General, Deputy Consul General, Consul and Vice Consul.

Procedure: An officer who, in the course of an investigation, develops probable cause for the arrest of a person who claims to be a diplomatic or consular officer, shall inform his supervisor prior to any arrest. The supervisor will ensure that the U.S. Department of State is contacted, and the status of the person is confirmed prior to any arrest.

Foreign nationals who do not have diplomatic immunity may be detained and arrested for any violation of law. The below guidance shall be followed when dealing with a foreign national.

- A. Determine the foreign national’s country of nationality. Check the state department list of countries with mandatory notification by visiting the following web page for guidance: (<https://travel.state.gov/content/travel/en/consularnotification/QuarantinedForeignNationals/countries-and-jurisdictions-with-mandatory-notifications.html>). In the absence of other information,

assume this is the country on whose passport or other travel document the foreign national is traveling.

- B. If the foreign national's country is NOT on the list of mandatory notification countries and jurisdictions:
 - 1. Use Statement 1 on the Consular Notification Statements (found at the following web page, <https://travel.state.gov/content/travel/en/consularnotification.html>) in the relevant language to inform the national, without delay, that he or she may have his or her consular officers notified and may communicate with them.
 - 2. If the foreign national requests that his or her consular officers be notified, notify the nearest embassy or consulate of the foreign national's country without delay. We maintain contact information for foreign embassies and consulates in the U.S. Use the Suggested Fax Sheet for Notifying Consular Officers of Arrests or Detentions.
 - 3. Forward any communication from the foreign national to his or her consular officers without delay.
- C. If the foreign national's country is on the list of mandatory notification countries and jurisdictions:
 - 1. Notify that country's nearest embassy or consulate, without delay, of the arrest or detention. We maintain contact information for foreign embassies and consulates in the U.S. Use the Suggested Fax Sheet for Notifying Consular Officers of Arrests or Detentions.
 - 2. Use Statement 2 on the Consular Notification Statements (found at the following webpage, <https://travel.state.gov/content/travel/en/consularnotification.html>) in the relevant language to tell the national, without delay, that you are making this notification and that he or she may communicate with the consulate.
 - 3. Forward any communication from the foreign national to his or her consular officers without delay.
- D. Keep a written record of:
 - 1. What information you provided to the foreign national and when.
 - 2. The foreign national's requests, if any.
 - 3. Whether you notified consular officers and, if so, the date and time and the means used to notify them (e.g., fax, email or phone.) If you used fax or email to notify the consular officers, you should keep the fax confirmation sheet or sent email in your records.
 - 4. Any other relevant actions taken.

1.1.5 Inquiries into Immigration Status

A person's right to file a police report, participate in police-community activities, or otherwise benefit from police services is not contingent upon citizenship or immigration status. Consequently, officers shall not question any person about his or her citizenship or immigration status or inform federal immigration authorities of the whereabouts or behavior of any immigrant or foreign visitor, unless that person:

1. Is physically arrested and not eligible for release on a summons
2. Has been convicted of any felony, regardless of whether that felony involved violence
3. Is reasonably suspected of involvement in terrorism and/or subversive activities
 - a. “Subversive person” means any person who commits, attempts to commit any act intended to overthrow, destroy or alter the constitutional form of the government of the United States by force, or violence.”
4. Is reasonably suspected of participating in an organized venture to bring or fraudulently assimilate undocumented foreigners into the country
5. Is reasonably suspected of participating in criminal street gang activity

Officers shall not request passports, visas, “green cards,” or travel documents in lieu of, or in addition to, driver’s licenses and similar standard forms of identification. Such documents shall only be requested when standard forms of identification are unavailable, or when the officer is proceeding under the conditions described above.

When any person is physically arrested, their Country of Citizenship should be ascertained in accordance with the consular notification requirements outlined in New Bern Police policy.

No person shall be physically arrested in order to determine their legal status in the country if they would otherwise have been eligible for release on a summons. Additionally, no other person, including a victim or other person reporting a crime, nor any witness to a crime, shall be questioned regarding their status in this country absent a lawful physical arrest of such person for a crime or one of the other conditions enumerated above.

1.2.1 Legal authority defined

Police officers are entrusted with the responsibility to enforce the law objectively and without prejudice and are empowered with the authority to perform those acts necessary for effective law enforcement. Police officers must perform their duties within the guidelines and restrictions of their legally mandated authority, which includes the power of arrest.

Off-duty exercise of police authority within the jurisdiction of another agency is limited to in-progress crime assistance undertaken in response to an on-view felony, and then the officer would be acting in the capacity of an ordinary citizen.

1.2.2 Legal authority to carry and use weapons

In order to acquire the legal authority to carry and use any weapon in the performance of their duties; every police officer is required to complete a basic law enforcement training program and achieve state qualification status. Complete appropriate instruction on applicable policies on weapons and use of force must occur prior to carrying a weapon on or off duty.

On Duty Handgun: All officers of this department shall be armed with the department issued handgun while scheduled on duty and outside the police building.

Department issued firearms shall not be used for hunting or any other purpose not authorized by this order.

Officers shall be allowed to carry a second handgun on their person while on duty in a department approved secure holster and completely concealed. This weapon must be approved by the Department in accordance with section [1.3.9](#).

Officers carrying a second handgun will have the firearm readily available for routine inspection by a supervisor. The caliber of the second firearm shall be limited to .45 caliber or less but a minimum of .380 with department approved ammunition.

NOTE: Officers are not required to carry a second firearm while on duty. The carrying of a non-approved firearm could result in disciplinary action up to and including termination.

Shot Guns: Officers are permitted to carry department issued shot guns while on duty as long as they have qualified with the firearms in accordance with state and departmental regulations.

Patrol Rifles: Officers are permitted to carry department issued and approved personal patrol rifles while on duty as long as they have qualified with the firearm in accordance with state and departmental regulations.

NOTE: Officers wishing to carry personal firearms must supply their own department approved ammunition for all training classes and qualifications.

Once qualified, modifications to the patrol rifle are not permitted. If modifications are made, the rifle will not be carried until the officer has completed the authorization to carry a personal firearm form as outlined in the approval procedures and requalifies with the rifle.

Off Duty Firearms: NCGS [14-269b\(5\)](#) provides that sworn police officers shall have the right to carry a concealed handgun during off duty hours, in accordance with department policy; however, officers are not required to carry a firearm off duty. Officers are permitted to carry their service weapon or authorized personal weapon as described after they have met all the required qualifications as outlined in this chapter.

Off Duty Firearms Restrictions: No off-duty officer shall be permitted to possess or carry a concealed weapon while consuming alcohol or while under the influence of any intoxicating or mind-altering substance.

Officers shall carry off duty firearms fully concealed. Under no circumstances will members of the department wear, carry or display their off-duty firearm in an obvious or flagrant manner, or in any fashion that would denote them as law enforcement officers or invite unfavorable comment from the public.

Officers electing to carry a personal firearm off duty must meet all the qualifications as outlined in section [1.3.10](#) and must have prior written approval from the Chief of Police.

Officers shall carry only ammunition approved by the Chief of Police in both their on duty and off duty firearms.

Officers carrying personal firearms will be responsible for any damages to the firearm and related expenses resulting in their use.

Approval Procedures: An officer desiring authorization to carry a personal firearm either as a secondary or an off-duty weapon must:

1. Complete and submit an Authorization to Carry Personal Firearm Form (NBPD #17) via Chain of Command to the Office of the Chief requesting the use of a personal firearm.
2. Have the firearm inspected by two department firearms instructors for serviceability and safety or provide annual certification to the department that the firearm has been inspected and approved by a qualified armorer.
3. Pass an approved department firearm qualification course at least annually. Officers wishing to carry a patrol rifle will be required to attend all mandatory patrol rifle training scheduled by the agency to be authorized to carry a patrol rifle.

A completed Criminal Justice Education and Training Standards Commission, Form F-9A, must be on file with the department listing all weapons for which the officer is qualified.

1.2.3 Compliance with Constitutional Requirements

All employees shall establish and maintain a working knowledge of laws and ordinances in place within the City of New Bern, and the rules, regulations, policies, and procedures of the New Bern Police Department. The New Bern Police Department is committed to ensuring that the constitutional and civil rights of individuals are protected during the course of any interaction with officers.

All employees shall observe and obey federal, state, county and municipal laws and ordinances. In the event of improper action or breach of discipline, it will be presumed that the employee was familiar with the law, rule, regulation, policy, or procedure in question.

A. Interviews: Interviews are conducted with individuals who may have information concerning certain aspects of an investigation whether the individual is a witness, suspect, or may be directly involved in the criminal act.

