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# Mutual Aid Between Law Enforcement Agencies

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September 2022

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# 1. Introduction

One of the most valuable tools North Carolina law enforcement agencies possess is the ability to share resources and expertise among agencies. Both large and small law enforcement agencies occasionally need additional help, especially during a natural disaster or some other state of emergency. Fortunately, our State laws that allow for the provision of mutual aid enable officers to lend a helping hand outside their territorial jurisdiction in times of need. The purpose of this publication is to provide law enforcement agencies and their officers with a reference guide that includes the statutory authority for the provision of mutual aid between local, State and federal law enforcement agencies.

This publication will provide the agency and the officer with the requirements of both Chapter 160A (cities, towns and counties) and Chapter 90 (drug laws) of the North Carolina General Statutes and will address mutual aid between local governments (*e.g.*, city and city, city and county, and county and county) and between local government and the State. Only brief mention is made of agreements with federal law enforcement agencies.

Also, it is important to note that the territorial jurisdiction of numerous local law enforcement agencies has been expanded by local modification to the governing statutes. Therefore, we recommend that an agency or officer look at the notations to G.S. § 160A-286 (“Extraterritorial jurisdiction of policemen”) and G.S. § 15A-402 (“Territorial jurisdiction of officers to make arrests”) to determine if their agency, or an agency with which they intend to enter into a mutual aid agreement, is affected by a local modification. If you have any questions on how to locate the statutory notations or how to interpret them, we recommend you consult with your agency legal advisor, county attorney or district attorney.

## 2. Mutual Aid Between Local Law Enforcement Agencies

The primary authority for county and city law enforcement agencies to provide mutual aid to each other is G.S. § 160A-288, entitled “Cooperation between law enforcement agencies.” Although Chapter 160A is the chapter that governs cities and towns in our General Statutes, G.S. § 153A-212 makes this statute applicable to counties as well. In addition, G.S. § 18B-501(d) gives local ABC officers the status of a “law enforcement agency” for purposes of G.S. § 160A-288.

### 2.1 Authorizing Resolution No Longer Required

Prior to 2018, G.S. § 160A-288 required a board of county commissioners (for sheriffs’ offices) or city council (for police departments) to first pass a resolution allowing for the provision of mutual aid by agencies that fall under the respective governing body. However, in 2018 the North Carolina Sheriffs’ Association successfully lobbied to have the law changed to eliminate the requirement of a county or city resolution authorizing the provision of mutual aid.

Therefore, under current law, local law enforcement agencies can provide mutual aid **without** obtaining authorization from a board of county commissioners or city council.

However, G.S. § 160A-288, as amended in 2018, does allow a board of county commissioners or a city council to prohibit or limit the provision of mutual aid by enactment of an ordinance officially adopted by the governing body. Therefore, a governing body could, for example, enact an ordinance

that officially adopts guidelines or places conditions or restrictions on the provision of mutual aid. As of the date of the preparation of this publication, the North Carolina Sheriffs' Association is not aware of any local governing body that has enacted such a limiting ordinance.

## 2.2 Providing Mutual Aid

G.S. § 160A-288 authorizes the head of a county or city law enforcement agency, *e.g.* the elected sheriff or chief of police, or a person delegated authority by the agency head, to temporarily provide assistance to another law enforcement agency if the assistance is requested in writing by the head of the other agency. Only one (1) officer in the agency shall have the delegated authority at any one time.

G.S. § 160A-288 authorizes agencies to loan: (1) officers, including in an undercover capacity; (2) equipment; and (3) supplies. The statute also authorizes agencies to assist in enforcing the laws of North Carolina.

The statute specifically provides that while on duty with the requesting agency, an officer is subject to the lawful operational commands of his or her superior officers in the requesting agency. Such officers remain, however, under the control of their employing (*i.e.*, lending) agency for administrative and personnel purposes, including pay.

