

AGENCY ROLE AND RESPONSIBILITY		
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Berlin Police Department - POLICY		
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SUBJECT: Agency Roles and Responsibility		
Effective Date: 11/06/2020	By The Order Of: Chief Peter Morency	

GENERAL PROVISIONS AND RESPONSIBILITIES:

A. GENERAL OBLIGATIONS OF MEMBERS:

1. All members have the responsibility to become familiar with the provisions and regulations of departmental directives and are expected to know and assume their duties and obligations.
2. All sworn officers must abide by the "Law Enforcement Code of Ethics" as published by the International Association of Chiefs of Police:

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorders; and to respect the Constitutional rights of all men to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

3. All sworn officers, prior to assuming sworn status, shall be required to take an oath of office to enforce the law and uphold the Constitution of the United States and the State of New Hampshire. The oath of

office shall become a permanent record maintained in the officer's personnel file.

4. All sworn officers of the City of Berlin Police Department shall have the legally mandated authority to enforce the applicable laws of the United States of America as well as all laws and ordinances of the State of New Hampshire and the City of Berlin within the limits established by Constitutional authority.
5. Any information which could hamper the Department's operations will be kept strictly confidential. Strict confidentiality is especially important with regard to information on emergency response to criminal activity.

B. LEGALLY MANDATED AUTHORITY:

The legally mandated authority of police officers is granted through a series of State Statutes found in RSA Chapter 105, Police Officers and Watchmen. The extent of police powers has been further defined through court decisions which specify restrictions or extensions upon authority, and are further shaped and constrained by both the Constitution of the United States and the State of New Hampshire.

1. NH RSA 105:1 provides for the appointment of Police Officers by the selectmen or governing body of a political subdivision, and further provides for the designation of one officer as the Chief of Police with authority over other police personnel. The City of Berlin Charter further provides for these appointments.
2. Once appointed, Police Officers for the City of Berlin have legally mandated authority to enforce the Criminal Law of the State of New Hampshire as well as the Ordinances of City of Berlin. Police powers are restricted to enforcement of these laws within the jurisdiction of the City of Berlin unless legal authority grants an expansion of authority. Authority is legally expanded as follows:
 - a. A Berlin Police Officer has the legal authority to serve an arrest warrant anywhere within the State of New Hampshire, and maintains police powers over the arrested individual even though the officer is outside of the legal boundaries of the City of Berlin.
 - b. Police officers maintain police powers in cases of "fresh pursuit" of a violator of the law. This is always true within the State of New Hampshire, and extends to other States in cases of Felony "fresh pursuit" situations. (See BPD General Order 20.4 Vehicle Pursuit).
 - c. Police officers maintain certain limited powers in cases involving the attempted apprehension of DWI violators across state boundaries. (See BPD General Order 20.4 Vehicle Pursuit).
 - d. Police officers have certain police powers in emergency mutual aid situations with communities that maintain mutual aid agreements. (See BPD General Order 10.2 Jurisdiction and Mutual Aid).
 - e. Police officers may be employed for the preservation of peace at the public meetings or functions anywhere within the State and maintain their police powers while serving in such capacity. (See BPD General Order 10.2 Jurisdiction and Mutual Aid).

C. USE OF DISCRETION:

1. The use of discretion by police officers involves the power to exercise judgement in the selection of a course of action from available alternatives. Police response to any situation can involve rational, legal, and moral alternatives which are in the best interest of the individual, community and society. Officers shall be aware at all times that the authority vested in their badge be tempered with discretion.
2. Situations where officers will normally be confronted with decisions that may require the use of discretion include:
 - a. The enforcement of laws, i.e. motor vehicle warnings, issuance of summons in lieu of an arrest, etc...
 - b. The use of force.

- c. Prosecution and plea bargaining.
- d. The resolution of conflict or disputes.
3. An officer's use of discretion may be restricted or eliminated entirely by:
 - a. Statute, City Ordinance, or Court Order.
 - b. Court decisions.
 - c. Rules and Regulations of the department.
 - d. A lawful order by a superior officer.

Any of the above may require certain actions in specific situations, effectively eliminating the officer's discretion. In addition, any of the above may prohibit certain actions by police in given situations, effectively narrowing the officer's discretion by eliminating one or more potential responses.