Non-custodial field interviews are initiated when an officer reasonably believes an inquiry into a situation is warranted. The field interview may be initiated any place in which the officer has a legitimate right to be. These interviews shall not be initiated as a means to coerce the citizen to leave an area where that individual has a right to be.

Officers conducting field interviews must understand that citizens contacted shall not be detained in any manner against their will, nor shall citizens be required to answer questions if they choose not to do so. If a citizen should specifically ask whether they must respond, the officer shall immediately inform the individual that they have the right to leave at any time. The success of the field interview depends upon the officer's ability to put citizens at ease and to establish a rapport with the individual. Information obtained during a field interview is entirely dependent upon the voluntary cooperation of the citizen involved. The citizen may terminate the interview or leave at any time.

B. Interrogations: Interrogations are statements or questions designed or intended to elicit an incriminating response. If an individual is in custody (e.g., if the individual has been formally arrested, or if the individual's freedom of movement has been restrained to the degree normally associated with a formal arrest), no interrogation may take place without Miranda warnings and a valid and knowing waiver of the individual's rights under Miranda. Prior to and during any interrogation, whether the individual is in custody or not, officers must comply with all applicable constitutional requirements pertinent to the subject being questioned.

C. Access to counsel: Officers must cease questioning when the suspect is in custody and makes a clear and unequivocal assertion of his right to counsel. Likewise, if an individual clearly asserts his or her right to remain silent, any interrogation must cease. After the cessation of questioning because

of the right to remain silent or the right to counsel, no further questioning can take place unless the individual initiates the communication with officers. If an individual has been arrested and has appeared before the magistrate, no questioning may take place about the crime for which the individual was arrested without the presence of the individual's attorney, unless the individual initiates communication with the officers. Officers must comply with all federal and state requirements relating to the access to counsel of individuals being questioned and must obtain proper and sufficient waivers and give proper warnings, as required by law. This provision also applies to the questioning of juveniles. Juveniles may not be questioned unless and until all requirements relating to juvenile questioning have first been met.

1.2.4 Search and Seizure

The policy of the New Bern Police Department shall be to conduct all searches and seizures within the confines of the law. The Fourth Amendment of the Constitution of the United States regulates searches and seizures of persons and property.

Definitions: The following definitions will be used throughout this policy.

Consent Search: The search of a person, premises, or vehicle conducted with the permission of the individual to be searched, or who owns or is in apparent control of the premises.

Investigative Detention/ "Terry" Stop: a brief, temporary involuntary detention of a person suspected of being involved in criminal activity for the purpose of investigating the potential criminal violation.

Frisk: A limited search for weapons, generally of the outer clothing, but also of those areas which may be within the suspect's control and pose a danger to the officer.

Search Warrant: A court order and process directing a law enforcement officer to search designated premises, vehicles, or persons for the purpose of seizing designated items and accounting for any items so obtained to the court which issued the warrant.

General Guidelines for Searches:

A. **Consent Searches:** The consent to search a person, vehicle or premises must be given by one of the following:

1. For the search of a person, the person to be searched.
2. For the search of a vehicle, the registered owner of the vehicle to be searched or by the person in apparent control of its operation and contents at the time the consent is given.
3. For the search of a premises, a person who by ownership or otherwise is reasonably apparently entitled to give or withhold consent to a search of premises.

B. **Investigative Detention:** When an officer has reasonable suspicion to believe an individual has committed, is committing, or is about to commit a crime, the officer may briefly stop and detain that person in order to investigate further. An investigative detention, also known as a "Terry" stop is a seizure within the meaning of the Fourth Amendment.

Frisk: If during the course of an investigative detention, the officer develops reasonable suspicion that the individual is armed and dangerous, then a limited search for weapons may be conducted. Items the officer recognizes as a weapon can be removed, inspected and seized if

applicable. If while conducting a valid frisk for a weapon, an officer feels what is “immediately recognized” as contraband, the contraband may also be removed and inspected and seized if applicable.

Factors that a court may consider when it determines whether officers had reasonable suspicion to frisk are:

1. The kind of crime for which the person was stopped
2. Whether officers knew, on their own or based on information received from others (including informants), that the person was armed and dangerous
3. The behavior of the person frisked
4. Whether there was a bulge in the person’s clothing or an observation of an object there
5. The person’s prior criminal record and history of dangerousness.

C. **Search Warrant:** The Fourth Amendment to the United States Constitution guarantees the right of the people to be free from “unreasonable searches and seizures”. It is the policy of the New Bern Police Department to ensure that all searches, with a warrant or otherwise be conducted in a lawful manner and within the guidelines of the United States Constitution.

1. All requests for a search warrant will be approved by a supervisor.
2. To ensure validity, the officer’s supervisor will review all search warrant applications prior to presentation to a judicial official and all warrants issued prior to execution.
3. A briefing will be held for all officers and personnel to be involved in the search. The briefing will include at a minimum, a summary of the case and will provide instruction to each participant on their duties and responsibilities regarding the execution of the warrant.
4. Prior to execution of any search warrant, the on-duty supervisor will be notified.
5. Whenever possible, a marked police vehicle and at least one uniformed officer will be present at the execution of the search warrant.
6. All non-uniformed personnel will have proper POLICE identification making themselves immediately recognizable as law enforcement officers.
7. Every reasonable effort will be made to ensure the correct premises are being entered by verifying the address and the building description.

Applications for a search warrant must comply with the provisions of NCGS 15A-244 and will be presented to an authorized judicial official by the case agent or investigating officer. Search warrant applications will contain:

1. The name and title of the applicant
2. A statement that there is probable cause to believe that items subject to seizure under NCGS 15A-242 may be found in or upon a designated or described place, vehicle, or person
3. Allegations of fact supporting the statement. The statements must be supported by one or more affidavits particularly setting forth the facts and circumstances establishing probable cause to believe that the items are in the places or in the possession of the individuals to be searched
4. A request that the court issue a search warrant directing a search for and the seizure of the items in question

An officer may break and enter any premises or vehicle when necessary to the execution of the warrant if the officer has previously announced his identity and purpose as required by G.S. 15A-249 and reasonably believes either that admittance is being denied or unreasonably delayed or that the premises or vehicle is unoccupied.

Situations where entry of a premises without giving notice is required (no-knock) are situations that are rare in occurrence, particularly volatile and inherently dangerous to all persons involved. Therefore,

the New Bern Police Department will restrict all staff from participating in “no-knock” search warrants unless:

1. Probable cause to believe that the giving of notice would endanger the life or safety of any person as described by G.S. 15A-251; **and**
2. Approval has been granted by the Chief of Police

It should be noted that this policy only covers search warrant executions and does not apply to emergency and/or exigent circumstances involving life threatening situations when an immediate response is necessary.

D. Carroll Doctrine: Officers who have probable cause to believe an item subject to seizure is anywhere in an automobile AND exigent circumstances (the fact that the search is of a vehicle is all the exigent circumstances needed) then the officer can search the car and all containers therein without a search warrant. The officer can have the vehicle impounded and still search it later without a search warrant. The only time a search warrant is needed under these circumstances is when the vehicle is parked on the curtilage of a dwelling, and you cannot secure consent to search it. *Carroll v. U.S., 1925; State v. Isleib, 1987.*

E. Crime Scene cursory Search: Searches of crime scenes are subjected to the same restrictions set forth above for all other searches of premises. An officer may conduct a warrant-less search of a crime scene without consent ONLY if the officer has reason to believe that there may be victims or suspects located inside the premises. If the officer has this belief, the officer may conduct a brief cursory search of the premises to look for victims and suspects, but this search must be limited to those areas in which victims or suspects may be found. If an officer does not have a reason to believe that victims or suspects may still be present, the officer must obtain consent or a search warrant to fully search a crime scene.

F. 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.

G. Inventory Searches: Prior to being towed, an inventory shall be conducted on all impounded/seized vehicles to identify any property of value in the vehicle. A locked trunk or glove box will be within the scope of an inventory only if the keys to those areas are in the officer’s possession.

1. The officer responsible for the seizure/impound will complete a DCI IR 205 Property Sheet (Green Sheet) that will include a description of the vehicle, to include VIN # and a complete inventory of all items of value found in the vehicle.
2. If items are removed from the vehicle, either for safe keeping or as potential evidence for a criminal case to be stored in FEU, the officer will note on the Green Sheet where the items were placed, e.g., lock box # 15.
3. The towing service driver will sign and retain a copy of the Green Sheet indicating when he/she has custody of the vehicle and all the contents left in the vehicle.
4. A vehicle inventory may be completed at a later time or more secure location if weather, crowds, dangerous atmosphere, or possible damage or destruction to forensic evidence may occur. The delay will be noted in the case narrative.

5. Once a vehicle has been placed within the NBPB secured storage area, officers requiring further access to the vehicle will need to be accompanied by FEU personnel.