While working with the requesting agency, an officer shall have the same jurisdiction, powers, rights and privileges as an officer of the requesting agency, in addition to those the officer normally possesses. This includes immunities relating to the defense of civil actions and payment of judgments. Further, assisting officers are entitled to workers' compensation and the same benefits as though they were functioning within the normal scope of their duties.

For purposes of G.S. § 160A-288, "law enforcement agency" means only: (1) a sheriff's office; (2) a municipal police department; (3) A county police department; or (4) Local ABC officers. However, for purposes of this statute, the following are equated with a municipal police department:

1. A campus law enforcement agency established pursuant to G.S. § 116-40.5(a) [The University of North Carolina System] or G.S. § 115D-21.1(a) [North Carolina Community College System];
2. A college or university which is licensed, or exempted from licensure, by G.S. § 116-15 [Private Universities] and which employs company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the North Carolina General Statutes;
3. A local airport police agency established pursuant to G.S. § 63-53; and
4. A company police agency of the Department of Agriculture and Consumer Services commissioned by the Attorney General pursuant to Chapter 74E of the General Statutes.

Therefore, G.S. § 160A-288 applies only to these agencies and officers. By the express language of this statute, all other State and local agencies are excluded from the provisions of G.S. § 160A-288 (assistance by State law enforcement officers is covered in 160A-288.1).

However, G.S. § 74E-6 gives any company police agency that qualifies under Chapter 74E of the General Statutes the authority to enter into mutual aid agreements with and to render temporary assistance to cities and counties to the same extent as a municipal police department, with one major exception: if a company police agency proposes to enter into a mutual aid agreement with the governing board of a county under G.S. § 74E-6, it may only do so with the consent of the sheriff of that county. G.S. § 74E-6(h) and (i). Finally, a local act was passed in 2007, which allows the Lake Royale Company Police Program to enter into a multi-jurisdictional drug task force at the request of the Franklin County Sheriff.

## 2.3 No Formal Mutual Aid Agreement Required but Assistance Must be Temporary

Although the statute requires that any mutual aid rendered must be “temporary,” the statute does not require the adoption of a mutual aid agreement nor does the statute restrict the duration of any underlying mutual aid agreement that may be adopted between agencies choosing to have such an agreement.

Therefore, it is not necessary to adopt a mutual aid agreement that simply addresses the mandatory provisions of law already specified in G.S. § 160A-288. An agency may choose, however, to adopt a mutual aid agreement that addresses other terms not specified in G.S. § 160A-288, such as: (1) the division of asset forfeiture proceeds or assets; (2) the allocation of any losses incurred by an injured employee that exceed the workers’ compensation payments to that employee; (3) allocation of expenses for damage or destruction to agency equipment, property or other resources; or (4) any limitation on the duties and responsibilities of the assisting officer.

Finally, the lending of assistance under G.S. § 160A-288 must be “temporary assistance.” “Temporary” is defined as “lasting for a limited period of time.” When officers are being loaned for a longer assignment, such as an undercover drug investigation, the written request for mutual aid should specify the time covered by the “temporary assistance.” In such instances, many agencies have elected to use requests for mutual aid that do not exceed 12 months, although this period is not mandated by law.

## 2.4 Request for Assistance Must be Made in Writing

As stated above, G.S. § 160A-288 requires that any request for mutual aid must be made in writing. Although no appellate court decisions interpret the “writing” requirement of G.S. § 160A-288, it has been the consistent opinion of the North Carolina Attorney General that the purpose of the statute would be fulfilled if some writing exists to confirm that the officers were in fact requested to come outside their territorial jurisdiction. *See* 47 NCAG 181 (1978)

As a practical matter, sometimes the need for assistance is immediate. In those circumstances, a writing memorializing the request for assistance may be subsequently prepared. Such an interpretation provides allowance for “officer needs assistance” and other emergency requests where a prior request is not practically feasible. In keeping with these statutory requirements and opinions, an urgent request for assistance may be made orally (*e.g.*, by radio, telephone, or personally), then followed up with an additional written request as soon as practical. An example of a written request for assistance is included in Appendix I of this publication.