4. Although it is impossible to outline the precise parameters of discretion for every type of police activity, generally speaking it is desired that officers exercise discretion in a manner that is consistent with:
 - a. The philosophy and goals of the department.
 - b. Pertinent laws and court decisions.
 - c. Direction, supervision, and orders received from superiors.
 - d. Department General Orders.
 - e. The sense of justice and fairness that would be expected by the ordinary, reasonable, and prudent member of the community.

D. DISCRIMINATORY BEHAVIOR AND BIASED BASED POLICING PROHIBITED:

1. Discrimination in any form, against any person or group of persons based upon race, ethnicity, perceived or actual personal differences, lifestyle choices or any other personal bias is strictly prohibited.
 - a. The use of race, ethnicity, cultural or personal characteristics or perceived characteristics as the sole determinants in selecting who to stop, detain, investigate, initiate forfeiture proceedings upon or otherwise exert law enforcement authority upon is often referred to as biased based policing or racial profiling. These practices are constitutionally unlawful and are strictly prohibited.
 - b. Allegations of discriminatory behavior and bias based policing will be assigned as internal investigations within the department. Employees found to have engaged in intentional discriminatory behavior or biased based interactions will be subject to disciplinary action, up to and including termination.
2. Annually the Deputy Chief shall conduct a review of agency practices and citizen complaints to determine if there is a need for additional training or policy modifications as a result of alleged or demonstrated bias by police agency employees.

E. MANDATORY REPORTING OF LAW ENFORCEMENT MISCONDUCT (NH RSA 105:19)

1. For the purposes of this section, "misconduct" means assault, sexual assault, bribery, fraud, theft, tampering with evidence, tampering with a witness, use of a chokehold, excessive and illegal use of force as defined by the New Hampshire criminal code, or
2. It shall be the duty of any law enforcement officer who observes misconduct by another law enforcement officer to notify the chief law enforcement officer in writing immediately, or as soon as is practicable, after observing such misconduct. Within 7 days of receiving such notification, the chief law enforcement officer shall notify the police standards and training council of such misconduct in writing. If the chief law enforcement officer is the subject of the misconduct report, the reporting officer shall report directly to the police standards and training council.
3. No discriminatory, disciplinary, or retaliatory action shall be taken against any officer for any

information given or disclosed by him or her in good faith in the course of making a report of misconduct under section 2.

4. Willful failure to report such conduct may serve as just cause for disciplinary action, including but not limited to suspension or revocation of the officer's certification through Police Standards and Training.

ORGANIZATION OF THE BERLIN POLICE DEPARTMENT

In Effect: 11/04/2008

Review Date: 09/01/2025

10.3 ORGANIZATION OF THE BERLIN POLICE DEPARTMENT

I. POLICY:

- A. The organizational structure of the Berlin Police Department shall consist of the Office of the Chief of Police and is subdivided into Administrations/Patrol/Detectives/Support Staff.
- B. Authority shall be delegated by a commanding officer to subordinates by written directive or verbal order, where responsibilities are assigned to members beyond their regular duties.
- C. Employees are responsible for tasks as defined in this order, their job description, procedural manuals specific to their division, and as delegated by departmental authority.
- D. The existence of specialized units does not relieve any employee from the responsibility for the enforcement of laws and the investigation of incidents brought to their attention.

II. GENERAL ORGANIZATION:

- A. The Berlin Police Department is organized into five major areas of responsibility:
 1. The Office of the Chief of Police.
 2. The Administrations Division.
 3. The Patrol Division.
 4. The Detective Division.
 5. The Support Services Division.

III. DEFINITIONS:

- A. Department: The Berlin Police Department.
- B. Office: The Chief of Police and certain staff/line functions of his subordinates.
- C. Administration: The subdivision of command directly responsible to the Chief of Police.
- D. Patrol Division: The subdivision of command responsible to Administration.
- E. Detective Division: The subdivision of command responsible to Administration.
- F. Support Services Division: A subdivision of a section which performs a specialized task supportive of the section's responsibilities.
- G. Team: A group of expertise-oriented personnel called to convene under certain special circumstances.