Elements of a Valid Inventory:

1. Lawful basis for taking custody of the vehicle
2. Inventory is non-investigative; and
3. Scope of the search is limited to locating valuables for storage for future protection of officers and the department as well as the owner.

1.2.5 Arrest

North Carolina law mandates many procedures regarding the detention, arrest, transport, and confinement of persons charged or suspected of crimes. All officers are required to be familiar with North Carolina General Statute (NCGS) [15A-401](#). Officers shall not make any arrest or detention that they know, or should have known, is not in accordance with law and department policies.

No arrest shall be made except upon probable cause, or upon the service of a valid arrest warrant. No detention shall be made except upon a well-founded belief that the suspect being detained committed, was committing, or was about to commit a crime.

If, during the course of an investigation that has resulted in an arrest, additional information comes to the attention of the officer that negates the original probable cause for arrest, and no additional probable cause has been developed in support of an arrest for any other charges, the arrested person will be released immediately.

Arrests without Warrant: The arrest of any person without a warrant shall comply with the provisions of [NCGS 15A-734](#), which is herein incorporated by reference.

A felony arrest without a warrant may be made only if the arresting officer has probable cause to believe that a felony has been committed and the person to be arrested committed the offense.

Probable cause to make a warrantless felony arrest must have been developed personally by the arresting officer or another law enforcement officer and relayed first-hand, in person, by police radio, telephone or in writing to the arresting officer.

Arrest with Warrant: Whenever an officer anticipates making contact with a suspect for the express purpose of serving an arrest warrant, two officers will be assigned. Recruit officers in training phases of the Field Training Program will not be considered as a backup officer for the purpose of this policy. (Reference [NCGS 15A-401.b \(2\)](#))

A. **Preparing Reports:** The combined processing and chemical breath testing rooms are designated to function as the headquarters building authorized area for processing, and testing. While processing arrestees, officers shall complete the appropriate reports associated with the arrest and booking procedures in accordance to state and federal regulations.

In addition to mandated items, NBPB will process for all charges of DWI, larceny, domestic violence and any charges involving a weapon, assault and/or drugs.

Information provided by the transporting/processing officer into the RMS system will be used to document the reason for the time spent at the headquarters building and the date and time in and out of

the facility. Notation of meals or food provided, if any, during this time will be included in the officer's reports.

B. Fingerprinting: Arrestees will be fingerprinted in accordance with the Plan for Fingerprinting Criminal Defendants and Reporting Disposition of Criminal Charges filed for 3B Judicial District.

Arrest without a warrant: If an arrest is made without a warrant and the Magistrate finds probable cause, the normal fingerprinting and photographing procedure should be followed. If an arrest is made without a warrant and the Magistrate finds no probable cause and fingerprint impressions have been taken, said prints shall not be forwarded to the State Bureau of Investigation and the Final Disposition shall not be sent to the clerk.

Under normal circumstances, the booking process should be conducted at the headquarters building or other designated facility as approved by the Chief of Police.

Officers shall fingerprint and photograph all Arrestees in accordance with North Carolina General Statutes and the [Plan for Fingerprinting Criminal Defendants and Reporting Disposition of Criminal Charges filed for 3B Judicial District.](#)

The *Plan for Fingerprinting Criminal Defendants and Reporting Disposition of Criminal Charges* filed for 3B Judicial District does not mandate the fingerprinting and photographing of every arrestee. However, officers should utilize the fingerprint and photograph procedures set forth in this policy when necessary and beneficial for investigatory purposes.

1. During any booking process, access to the interview, processing and testing area and the detainee is limited to authorized personnel only.
2. When the booking process is conducted at the headquarters building, officers shall obtain from the detainee:
 - a. Fingerprint and palm prints using the computerized fingerprinting system (manual printer ink system can be used if the computer system is not available) and
 - b. Photographs using computerized photographic system. If the computer camera is not available, a department issued camera may be used to photograph arrestee to be uploaded into system by members of FEU.
5. If the detainee to be processed is uncooperative or poses a danger to the officer or others at the headquarters building, the officer shall take the detainee to the Craven County Confinement Facility in order to complete the booking process.

C. Photography: Arrestees will be photographed in accordance with NCGS [15A-502.](#) If an arrest is made without a warrant and the Magistrate finds no probable cause and photographs were taken, said photographs shall be expunged from agency records.

D. Response to Potential Mass Arrest Situations - A mass arrest situation exists when, in the judgment of the supervisor in charge, the number of persons to be arrested arising from a single incident exceed the department's ability to perform normal arrest, booking and reporting procedures.

The supervisor in charge of the situation shall ensure that the following steps are taken in responding to the situation:

1. Sufficient police personnel are gathered before enforcement action is taken at the scene of mass arrests. Mutual aid should be requested, if necessary, as provided in mutual aid agreements.

2. Police personnel remain together at the scene; no one leaves the group to pursue a subject into or through a crowd.
3. Arrestees are immediately removed from the scene by arrest teams and taken to a field processing center; arrest team officers are returned to duty as quickly as possible.
4. Arrestees are transported directly to the county jail or other place of confinement or are released as soon as possible after field processing. Standard prisoner transport procedures apply to mass arrests.

A field identification team shall be formed with a minimum of two identification technicians or other officers equipped with the necessary fingerprint, photograph, and identification supplies to provide positive field identification. The field identification team shall complete the field prisoner booking and evidence handling once turned over by the arresting officer. At the field processing area, one digital photo will be taken of the prisoner with the arresting officer also shown in the picture

Defense counsel visitations shall not be permitted until prisoners have been transported to and received at the county jail. Defense counsels who inquire should be directed to the county jail.

Juveniles arrested during a mass arrest incident should be segregated from adult prisoners as soon as possible. Juveniles shall be processed in accordance with department procedures for juvenile arrests.

One case number is used for the entire incident; only one narrative is written and prepared by one officer which lists numerically all persons arrested chronologically. Each officer making an arrest will complete the appropriate supplemental narrative when time permits.

Off Duty Arrests: Off-duty officers who become involved in any situation requiring police action shall, at the earliest opportunity, notify Communications and request a patrol unit. Officers are discouraged from making traffic or misdemeanor arrests off-duty unless there is a serious danger of immediate harm to a person unless action is taken. Off-duty officers should, if at all possible, await the arrival of the patrol unit before taking any police action, including making an arrest.

1.2.6 Alternatives to arrest

In order to respond to varying law enforcement needs the department must have flexibility in deployment and methods of enforcement. A satisfactory conclusion to many cases may be reached without resorting to the physical arrest of persons involved. The consideration of arrest alternatives should be an integral part of every investigation. Alternatives to physical arrest, custody and confinement may include:

- Release on Citation
- Written Warnings
- Verbal Warnings
- Juvenile Diversion Program
- Non-Arrest Referral to District Attorney

1.2.7 Use of Discretion

The nature of providing police service to the public requires that employees use discretion in many instances of public contact. Discretionary decisions by individual officers and employees often form the basis for actions and the department and the public must depend upon the good judgment of each employee. However, discretionary decisions must also be based upon the philosophy of enforcement described within the guidelines established by the policies and procedures of the department. Each

employee will be held accountable for the use of discretion and should be prepared to justify discretionary decisions.

The use of discretion provides officers alternatives as described in General Order [1.2.6](#). When considering alternatives, officer's considerations should include but are not limited to the following:

- Nature of Crime
- Victim wishes
- Monetary damages
- Reliability of witnesses
- Contributing weather conditions

1.2.8 Strip/Body Cavity Searches:

Definitions:

Strip Search: The term "strip search" means having an arrested person remove or arrange some or all of his or her clothing or undergarments so as to permit a visual or manual inspection of the genitals, buttocks, anus, or breasts.

Body Cavity Search: The physical intrusion into body cavities for the purpose of locating and recovering evidence.

A. Authority to conduct strip & cavity searches: Prior to ordering or conducting a strip search, the arresting officer shall in all cases obtain the authorization from a sworn supervisor on duty.

The physical intrusion into body cavities of persons being searched by New Bern police personnel is prohibited. For the purpose of this order, the mouth is not considered a body cavity however officers should refrain from inserting objects into a suspect's mouth to avoid injury. **Only authorized medical personnel shall perform body cavity searches.**

NOTE: Officers will wear necessary protective gloves when completing a strip search and collecting evidence recovered during strip or cavity searches.

Body cavity searches may be conducted under the following conditions:

1. If foreign items are visible inside one or more body cavity, **or**
2. There is probable cause to believe that such items exist therein.