The statute specifies that the request for assistance must be “in writing” but does not specify, nor restrict, the mechanism for transmitting the written request. Therefore, in addition to a letter sent by traditional means, the request may be sent electronically by FAX, the DCI network, by e-mail, or even by text messaging.

If agencies choose to have a mutual aid agreement document, it must be noted that this document itself will not suffice for the written request for assistance. There must be a separate written request for assistance. Also, in those situations where the assistance is to be over an extended period — such as an undercover investigation or a joint task force — the Attorney General's Office has consistently advised that the separate written request for assistance should specify that the assistance is “temporary” (*e.g.*, 12 months or less).

## 2.5 Delegation of Authority to Make Request for Assistance

G.S. § 160A-288 provides that the agency head may delegate his or her authority to request assistance to another officer, “but only one officer in the agency shall have this delegated authority at any time.” Therefore, the agency can delegate this authority to a named individual officer (*i.e.*, Capt. John Doe) or to a specified position or rank (*i.e.*, highest ranking or most senior officer on duty during a shift or the shift supervisor).

## 2.6 Providing Mutual Aid to Out-of-State Law Enforcement Agency

Prior to 2019, a North Carolina law enforcement agency had very limited authority to provide mutual aid to an out-of-state law enforcement agency. Such authority only existed under G.S. § 166A-19.72, which allows the governing body of local governments to enter into mutual aid agreements for reciprocal emergency management aid and assistance subject to the approval of the Governor.

However, in 2019 the North Carolina Sheriffs’ Association successfully lobbied to have G.S. § 160A-288 changed to allow local North Carolina law enforcement agencies to provide mutual aid to certain out-of-state local law enforcement agencies.

G.S. § 160A-288, as amended, allows a North Carolina sheriff’s office or municipal or county police department to provide assistance to, or receive assistance from, an out-of-state sheriff’s office or municipal or county police department if the laws of the other state allow for such mutual aid between law enforcement agencies.

### 2.6.1 Mutual Aid and Border States - South Carolina, Virginia, Georgia and Tennessee

In 2020, the North Carolina Sheriffs’ Association worked with the South Carolina Sheriffs’ Association to develop a standardized mutual aid agreement for the provision of assistance between North Carolina and South Carolina local law enforcement agencies. Although South Carolina law allows for the provision of mutual aid between states, South Carolina law also requires the signing of a written mutual aid agreement between the agencies that will be involved in providing mutual aid.

A copy of the standardized South Carolina mutual aid agreement is included in Appendix II of this publication. It is advisable that you consult with your own legal advisor or county attorney before entering into such an agreement. In addition, it is advisable that you verify that the South Carolina

law enforcement agency has also submitted the standardized mutual aid agreement to their legal counsel for approval.

Virginia law allows for the provision of mutual aid between law enforcement agencies in Virginia and law enforcement agencies in other states. However, the Virginia Sheriffs' Association has declined to participate in the development of a standardized mutual aid agreement for the provision of assistance between North Carolina and Virginia local law enforcement agencies. Therefore, any North Carolina law enforcement agency wishing to provide mutual aid to an agency in Virginia should consult directly with that agency to develop a mutual aid agreement that complies with both North Carolina and Virginia law.

Georgia law does not allow for the provision of mutual aid with out-of-state law enforcement agencies unless there is a declared state of emergency. During a declared state of emergency, the Emergency Management Assistance Compact (EMAC) applies for the provision of assistance from law enforcement agencies outside of the state in which a declared state of emergency exists, including the State of Georgia. EMAC is the first national disaster-relief compact since the Civil Defense and Disaster Compact of 1950 to be ratified by United States Congress. Since becoming law in 1996 (Public Law 104-321), 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands and the Northern Mariana Islands have enacted legislation to become EMAC members.

Finally, the North Carolina Sheriffs' Association is working with the Tennessee Sheriffs' Association for the development of a standardized mutual aid agreement for the provision of assistance between North Carolina and Tennessee local law enforcement agencies, which will be similar to the standardized form developed for South Carolina. The North Carolina Sheriffs' Association will update this Mutual Aid Between Law Enforcement Agencies publication as soon as this task is complete.

### **3. Mutual Aid Between Local Law Enforcement Agencies and State Law Enforcement Agencies**

G.S. § 160A- 288.2, entitled "Assistance to State law-enforcement agencies," authorizes municipal police departments, county police departments, and sheriffs' offices to provide assistance, upon request, to officers of a State law enforcement agency. Pursuant to G.S. § 18B- 501(e), under certain conditions local ABC officers are authorized by statute to assist state law enforcement agencies and are given statewide jurisdiction when doing so.

For purposes of this statute, "State law-enforcement agency" is defined as "any State agency, force, department, or unit responsible for enforcing criminal laws." Many such agencies have statewide jurisdiction, although some do not (*e.g.*, State Capital Police, General Assembly Police). Likewise, State agencies may have limited subject matter jurisdiction.

Subparagraph (c) of G.S. § 160A-288.2 equates the following with a municipal police department for purposes of this statute:

1. A campus law enforcement agency established pursuant to G.S. § 116-40.5(a); and
2. Private universities which employ company police officers commissioned pursuant to Chapter 74E or 74G of the General Statutes.

The provisions of G.S. § 160A-288.2 are identical to G.S. § 160A-288 in all other respects. No resolution by a governing body allowing for the lending of mutual aid to a State agency is required under the statute. However, a board of county commissioners or a city council may prohibit or limit the provision of mutual aid by enactment of an ordinance officially adopted by the governing body. Assuming no such ordinance has been officially adopted, the request for assistance must:

1. Be in writing by the agency head or delegated authority; and
2. Must be for the provision of temporary assistance only.

The assistance may be lending officers (including working in an undercover capacity), equipment, and/or supplies. Further, as with G.S. § 160A-288, officers assisting a State law enforcement agency pursuant to G.S. § 160A-288.2 shall:

1. Have the same jurisdiction, powers, rights, privileges, and immunities as the officers of the requesting agency in addition to those he/she normally possesses;
2. Be subject to the lawful operational commands of his/her superior officers in the requesting agency;
3. Remain under the control of the lending agency for purposes of personnel and administration, including pay; and
4. Be entitled to workers' compensation and other benefits to the same extent as though he/she were functioning within the normal scope of his/her duties.

While G.S. § 160A-288 allows a North Carolina municipal or county police department or a sheriff's office to provide assistance to, or receive assistance from, an out-of-state municipal police department, county police department or sheriff's office, no similar provision of law is contained in G.S. § 160A-288.2 that would allow a local North Carolina law enforcement agency to provide mutual aid to state law enforcement agencies (such as state police) of another state.

The only exception to this rule falls under G.S. § 147-12(a)(4), which provides that only the Governor has the authority to enter into a contract, pact, or agreement with another state or the federal government. The only authority granted by the General Assembly for a local entity to enter into mutual assistance agreements with another state is under Chapter 166A, the North Carolina Emergency Management Act. Pursuant to G.S. § 166A-19.72, the governing body of local governments may enter into mutual aid agreements for reciprocal emergency management aid and assistance subject to the approval of the Governor.

Finally, by way of information, it is important to note that G.S. § 160A-288.1 authorizes the Governor to temporarily assign State law enforcement officers with statewide authority to provide law enforcement protection when local law enforcement officers:

1. Are engaged in a strike;
2. Are engaged in a slowdown;
3. Otherwise refuse to fulfill their law enforcement responsibilities; or

4. Submit mass resignations.

This action can be taken by the Governor only upon the written request of the governing body of the effected city or county. If the request is from a county's governing board, it must be made upon the advice of the sheriff of that county.