If officers have probable cause to believe that evidence of a crime or contraband is being concealed in the arrested person's body cavities the officer must obtain a search warrant. The only exceptions would be for plain-view or when exigent circumstances exist that necessitates an immediate search and that can be articulated and documented by the arresting officer. An example of exigent circumstances would be the likelihood that the delay in obtaining a search warrant could cause the destruction of the evidence or could jeopardize the health of the arrested person if removal of the items is delayed. This factor should be supported by the attending physician.

B. Provisions for privacy: A strip search must be conducted by a sworn employee of the same sex as the arrested person and witnessed by another sworn employee of the same sex. In the absence of a second sworn employee, the authorizing supervisor shall be notified and will be responsible for locating an appropriate witness, which may be a non-sworn employee, an officer from another agency, etc.

Strip searches shall be conducted in a secure and private facility within the department or other approved location where any persons other than those conducting the search cannot observe the search.

In all cases where a body cavity search is to be conducted, the arrested person will be secured and transported to a hospital where the search will take place by authorized medical personnel.

C. Prior to ordering or conducting a strip search on a juvenile, the officer shall in all cases obtain the authorization from a sworn supervisor on duty. A strip search on a juvenile must be conducted by a sworn employee of the same sex as the juvenile and witnessed by another sworn employee of the same sex. In the absence of a second sworn employee, the authorizing supervisor shall be notified and will be responsible for locating an appropriate witness, which may be a non-sworn employee, an officer from another agency, etc.

Strip searches shall be conducted in a secure and private facility within the department or other approved detention facility where any persons other than those conducting the search cannot observe the search.

D. **Reporting requirements:** In all cases in which strip or cavity searches are conducted, a complete case report will be completed documenting the basis for the search. Each department employee that participates in the search will complete a supplemental narrative to outline their involvement in the search.

The sworn supervisor on duty who authorizes a strip search shall provide his/her written authorization in the form of a supplemental narrative to be included in the case report.

1.2.9 Bias based profiling

The New Bern Police Department is committed to the highest standard of courtesy and professionalism in all contacts with the public and between employees in the workplace. Bias for or against any person because of race, gender, religion, politics, ethnicity, national origin, lifestyle, economic status, age, culture or other identifiable group characteristic, or similar personal characteristics **IS PROHIBITED**.

A. **Traffic contacts/FI/asset seizure:** Stopping a vehicle or person, issuing a citation, searching a person or vehicle, making an arrest, or taking any action in traffic contacts, field contacts, seizing assets or initiating the forfeiture of property **solely** because of race, ethnicity, national origin, or any other group characteristic of an individual **IS PROHIBITED**.

B. **Training:** Initial training will be accomplished through the review of this policy while completing the field training program. Annually all officers must successfully complete the Legal Update course. Legal Update training should include a focus on prohibiting bias-based profiling, ethnic or cultural diversity, community relations, and professionalism toward the public and in the workplace, including legal aspects of bias-based profiling. Biased based profiling training will be completed each calendar year through in-service or other training means.

C. **Corrective Measures:** Any employee that becomes aware of or suspects bias-based profiling has a duty to take corrective measures. Employees in non-supervisory roles will report the information to their designated supervisor. Supervisors must counsel and correct employees concerning any action or language that reasonably indicates bias prohibited by this policy or a violation of this policy. Supervisors will document employee contacts via the department's internal data repository.

All complaints alleging bias in action or language must be documented and investigated promptly, thoroughly, and impartially. If a complaint is sustained, appropriate disciplinary action must be taken and documented to ensure future violations by the same employee will not occur.

D. Documented annual administrative review: All sworn supervisors must continually monitor Traffic Stop Data submitted by subordinate officers to be alert to any pattern or practices suggesting a violation of this policy.

The Operations Division Captain shall annually document an administrative review of Traffic Stop Data to determine patterns or practices in law enforcement activities that suggest a violation of this policy. Disparities should be investigated to determine if policy violations have occurred. The report will be forwarded to the Office of the Chief.

1.3.1 CALEA (4.1.1) Response to Resistance (Use of Reasonable Force) - It is important that officers are aware that there may be many reasons a suspect may resist arrest. The individual may not be capable of understanding the gravity of the situation as a result of a medical, mental, physical, language, or hearing impairment. This may not make the individual any less dangerous. However, if officers recognize the situation for what it is, they may be able to use more effective tactics without jeopardizing officer safety. Various types of resistance are identified below:

Compliant: A person who follows lawful orders and offers no resistance.

Passive Resistance: A person who is not complying with an officer's commands and is uncooperative but is only taking minimal physical action to prevent an officer from placing the subject in custody and taking control. Examples include standing in a stationary position and not moving when directed to, refusing to move under their own power, and locking arms to another person or object during a protest or demonstration.

Active Resistance: A person whose verbal or physical actions are intended to prevent an officer from placing the subject under control and in custody but are not intending to harm the officer. Examples include walking or running away and breaking away from the officer's grip to flee.

Aggressive Resistance: A person who displays the intent to harm the officer, or another person and prevent an officer from placing the person under control and in custody. Examples include a person taking a fighting stance, punching, kicking, striking, arming themselves with a weapon and attacking with weapons or other actions which present an imminent threat of physical harm to the officer or another.

Aggravated Aggressive Resistance: A person whose actions are likely to result in death or serious bodily harm to the officer, the person himself or herself, or another person. Examples include the use of a firearm, use of blunt or bladed weapon, and extreme physical force.

De-escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

Officers of the New Bern Police Department will respond to a resistant individual and only use the force necessary and reasonable under the circumstances to affect their legal duty. The use of necessary force is permitted only after all other reasonable means of effecting compliance have failed to include utilizing de-escalation techniques whenever possible. No police officer will use unreasonable or

excessive force toward any person. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall safely intercede to prevent the use of such excessive force. Officers shall promptly report these observations to a supervisor. All uses of force will be documented in a case report, Response to Resistance Form and tracked in the department's internal data repository.

The routine application of handcuffs does not constitute a use of force if applied without the use of physical force to overcome resistance. Any time an officer handcuffs and later releases a subject without formal charges; the officer will complete a thorough incident report outlining the circumstances warranting the cuffing of the subject and their release. The incident report will be reviewed by their immediate supervisor to ensure compliance with current case law. If the supervisor finds that the cuffing is unconstitutional, a formal use of force report will be completed and entered into the departments internal data repository and forwarded up the chain of command to the Chief of Police.

Duty to Intervene: Officers shall take appropriate and immediate action in any situation in which they know or should have known their failure to act would result in an excessive response to resistance or egregious behavior which shocks the conscience.

Retaliation: Employees are expressly prohibited from all forms of retaliation, including discouragement, intimidation, coercion, or adverse action against any employee who reports misconduct, makes a misconduct complaint, cooperates with an investigation of misconduct, or makes a good faith intervention to prevent misconduct from occurring.

1.3.2 (CALEA 4.1.2) Use of Deadly Force

A. In deciding whether to use deadly force, the sanctity of human life should outweigh all other considerations. Any discharge of a firearm, for other than training will be documented. In all cases, supervisors will document their findings. If further investigation is required supervisors will notify the Chief of Police via their chain of command and the Staff Duty Officer after hours for specific further instructions.

Police Officers are authorized to use **deadly force** when there is reasonable belief that such force is necessary:

To defend themselves or a third person from what they reasonably believe to be the use of or imminent use of deadly physical force; or

To effect the arrest or to prevent the escape from custody of a person who they reasonably believe is attempting to escape by means of a deadly weapon or who by his/her conduct or other means indicates that he/she presents an imminent threat of death or serious physical bodily injury to others unless apprehended without delay.

To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Officers **shall not** discharge their firearms into or at a stationary or moving vehicle for the sole purpose of rendering it mechanically immobile or to slow or stop its movements for the purpose of apprehending a suspect or suspects.

Officers **shall not** intentionally stand or step, or otherwise place themselves into the travel path of a motor vehicle creating circumstances where the use of deadly force becomes or has the potential to become necessary.

Officers **shall not** discharge a firearm from a moving vehicle unless such extreme circumstances exist for them to defend themselves or a third person from what they reasonably believe to be the use of or imminent use of deadly physical force.

Discharging a firearm into/at an occupant of a stationary or moving vehicle is prohibited, unless an officer reasonably believes:

1. An occupant of a vehicle is using or threatening to use deadly force by means other than the vehicle; or
2. The perpetrator is the operator of a motor vehicle being used as a deadly weapon in a manner deliberately intended to strike an officer and/or citizen.

The following factors will be considered and applied when making the decision to/and discharging a firearm at or into an occupant of a stationary or moving vehicle, or from a moving vehicle:

1. Potential risks to vehicular and pedestrian traffic, as well as any other bystanders.
2. Potential risks to known or unknown occupants of the suspect vehicle not posing an immediate threat.