This statute provides that the Governor shall formulate such rules, policies, or guidelines as may be necessary to establish a plan to carry out a request under this statute. It also provides for compensation, benefits, and supervision of such State officers.

## 4. Mutual Aid Pursuant to Chapter 90

In addition to the statutes governing mutual aid between local agencies and between a local agency and a state agency in the enforcement of all criminal laws and other matters, the legislature provided for mutual aid for the enforcement of specific types of criminal offenses.

G.S. § 90-95.2 provides for mutual aid between agencies for purposes of enforcing Chapter 90, the North Carolina Controlled Substances Act. This statute is substantially similar to G.S. § 160A-288, with certain exceptions.

First, G.S. § 90-95.2 is for the limited purpose of enforcing the North Carolina Controlled Substances Act, unlike G.S. § 160A-288, which applies to all criminal laws.

Second, this statute provides in subsection (b)(2) that Chapter 90 mutual aid may be provided by **any** state or local law enforcement agency, force, department, or unit responsible for enforcing criminal laws in North Carolina. This definition of “law enforcement agency” includes numerous agencies not included under G.S. § 160A-288(b)(2).

Third, unlike mutual aid under Chapter 160A, there is no provision of law in G.S. § 90-95.2 that allows a board of county commissioners or a city council to prohibit or limit the provision of mutual aid under Chapter 90 by enactment of an ordinance officially adopted by the governing body.

Finally, the language of G.S. § 90-95.2, in conjunction with G.S. § 74E-6(g) and G.S. § 74G-6(f), would prevent this statute from being applicable to **any** company or campus police agency certified pursuant to Chapters 74E or 74G.

With the exceptions immediately above, the requirements for G.S. § 90-95.2 are the same, and the guidelines set forth in Sections 2 and 3 above, for Chapter 160A mutual aid are equally applicable. Therefore, keep in mind that Chapter 90 agreements:

1. Are limited to violations of Chapter 90, the North Carolina Controlled Substances Act;
2. Can be entered into with any state or local law enforcement agency or department responsible for enforcing criminal laws in North Carolina; and
3. May not be prohibited or limited by a local governing body.

Otherwise, all the requirements set forth above in Sections 2 and 3, both statutory and practical, are applicable to mutual aid pursuant to G.S. § 90-95.2.

## 5. Mutual Aid with Federal Agencies

A North Carolina law enforcement agency has no statutory authority to enter into a mutual aid agreement with a federal law enforcement agency. However, a state or local law enforcement agency may do so if authorized by federal law.

In addition, research has not revealed a federal law enforcement mutual aid agreement statute in the United States Code. However, certain policies and provisions exist to provide for cooperative efforts and mutual aid and assistance to federal law enforcement agencies, and vice versa.

As a general rule, the United States Marshals only “cross-swear” State or local law enforcement officers for specific acts or cases, and then only for a specified period of time. Some federal law enforcement agencies, such as the United States Forest Service (*see* 16 U.S.C. 551a) and the National Park Service (*see* 16 U.S.C. 7A, *et. seq.*), may enter into “cooperative agreements” for the enforcement of criminal violations within their territorial jurisdiction with law enforcement agencies that otherwise have territorial jurisdiction. Such jurisdiction is dependent upon whether the jurisdiction on the federal property is concurrent or exclusively federal. (With a few exceptions, jurisdiction on both United States Forest Service and National Park Service property in North Carolina is concurrent and an agreement has been signed by the Governor.)

Certain State and local law enforcement agencies in North Carolina currently participate in cooperative agreements with federal agencies. Local ABC officers are authorized by statute to assist federal law enforcement agencies under certain conditions and are given statewide territorial jurisdiction when doing so. *See* G.S. § 18B-501(e).

Although not a statute to provide for mutual aid agreements, North Carolina does have a special provision of law that allows specified full-time law enforcement officers employed by the federal government to enforce State criminal laws in North Carolina under certain circumstances. G.S. § 15A-406 provides that the agents and officers of the federal agencies listed in the statute may provide temporary assistance to a State or local law enforcement agency or officer if:

1. Requested by the head of the State or local agency, or his/her designee, and the request is within the scope of the State or local law enforcement agency's subject matter and territorial jurisdiction; or
2. Requested by a state or local officer when at the time of the request the officer is acting within the scope of his/her subject matter and territorial jurisdiction.