Deliberately using a motor vehicle to strike another occupied vehicle, stationary or in motion, with force and in such a manner that creates an elevated risk for death or serious physical bodily injury will be considered deadly force.

Choke holds are **prohibited** unless deadly force is authorized.

To control or subdue suspects or prisoners using the Carotid Restraint Technique, Brachial Plexus Compression Technique or any other technique that would continuously restrict blood flow or oxygen to the brain is prohibited unless deadly force is justified.

B. Officers are authorized to use deadly force against an animal only when there is reasonable belief that such force is necessary to prevent imminent death or serious injury to the police officer or other people.

C. With the approval of a supervisor, an animal so sick or badly injured that humanity requires its relief from further suffering and an Animal Control Officer is not immediately available, an officer is permitted to humanely ending the suffering of such animal.

D. During firearms annual in-service training officers will review the Response to Resistance/Use of Force policy and any applicable laws and legal updates.

1.3.3 (CALEA 4.1.3) Warning Shots - The use of warning shots is prohibited.

1.3.4 (CALEA 4.1.4) Use of Authorized Less Lethal Weapons

Department authorized less lethal weapons include less lethal munitions, impact weapons, chemical agents, O.C. Spray and Conductive Energy Weapon (CEW). All personnel assigned to Operations (unless wearing a class C administrative or tactical uniform) or uniformed extra duty assignments and authorized to carry less lethal weapons shall carry, at a minimum, two forms of less-lethal weapons when on duty. The use of less lethal weapons shall conform to the guidelines of the New Bern Police Department and annual training.

Only weapons and munitions approved by the Chief of Police shall be used by the New Bern Police Department. Approved weapons and munitions will be used within the guidelines specified by the manufacturer.

Officers shall carry only those weapons authorized by the Chief of Police through the policies of the department. Weapons and devices such as saps, blackjacks, sap gloves, brass knuckles and hunting knives are prohibited.

1.3.5 (CALEA 4.1.5) Rendering Aid following the use of force

Any officer(s) involved in a use of force incident that results in death or injury will first ensure the suspect is no longer a threat to the officer(s) or others, then determine the extent of injuries, and immediately render first aid when safe to do so and if reasonable under the circumstances. If it is determined that a higher level of emergency care is required, officers on scene will request emergency medical services to respond.

Positional Asphyxia: Because of the danger of suffocation, officers shall not allow a suspect to remain on the suspect's stomach while the suspect is in a restraint device.

O.C. Spray: The use of O.C. spray does not normally cause long lasting effects, but subjects sprayed should be treated for their conditions. Any officer who uses O.C. Spray shall complete the following steps:

1. Individuals sprayed with O.C. spray shall be sanitized when practical and/or afforded medical treatment if requested, prior to being transported.
2. When practical, individuals sprayed with O.C. spray should be removed to an area of uncontaminated air and faced into the wind prior to being transported.
3. If an individual has not fully recovered from the effects of the spray after 45 minutes, medical attention shall be obtained immediately.
4. Employees should be alert for persons who suffer from profuse sweating, chest pains or slow, shallow breathing as they may be experiencing cardiac distress, not as a result of the spray, but as a result of the incident.
5. Any individual who experiences any of those symptoms or other unusual reactions or who complains of symptoms other than those that are normally expected from the use of O.C. spray must be afforded medical attention immediately regardless of the amount of time between the use of O.C. spray and the onset of the symptoms.

Conductive Energy Weapon (CEW): When officers use the CEW, and after gaining control of the suspect, medical assistance shall be summoned, if needed. Medical assistance shall be summoned when CEW probes have attached in the area of the face, neck, genitalia, female breast or male nipples.

All persons who have been subjected to the CEW are to be monitored regularly while in police custody even if they receive medical care.

Police Canine Bite Procedure: Canine handlers shall immediately notify the on-duty supervisor in the event a New Bern Police Canine bites or otherwise causes injury to any person, whether on or off duty. The on-duty supervisor will notify the Chief of Police through the Chain of Command whenever a police canine has bitten a 3rd party person or a dog bite to a department employee results in a serious injury. First aid should be immediately rendering or otherwise provided to any individual bitten or otherwise injured by a police canine in accordance with Section 1.3 "Use of Force" of the New Bern Police Department's Policy and Procedures.

Canine handlers will submit appropriate Use of Force forms and statements detailing the circumstances surrounding any bite or other injury caused by using a police canine. Color photographs of all dog bites or other injuries will be made whenever possible, and as soon as possible after the initial injury.

Impact weapons: Whenever a police officer strikes another person with an impact weapon, the officer will ensure that medical attention is provided to the subject any time injuries occur or if the subject request medical assistance.

1.3.6 (CALEA 4.2.1) Use of Force Reporting

Members of the New Bern Police Department who use any force or takes any action that results in or is alleged to have resulted in, injury or death to another person, will document the use of force with a complete Case Report and Use of Force Report. In the event a use of force occurs, the on-duty supervisor will respond to the location of occurrence to provide guidance and evaluate the status of all persons involved. If the on-duty supervisor is unable to respond immediately, the supervisor will make contact with the officer(s) involved as soon as possible to evaluate the situation. Supervisors are responsible for ensuring the completion of the Case Report and Use of Force Report via the department's internal data repository.

Officers who participated in a use of force incident as defined by this policy or are direct witnesses to such an event and subject to providing statements in writing, **will not** view video or audio footage of any kind of the incident prior to writing their initial Use of Force Report narrative.

Officers are not restricted from viewing audio and video footage of the incident prior to completing a Case Report, given the Use of Force Report narrative has been completed and uploaded into the agency data repository.

Because department personnel are required to provide an initial written report of their actions in a Use of Force Report narrative prior to viewing video or audio recordings, the department will not assume an adverse inference when personnel supplement their reports if a video review prompts further recollection of incident details. Whether an adverse inference should be drawn from a supplement will depend upon the facts and circumstances in each case.

The intent of this directive is to capture the officer's firsthand, uncontaminated account of the event before viewing the footage.

Examples of the use of force include but are not limited to:

- Use of pain compliance, impact weapon, O.C. spray, CEW, hard empty hand control, or other agency approved tactics to overcome resistance by a suspect during a lawful encounter; **or**
- Discharge of a firearm, other than for training

Reporting Responsibilities for the use of a CEW

1. All probes and cartridge packs used against an individual(s) shall be submitted as evidence to the Forensic Evidence Unit (FEU).
2. At the completion of the incident, the supervisor will take control of the CEW in order to facilitate a download of the data record of the CEW. A designated computer at the department will be utilized to download and save the data to a CEW use of force file. Once the data has been downloaded, the supervisor will issue a new cartridge to the officer.
3. Following a serious injury or death that occurs in a response to resistance to the CEW activation,

the supervisor will remove the CEW from service pending an investigation. The CEW will be placed into evidence.

4. On a monthly basis Supervisors will:
 - a. Inspect each CEW. Any CEW identified as malfunctioning or inoperable will be removed from duty and returned to Facilities and Supply for shipment to the manufacturer for inspection/repair as appropriate.
 - b. Record inspection on monthly uniform and vehicle inspection.
6. The following information will be included in a show of force/use of force entry by the activating officer when a CEW is activated other than spark test and monthly inspections:
 - a. Type and brand of CEW used;
 - b. Number of CEW cycles, duration of each cycle, duration between cycles and duration that the subject was actually activated;
 - c. Type of clothing worn by the subject;
 - d. Range at which the CEW was used;
 - e. Type of mode used (probe or drive stun);
 - f. Point of impact of probes on the subject in probe mode, if used;
 - g. Point of impact on the subject in drive stun mode, if used;
 - h. Location of missed probe(s) if any;
 - i. Terrain and weather conditions during CEW use;
 - j. Lighting conditions;
 - k. Type of cartridge used.

Show of force or display of weapon reporting responsibilities:

A. The New Bern Police Department's, "Show of Force" is defined as when a:

- a. Firearm is displayed and/or pointed at an individual; or
- b. A CEW is displayed and/or pointed at an individual; or
- c. A K-9 is utilized as a display of force,

as a means to gain compliance of an individual.

B. It is required that personnel involved in a "Show of Force" incident, complete a case report, documenting the show of force.

C. It is further required of the primary officer involved in the "Show of Force" to enter the incident into the department's internal data repository. If multiple officers are involved, supplemental statements will be submitted with the primary officer's show of force entry

Officer Involved Use of Deadly Force shall:

1. Notify his/her supervisor of the incident and location.
2. Remain at the scene unless doing so would further endanger the officer or unless directed otherwise by a supervisor.
3. Protect the discharged firearm as it shall be submitted for examination.
4. Make no comments about the incident except to the assigned supervisors, investigators, legal

advisor, or the officer's personal attorney or representative.