A federal officer who has been requested to provide temporary assistance has the same powers and immunities as a North Carolina law enforcement officer while acting pursuant to this statute. The federal officer is not, however, considered an officer, employee, or agent of any state or local law enforcement agency and acts within the scope of his/her office or employment for purposes of the Federal Tort Claims Act while acting pursuant to this statute.

**G.S. § 15A-406 expressly states, “Nothing in this statute shall be construed to expand the authority of federal officers to initiate or conduct an independent investigation into any violation of North Carolina law.”**

Additionally, certain State agencies are statutorily allowed to confer law enforcement powers over criminal laws and other matters within their jurisdiction upon federal officers. For example, the Marine Fisheries Commission may confer such authority upon employees of the National Marine Fisheries Service and the Wildlife Resources Commission may confer such authority upon employees of the United States Fish and Wildlife Service. *See* G.S. § 113-138.

Finally, some State and local law enforcement agencies may have officers that are designated to perform certain immigration law enforcement functions pursuant to Section 287(g) of the Federal Immigration and Nationality Act. This Federal provision allows Immigration and Customs Enforcement (ICE) to provide State and local law enforcement officers with the training and subsequent authorization to identify, process, and when appropriate, detain certain immigration offenders. In order to possess this authority, an agency must enter into a Memorandum of Agreement with the Department of Homeland Security.

## 6. Other Methods of Assistance

In addition to the mutual aid agreements provisions previously addressed herein, numerous other methods exist to give a state or local law enforcement agency, or an individual officer, expanded jurisdiction as a means of assisting another agency or officer. **Some of these methods may not be available because of policies of the agency head or agency in question or other considerations.**

### 6.1 Law Enforcement Officers Assisting as Private Citizens

When outside either their territorial or subject matter jurisdiction, a law enforcement officer is a private citizen; *i.e.*, the officer cannot make an arrest, serve a search warrant, issue a citation, or direct traffic. However, in certain situations, private citizens are given authority similar to that of a law enforcement officer.

All private citizens are given authority to “detain” another person pursuant to G.S. § 15A-404. Private citizens **do not** possess the power of arrest in North Carolina. A person may detain another person when he or she has probable cause to believe that the person detained has committed, in his or her presence, a felony, breach of the peace, a crime involving physical injury to another person, or a crime involving theft or destruction of property.

Any detention must be in a reasonable manner considering the offense involved and the circumstances of the detention. The detention can be no longer than the time-period required either to: (1) determine that no offense was committed; or (2) surrender the person to a law enforcement officer.

A private citizen who detains another person must immediately notify a law enforcement officer and, unless it is determined that no offense has been committed and the person is released, must surrender the person to the law enforcement officer. Therefore, “detain” means “to hold or keep in or as if in custody,” and a private citizen is not allowed to employ any greater force than an officer could employ to effect an arrest under similar circumstances. *See State v. Wall*, 304 N.C. 609 (1982).

Further, private citizens may assist law enforcement officers in effecting arrests and preventing escapes from custody when requested to do so by a law enforcement officer. Pursuant to G.S. § 15A-405, a person has the same authority to effect an arrest or prevent escape from custody as the officer making the request. However, such private citizens are not excused from the use of unreasonable or excessive force or for willful, malicious or criminally negligent conduct. Nor would they be excused from an incident where the officer

was wrong. In other words, the officer's actions could be imputed to the citizen. G.S. § 15A-405(b) does, however, provide certain protections against civil and criminal liability for acts done at the request of an officer, unless the person assisting knows the arrest is invalid.

Finally, under G.S. § 15A-734, “any peace officer or a private person” may make a warrantless arrest of a person “upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year.” In this event, the person arrested must be taken before a judge or magistrate “with all practicable speed,” to make complaint against the person under oath setting forth the ground for arrest.

The provisions listed above are the only authorities an officer has, or the only protections provided, when an officer leaves his or her own jurisdiction to assist another officer to perform a law enforcement function.

## 6.2 “Cross-Sworn” as Officer with Another Agency

Pursuant to G.S. § 128-1.1 (a), both the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission allow an officer certified by them to also be sworn with a second agency. Such a provision allows municipal officers to assist other municipalities, whether within or without their county, and to assist county officers in the county. It also allows county officers, whether sheriff's deputies or county police officers, to assist municipalities outside their county and sheriffs' offices in other counties.

Since a deputy sheriff has jurisdiction anywhere in his or her county, he or she does not need a written request for assistance pursuant to Chapter 160A in order to assist a city or town police officer within the police officer's city or town. However, for the city or town police officer to provide assistance to the deputy sheriff outside of the police officer's jurisdiction, the police officer would need to be acting pursuant to G.S. § 15A-405 or pursuant to a written request for assistance under Chapter 160A.

Also, for a deputy sheriff to receive assistance from a deputy from another county, a written request for assistance under Chapter 160A or the authority of G.S. § 15A-405 would be required. Further, State law enforcement officers cannot assist a municipality or county in the enforcement of the criminal laws and other matters outside the State officer's subject matter jurisdiction.

Many of these problems can be resolved by simply having the officer “cross-sworn” with an agency with jurisdiction. However, the cross-swearing of any law enforcement officer, whether State or local, is subject to policy considerations of both the officer's primary employing agency, as well as the agency with which he or she seeks to be sworn.

As a general rule, an officer who is cross-sworn is subject to the operational commands, as well as the personnel and administrative control of the agency whose jurisdiction he or she is exercising or whose authority the officer is operating under. If the officer is exercising the jurisdiction, powers, rights and privileges of the agency with which the officer is sworn, this is subject to the immunities, including those relating to the defense of civil actions, of a regularly employed officer of that agency. Similarly, the agency with which the officer is sworn, and whose jurisdiction the officer is exercising, may be civilly liable for the officer's acts, including the payment of any judgments.

Finally, G.S. § 160A-282 provides that **volunteer** auxiliary officers and deputies of a city and county auxiliary police force are entitled to certain benefits, including coverage under the North Carolina Workers' Compensation Act.

Note on dual-office holding: The North Carolina Constitution in Article VI, Section 9, prohibits concurrent office holding of any combination of elective or appointive offices except as the General Assembly shall allow. Any officer considering being cross-sworn with another agency should verify they are not violating North Carolina’s dual-office holding law with their agency legal counsel.

G.S. § 128-1.1 allows a person that holds an appointive public office, such as a law enforcement officer, to hold one other appointive public office. Therefore, this provision of law allows a law enforcement officer to be cross-sworn as an officer with two agencies. However, in this scenario, the officer that is cross-sworn could not hold a third appointive public office, such as appointment to serve as a county commissioner, town council member, member of a school board, or as a law enforcement officer with a third law enforcement agency.

G.S. § 128-1.1 also allows any person who holds an elective office in State or local government to hold concurrently one other appointive office. Therefore, North Carolina law prohibits an elected official, such as a sheriff, from holding two elective offices at the same time or holding more than one elective office and one appointed office at the same time. There is, however, one specific statute that will allow a person to hold one elective office in addition to two appointive offices. G.S. § 115D-16 allows a person to be appointed to a community college board of trustees, which is a public office, while at the same time holding an elective office and one other appointive office under G.S. § 128-1.1.

### 6.3 City and County Joint Auxiliary Police Forces

The governing body of any city, town or county is authorized by G.S. § 160A-283 to create and establish a joint auxiliary police force with one or more cities, towns or counties. This statute is made applicable to counties by G.S. § 153A-212.