Exceptions: Officers are not required to complete a use of force entry under the following circumstances:

1. Merely using a firm grip control that does not result in injury, or merely using force necessary to overcome passive resistance due to physical disability or intoxication that does not result in an injury (assisting an intoxicated person to a standing position).
2. Routine handcuffing of an arrested person.

1.3.7 (CALEA 4.2.2) Procedure for reviewing Use of Force Reports

A supervisor who becomes aware that an employee has taken any action that resulted in (or is alleged to have resulted in) the injury or death of another person, has applied force through the use of a weapon, or has used any physical force against another person as defined in section [1.3.6](#), shall conduct a preliminary investigation of the incident to determine compliance with department policy and procedure.

The First Line supervisor will:

1. Ensure that the involved employee(s) have:
 - a. Properly documented the incident and
 - b. Submitted reports to the mobile server in "completed" status, and
 - c. Completed a Use of Force Report in the departments use of force reporting system.
 - d. Uploaded their ICC/BWC

Any employee who is involved in a use of force will be allowed up to 24 hours prior to completing the use of force report. If the employee does not complete the use of force report by the end of shift, the supervisor will provide a summary notification to the Command Staff. If the employee is scheduled off during the 24 hours, the employee will complete the required reports when they first return to work or as scheduled by their supervisor.

2. Preparation for Use of Force Review:
 - a. Review and submit reports as "approved" for merge, and
 - b. Document location of photographs of any injuries, if applicable.
 - c. Review all ICC/BWC videos that capture a Use of Force

Based upon the preliminary investigation, the First Line Supervisor will determine if the actions taken by the involved employee regarding the use of force are:

1. "In Compliance" using the department's internal data repository the First Line Supervisor will:
 - a. Document their reasons for such findings and,
 - b. Within three working days, forward to the next level of supervision of the affected employee that is scheduled to work or their designee

OR

2. “Not In Compliance,” using the department’s internal data repository the First Line Supervisor will:
 - a. Document their reasons for such findings and,
 - b. Within three working days, forward to the next level of supervision of the affected employee that is scheduled to work or their designee.

OR

If the First Line Supervisor cannot determine from the information given that the actions of the involved employee were “In Compliance” or “Not in Compliance,” using the department’s internal data repository, the First Line Supervisor will:

- a. Indicate that this incident “Requires Further Review”
- b. Document their reasons for such findings (e.g. issues regarding equipment, training, manpower, policy, conflicting statements from witnesses, etc.).
- c. Within three working days, forward to the next level of supervision of the affected employee that is scheduled to work or their designee.

The employee’s Lieutenant will:

1. Within three working days, using the department’s internal data repository, each level of supervision will review all reports and ICC/BWC video of the UOF and document WHY they concur or do not concur with the information or resolution presented, and
2. Submit to the next level until it reaches the involved employee’s Division Captain.

The Division Captain will review the Use of Force Report as completed up the chain of command as well as all related materials.

1. If actions are determined to be “In Compliance” the Operations Division Captain using the department’s internal data repository, will:
 - a. Sign-off accordingly and
 - b. Submit the Use of Force Report to the Internal Affairs Function for documentation and storage.
2. If actions are determined to be “Not In Compliance” or “Requires Further Review” using the department’s internal data repository, document his/her findings regarding the incident and submit to the Chief of Police.

When the Chief of Police receives notification of a Use of Force Report recommended as “Not in Compliance” or “Requires Further Review” he will:

1. Overrule previous recommendations, or
2. Designate a supervisor or the Internal Affairs Lieutenant to conduct an Internal Affairs investigation

All finalized Use of Force Reports will be forwarded to the Internal Affairs Function to be documented in the IA computer database and storage.

1.3.8 (CALEA 4.2.3) Removal from line of duty following deadly force

The purpose of this policy is to provide guidelines for the investigation of officer-involved shootings and other serious incidents, as defined herein

It is the policy of this agency that officer-involved shootings and other serious incidents be investigated to determine whether the actions of involved employees conform to applicable law and agency rules, policies, procedures, and training. The investigation of officer-involved shootings and other serious incidents shall normally be conducted in two separate parts and by separate authorities—a criminal investigation and an administrative investigation.

Any employee whose action(s) or use of force in an official capacity result in death or serious physical injury, will be removed from their operational assignment, pending an administrative review.

Incident Commander (IC): The individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all operations at the incident site.

Involved Officer(s)/Employee(s): Unless otherwise indicated, those sworn officers or employees acting in an on-duty or off-duty capacity who participated in a serious incident or are direct witnesses to such an event.

Qualified Mental Health Professional (QMHP): An individual who is licensed as a mental health professional and has an in-depth understanding of trauma-related disorders and the law enforcement culture.

Serious Incident: For the purposes of this document, a serious incident includes, but is not limited to, the following:

1. Any use of deadly force, regardless of whether the employee's actions resulted in injury or death, except as provided below.
2. Any death or serious injury resulting from, or that occurs during, the course of an agency operation
3. Pursuits resulting in serious injury or death
4. Employee-involved collisions resulting in death or serious injury.
5. Matters of an unusually serious nature involving agency employees, to include large-scale event response.

Serious Injury: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

The following procedures are tailored to address an officer-involved shooting. However, the general guidelines and principles can be used when investigating any serious incident.

A. Officers involved in an officer-involved shooting shall, to the degree reasonably possible, take initial steps to ensure that any threat from the subject has been eliminated, protect the safety of themselves and others, render first aid where necessary, and preserve evidence.

B. The incident command (IC) shall be responsible for ensuring that standard incident response protocols have been implemented. In addition, the IC shall ensure that the following tasks (when applicable) are addressed, if not previously completed.

1. Any remaining threats are identified, and necessary action is taken.

2. The physical condition of the involved officer(s), subject(s), and third parties is determined, emergency first aid is provided, if necessary, and emergency medical assistance is summoned.
3. A brief public safety statement is taken, preferably by a supervisor, individually from the involved officer(s), covering only information necessary to focus initial law enforcement response and direct the preliminary investigation into the officer involved. Information obtained should include, where appropriate,
 - a. Type of force and weapons used;
 - b. Direction and approximate number of shots fired by involved officer(s) and subjects;
 - c. Location of injured persons;
 - d. Description of at-large subjects and their direction of travel, time elapsed since the subjects were last seen, and any weapons;
 - e. Description and location of any known victims or witnesses;
 - f. Description and location of any known evidence; and
 - g. Any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large subjects.
4. All necessary agency notifications and/or consultations are made, such as those to the
 - a. Staff Duty notification;
 - b. Criminal Investigations Commander and/or State Bureau of Investigation (Officer-Involved Shootings will require SBI);
 - c. Office of professional standards personnel;
 - d. Evidence technicians;
 - e. Public information officer;
 - f. Coroner or medical examiner;
 - g. Legal advisor and/or District Attorney; and
 - h. Agency chaplain, mental health professional, and peer support program coordinator.
5. An adequate inner perimeter is established.
6. An outer perimeter is established to prevent anyone from entering except those who have a specific function to perform.
7. A media staging area is identified beyond the outer perimeter and that it is appropriately staffed. No statements shall be provided to the media without the authorization of the chief executive officer, his designee or the District Attorney's office.
8. A command post is established when it appears that an extended on-site investigation will be necessary.
9. An officer is appointed to serve as a "recorder," with responsibility for making a chronological record of activities at the scene, to include persons present and those who have been at the scene and actions taken by law enforcement or other official personnel.
10. Photographs are taken as soon as possible of the involved officer(s) as they appear at the scene, to include any injuries sustained.
11. Involved officer(s) are directed not to discuss any aspects of the shooting among themselves or with others, with the exception of their attorney, a qualified mental health professional, or authorized investigative personnel.
12. Involved officer(s) are separated and removed from the immediate scene and assigned a companion officer to ensure the physical needs of the involved officer(s) are met and that no statements regarding the incident are made.
13. All potential witnesses are identified and separated and asked to remain on hand to provide a statement. If witnesses wish to leave and there is no legal obligation to detain them, officers should obtain their contact information for future communications.

14. If equipment is available, video recordings are made of the entire incident scene and those present, including witnesses and bystanders.
15. Determinations are made whether video recordings were made by in-car cameras; body-worn cameras; electronic control weapons; and agency, business, or private surveillance cameras and that they have been secured as evidence as soon as reasonably possible.
16. Available information is collected about the subject and law enforcement actions from witnesses at the scene.
17. Any clothing or other personal items that may have been discarded or removed from subjects or involved officer(s) by medical personnel are located and secured as evidence.
18. The involved officer(s) weapon(s) is located and secured—or secured in place—and expended ammunition casings are marked.
19. The firearms and other weapons of involved officer(s) are physically checked for evidence of a discharge. Weapons that were fired shall be secured as evidence, and primary service firearms shall be replaced by a similar firearm as soon as reasonably possible.
20. Where applicable, weapons, ammunition, and expended cartridges used by the subject are located and secured in place.
21. The position(s) of the involved officer(s) and the subject at the time of the shooting are determined and marked.
22. All expended bullets are accounted for. This may include examining walls or other structures and determining if there are any additional victims who may require medical treatment.
23. If an involved officer is transported to the hospital, someone, such as a companion officer or peer support personnel, accompanies or meets them there.
24. If the involved officer is incapable of calling, another agency member notifies the involved officer's immediate family as soon as possible and in person, when reasonably possible. The notification should provide the family members with basic information on the status of the involved officer and when and where they will be able to see the officer.
25. If the involved subject is transported to the hospital, notification to family members should be considered as a function belonging to the Lead Investigator or the NC State Bureau of Investigation.

C. Whenever possible, the lead investigator shall do the following:

1. Receive a briefing from the IC.
2. Confirm that the public safety statement has been collected.
3. Confirm that all items of potential evidentiary value are identified and properly collected.
4. Obtain audio- and/or video-recorded preliminary statements from subjects and witnesses.
5. Canvas the immediate area for potential witnesses who have not come forth and obtain information or statements as available.
6. Obtain search warrants for any vehicles, containers, homes, or vehicles as may be necessary.
7. Where possible, audio- or video-record interviews with emergency medical personnel, fire department personnel, and first responding officers regarding conditions at the incident scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
8. Collect information regarding the subject, where appropriate, to include
 - a. Information provided by the reporting party;
 - b. Involved officer observations of the subject's behavior in the course of the interaction;
 - c. Whether others indicated that the subject had been consuming alcohol, using drugs, or both;
 - d. Whether the subject had been involved with law enforcement on prior occasions;
 - e. The subject's proximity to weapons and whether or not the subject was threatening to use them; and

- f. Whether the subject was visibly injured in any way when law enforcement arrived and what, if any injuries were sustained during the interaction with officers.
- 9. Gather information regarding the response to the call, to include, where applicable,
 - a. The number of involved officer(s) present;
 - b. the relative age, size, strength, and physical ability of the involved officer(s) compared to the subject(s) involved;
 - c. experience and training of the involved officer(s);
 - d. force options available to the involved officer(s);
 - e. basis for subject contact, to include seriousness of offense, if any;
 - f. potential for injury to the public, involved officer(s), or subject(s);
 - g. risk of escape of the subject;
 - h. degree and length of time of subject resistance;
 - i. means used to control or restrain subject;
 - j. legal basis for use of force or custody;
 - k. the behaviors and reactions of the subject once detained or in custody;
 - l. whether emergency medical services was called and, if so, at what point;
 - m. If the subject was seriously injured or admitted to a medical facility:

(1) What were the nature and severity of the injuries?

(2) Were the injuries consistent with the incident as described by the involved officer(s)?

- 10. In the event of death, consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy.
- 11. Prepare a summary report regarding the nature of the officer-involved shooting and include the involved officers' use-of-force reports, where applicable, for submission to the chief executive officer.
- 12. After the criminal investigation is concluded, the report will be forwarded to the District Attorney office for review. A clearance letter will be drafted to the agency by the District Attorney office and a press release will be sent to local media.
- 13. If there are no charges filed, the NC State Bureau of Investigation report will not be released by the District Attorney office.

D. The goal of the administrative investigation is to determine whether violations of agency policy, procedures, rules, or training occurred and, if so, whether disciplinary action should be recommended or modifications to policy, procedures, or training considered.

- 1. Criminal investigators shall not be present during administrative questioning, and any information gained as a result of administrative interviews cannot be shared with criminal investigators.
- 2. All interviews should be audio- and preferably video-recorded.
- 3. Investigators shall be trained in and consider symptoms of post-traumatic stress during involved officer interviews, such as time and space distortions, confusion, and hearing and visual distortions associated with recalling details of the incident, as well as emotional impairment during questioning.
- 4. As appropriate, involved officers who discharged their weapons or used deadly force should be placed on mandatory leave with pay or on administrative assignment.

E. All officers should receive initial and regular training regarding:

- 1. Agency policy and applicable laws regarding the investigation of officer-involved shootings.
- 2. Potential negative emotional, psychological, and physical reactions following officer-involved shootings and related available resources; and

3. What to expect following an officer-involved shooting.

Critical Incident Stress Debriefing: The department will provide for a mandatory Critical Incident Stress Debriefing for all employees involved in major disasters, shootings or other emergency events, to include back-up officers, Police Service Technicians, and supervisors. This briefing shall be conducted within the first 72 hours of the occurrence of the incident. The Support services Section Manager shall be responsible for coordinating the debriefings.

1.3.9 (CALEA 4.3.1) Authorization: Weapons/Ammunition

Only weapons and munitions approved by the Chief of Police shall be used by the New Bern Police Department.

- A. Authorized Weapons:** Members of the Department will only carry department authorized weapons as outlined in [Appendix 1](#).
- B. Authorized Ammunition:** Members of the Department will only carry department authorized ammunition as outlined in [Appendix 1](#) while on and off duty.
- C. Review/Inspection/Approval prior to carrying:** Prior to carrying any weapon or firearm on or off duty, all weapons and firearms shall be inspected by a department firearms instructor. Department issued malfunctioning weapons will be removed from service and replaced with a functioning weapon. Off-duty or secondary weapons or firearms that fail inspection by the firearms instructor will not be carried.

Approval Procedures: An officer desiring authorization to carry a personal firearm either as a secondary or an off-duty weapon must:

1. Complete and submit an Authorization to Carry Personal Firearm Form (NBPD #17) via Chain of Command to the Office of the Chief requesting the use of a personal firearm.
2. Have the firearm inspected by a department firearms instructor for serviceability and safety, or provide annual certification to the department that the firearm has been inspected and approved by a qualified armorer.
3. Pass an approved department firearm qualification course annually. The qualification shoot should be scheduled through the Training Unit.
4. A completed Criminal Justice Education and Training Standards Commission, Form F-9A, must be on file with the department listing all weapons for which the officer is qualified.

The Services Division Captain, or designee, will annually conduct an audit of all firearms and any documentation associated with the annual review, inspection, approval and maintenance of each firearm.

- D. Removal of Unsafe Weapons:** Any officer upon discovering a malfunctioning weapon or firearm will report the malfunctioning weapon or firearm to their supervisor immediately. The weapon or firearm will be replaced by a department firearms instructor.

The modification, alteration, or repair of departmental issued/approved weapons or firearms shall be the responsibility of the department armorer and shall be performed only by the armorer or at his direction.

E. **Maintenance of Records:** A firearms instructor shall maintain a record of each weapon approved by the department for official use. The record will be maintained in a weapon/firearms database/spreadsheet and will contain at a minimum:

- Type of weapon
- Description
- Identifying model
- Serial numbers
- Officer assigned/owner

F. **Storage:** Officers must take reasonable and adequate care of issued/approved weapons and firearms. Officers shall have the ultimate responsibility of ensuring safe and proper storage of department issued firearms.

Officers of this department shall not surrender their department issued firearms to another person unless ordered to do so by supervisory personnel.

Firearms will NOT be left in a department vehicle when the officer is off duty.

Firearms will NOT be left in a department vehicle when the vehicle is left in the care of non-departmental personnel.

Officers will remove the firearm(s) from department vehicles and store same in the department's armory or at their residence in a secured manner.

To prevent unnecessary injury or death caused by unsafe storage of firearms, officers should store their department issued firearm(s) unloaded, with the department issued cable type slide locking system properly affixed OR in a secured gun safe, cabinet, or gun rack.

If firearms are to be stored in the armory when circumstances dictate, such as an extended vacation, all paperwork will be completed, and a copy of the Firearms Transaction Form #172 will be given to the officer documenting the transfer of the firearm into the armory.

Even though this section applies specifically to department issued firearms, the New Bern Police Department strongly urge our employees to store ALL of their firearms in a safe and proper manner.

1.3.10 (CALEA 4.3.2) Weapons Qualification

All sworn personnel shall receive a copy of and instruction in the general orders pertinent to the use of force and handling of department weapons prior to being authorized to carry a firearm. Officers shall qualify prior to carrying any firearm in accordance with NCCJETS Title 12, N.C.A.C. Sub-chapter 9E as provided in NCGS 17C-6 and 17C-10 unless it is of the same make and model of firearm being exchanged.

Firearms:

Annual Qualification: All sworn, and reserve personnel shall qualify at scheduled firearms training sessions annually with their authorized firearms. The annual qualification date will consist of a minimum of 4 hours.

1. Firearms qualification will be graded on a score basis as follows:

- a. Minimum passing score of 70%.
 - b. Passing score of 85 to 89% qualifies as Marksman.
 - c. Passing score of 90 to 94% qualifies as Sharpshooter.
 - d. Passing score of 95% or higher qualifies as Expert.
2. The Training Unit shall maintain records of the dates of qualifications for each officer.

(CALEA 4.3.4) Less Lethal:

Impact Weapons: Impact weapons are issued as a tool in use of force which is less than deadly force and another alternative to the use of firearms or other lethal force as a means to defend employees and citizens from physical attack and to control hostile suspects during an arrest situation.

Any officer or civilian employee authorized to carry an impact weapon must complete an approved training consisting of force-on-force training presented by a certified instructor in the use of impact weapons prior to being carried on duty. Training must occur at least biennially.

O.C. Spray: Any officer or civilian employee authorized to carry O.C. spray must have satisfactorily completed an approved training course in its use presented by a certified instructor and have been exposed to the effects of O.C. Training must occur at least biennially

Less Lethal Munitions: Only personnel who have successfully completed a training course approved by the New Bern Police Department presented by a certified instructor in the proper use and deployment of less lethal munitions shall be authorized to use them during actual operations. Training must occur at least biennially.

Conductive Energy Weapon (CEW) (Commonly referred to as a TASER): Only personnel who have successfully completed a training course approved by the New Bern Police Department presented by a certified instructor in the proper use and deployment of (CEW's) shall be authorized to use them during actual operations. Officers are required to be exposed to a CEW to be issued a device. Training must occur at least annually.

NOTE: All employees should use caution when deciding to use a CEW on an individual that has been exposed to O.C. or any other chemical agent.

Once the decision has been made to use the CEW, if practical, loudly announce, "TASER, TASER" unless doing so would place another person at risk. The purpose of this is to prevent other officers from mistaking the CEW for a firearm and to alert officers of its impending use.

Unauthorized Use Circumstances:

1. Due to additional risks involved, the CEW will NOT be used on the following groups of people:
 - a. Children believed to be under the age of 12 years;
 - b. Elderly persons that are believed to be 65 years old or older;
 - c. Women that are believed to be pregnant; and
 - d. Visibly frail persons unless exigent circumstances exist.
2. The CEW shall NOT be used under the following circumstances:
 - a. On any person who is in control of a vehicle that is in gear or in motion unless exigent circumstances exist;

- b. On a person who is or has been sprayed with any chemical agents to include Oleoresin Capsicum spray (OC) and is exhibiting signs of excited delirium;
- c. In the proximity of known flammable liquids, gases, or any other highly combustible materials that may be ignited by the device including any individual that may have been exposed to highly combustible substances and/or liquids such as gasoline;
- d. On a passive suspect; or
- e. On handcuffed persons unless they are actively resisting or exhibiting active aggression to prevent individuals from harming themselves or others.

1.3.11 (CALEA 4.3.3) Annual/Biennial Proficiency Training

Members of the department must attend a training course in the use of firearms annually as outlined in this chapter. Training for less lethal force option must occur at least biennially.

A. Certified Weapons Instructors: All use of force training must be completed by certified instructors in the area of the training. In service training instructors must be certified in the training area in accordance with 12NAC 09E.0104 of the NC Training and Standards Commission.

B. Documentation of Training: The Training Unit shall maintain records of the dates of qualifications for each officer. Annual firearms qualifications will be documented on the NC Training and Standards F9 form to be submitted to the state on an annual basis.

C. Remedial Training Failure to Qualify: Officers attempting to qualify with any firearm must achieve a passing score in accordance with department testing procedures and qualification requirements prescribed in section [1.3.10](#). Failure to achieve a passing score will result in revocation of authorization to carry that/those particular firearm(s).

Failure to score minimum 70% - Personnel who fail to meet the state mandated minimum score of 70% will have their weapon checked by a Certified Firearms Instructor for a malfunctioning weapon. After a check of the weapon is completed, the officer will immediately attempt to qualify. If the officer again fails to score 70% on 2 subsequent attempts, he/she will immediately surrender his/her weapon and be assigned directly to Remedial Firearms Training. The officer will be assigned non police duties until the completion of Remedial Firearms Training and successful qualification.

Remedial Firearms Training- Shall not exceed four (4) hours of instruction and no more than 100 rounds of training ammunition. After completing Remedial Training officers will be required to successfully qualify (70%) on two (2) of three (3) attempts and again between 90 and 120 days of qualifying. Officers who fail to qualify between the 90 and 120 day window will enter remedial training again and be required to qualify (70%) on two (2) of three (3) attempts and again between 90 and 120 days of qualifying. Officers will be afforded a maximum of two remedial firearms training sessions within a five year period during their employment with the New Bern Police Department.

Upon successfully completing the department's qualification requirements, the assigned weapon will be returned to the officer, and they will return to full police duties. Failure to qualify will result in loss of their police position.

1.3.12 (CALEA 4.2.4) Documented Annual Analysis

The New Bern Police Department will annually conduct an analysis of use of force activities, policies and practices.

1.3.13 (CALEA 4.2.5) Assault on Sworn Officer Review

Annually, the agency conducts a review of all assaults on law enforcement officers to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues.

1.3.14 (CALEA 4.3.5) Firearms Range

- A.** The firearms range selected for use by the Chief of Police or his designee, will be used by police department personnel for qualifications and other scheduled training.
- B.** In addition to the safety rules posted at the range and by the range, a firearm's instructor will go over safety rules prior to shooting.
- C.** During departmental training and qualification, a firearms instructor will be designated as lead/supervising instructor for that training or qualification.
- D.** Only weapons, ammunition, target and equipment issued or approved by the police department are permitted to be used on the range for training and qualification.
- E.** Officers should wear protective eyewear and hearing protection while shooting or in close proximity of others shooting.
- F.** A trained specialized firearms instructor will be present during training and qualification. All specialized firearms instructors will have attended CPR and training in emergency medical response.
- G.** Refer to Chapter 1.3.9 F, Authorization: weapons/ammunition and storage.

New Bern Police Department

Chapter 1 – APPENDIX I

AUTHORIZED WEAPONS AND AMMUNITION

Weapons

- A. On-duty Service Weapon: Glock 19 (9mm)
Glock 43 (9mm)
Glock 45 (9mm)
- B. On-duty Shotguns: Remington Model 870 (12 gauge)
H&K Model M1 S90 (12 gauge); and
Mossberg Models 500 & 600 (12 gauge)
- C. On-duty Rifles: Colt Models M-16 and AR-15 (calibers 5.56, .223 & 9mm)
Heckler & Koch MP5 (9mm)
Remington Model 700 (.308)
Barnes Precision AR10 (.308)
Barnes Precision AR15 (5.56)
- D. Off-duty/Personal Weapons:
- Handguns: .45 caliber or less but not smaller than .380 caliber.
- Personal Patrol Rifles: Must be AR-15 Platform chambered in .223 or 5.56 with a minimum of two (2) magazines. Magazines must be at minimum capable of holding twenty (20) rounds.
- E. Less Lethal Weapons: Pepperball® Launcher
LMT 40mm Launcher
Less Lethal Shotguns are Remington 870's (brightly colored stocks)
Taser® 7
Collapsible Baton
Oleoresin Capsicum Spray

Ammunition

- A. Duty Weapon (issued):
- | | |
|------------------|--|
| .45cal 230gr JHP | 5.56 / .223cal 55gr Pointed Soft Point |
| .45cal 230gr FMJ | 5.56 / .223cal 45gr Frangible |
| .38cal 110gr JHP | 5.56 / .223cal 55gr Frangible |
| 9mm 115gr JHP | 5.56 / .223cal 55gr FMJ |
| 9mm 124gr JHP | .308cal 150gr PSP |

9mm 127gr +P+ JHP .308cal 167 Tactical Bonded SP
12ga 1oz slug .308cal 168gr HPBT
12ga 9 pellet 00 Buckshot

B. Off-Duty Weapon:

.45cal 230gr JHP .38cal 110gr or 125gr JHP
.40S&Wcal 165gr or 180gr JHP .357cal 125gr JHP
.357Sigcal 125gr JHP
9mm 115gr to 147gr JHP
.380cal 90gr or 95gr JHP

C. Personal Patrol Rifles:

5.56 / .223 55Gr Pointed Soft Point
5.56 / .223 45Gr Frangible
5.56 / .223 55Gr Frangible

D. Less Lethal Ammunition

40mm OC Ferret
40mm CS
40mm Impact Rds
40mm Baton
40mm Smoke
12 GA Drag Stabilized
12 GA Fin Stabilized

Patrick L. Gallagher., Chief of Police