The joint auxiliary police force must be established by a resolution or ordinance of each participating city, town, or county, and the resolution or ordinance must specify whether the members of the joint auxiliary police force shall be volunteers or paid. Further, this statute provides that:

1. Members shall be appointed by the respective governing body;
2. Members shall take the oath required for law enforcement officers;
3. Members shall be members of the agency which called them into service;
4. Members shall be entitled to all powers, privileges and immunities, including benefits under the Worker’s Compensation Act as the regularly employed officers of the governing body that called them into service;
5. Members shall wear the uniform prescribed by such joint auxiliary police force while exercising any of the duties or authority of the joint auxiliary police force;
6. Members shall **not** be considered as “public officers” within the meaning of the North Carolina Constitution; and
7. The joint auxiliary police force may be called into service at any time by the mayor or chief of police of the participating city or town, or by the chairman of the board of commissioners or sheriff of the participating county.

## 6.4 Inter-Local Cooperation

G.S. § 160A-20.1 provides for “inter-local cooperation.” Pursuant to these statutes, any unit of local government may enter into contracts or agreements with each other in order to execute any undertaking. A “unit of government” is defined by G.S. § 160A-460(2) as “a county, city, consolidated city-county, local board of education, sanitary district, or other local political subdivision, authority, or agency of local government.”

G.S. § 153A-212 makes these statutes applicable to counties as well. An “undertaking” means the joint exercise by two or more units of local government of **any** power, function, public enterprise, right, privilege, or immunity of local government. Therefore, an “undertaking” can include law enforcement functions.

Any such contract or agreement for the joint exercise of powers must be ratified by resolution of the governing board of each unit and be of reasonable duration. These statutes set forth the specific provisions that must be included in any contract or agreement, such as the conferring of powers, duties, rights, or functions upon a joint agency, appropriating funds to such agencies, and the appointment of personnel.

## 6.5 Interchange of Governmental Employees

G.S. § 126-10 provides for the interchange of governmental employees. Any division, department, agency, instrumentality, authority, or political subdivision of the State may participate in a program of interchange of employees with divisions, departments, agencies, instrumentalities, authorities, or political subdivisions of the federal government, of another state, or of this State. These statutes set forth the authority of sending and receiving agencies, the status of employees, administration, and expenses.





1. VESTING OF AUTHORITY AND JURISDICTION

To the fullest extent permitted by the Constitution and the statutes of the State of South Carolina and North Carolina, officers providing assistance under this Agreement shall be vested with the same authority, jurisdiction, rights, privileges, and immunities (including those relating to the defense of civil actions and payment of judgment) outside the officer’s resident jurisdiction for the purpose of investigation, arrest, or any other activity related to criminal activity or public safety functions as those vested with officers of the requesting jurisdiction. This Agreement is in no way intended to affect any other multi-jurisdictional agreement(s) which may exist between the agencies. Additionally, local ordinances adopted by a responding agency’s jurisdiction shall not be deemed extended into areas of operation that are located outside the territorial jurisdiction of that agency.

2. REQUEST FOR ASSISTANCE

The responding law enforcement officers may be requested in response to any public safety function across jurisdictional lines, such as multijurisdictional task forces, criminal investigations, patrol services, crowd control, traffic control and safety, and other emergency service situations. Assistance provided pursuant to this Agreement may include the temporary lending of officers, equipment and supplies, and includes but is not limited to providing assistance for:

- A. Emergency Situations;
- B. Civil Disorders;
- C. Natural or Manmade Disasters;
- D. Mass Processing of Arrests;
- E. Transporting of Prisoners;
- F. Operating Temporary Detention Facilities & Housing Inmates;
- G. Arrests;
- H. Pursuits of Criminal Suspects;
- I. Location of Missing Persons;
- J. Traffic Control and Safety;
- K. Criminal Investigations; or
- L. Any Other Matter Handled by Law Enforcement for that Particular Jurisdiction.

3. PRIMARY RESPONSIBILITY

It is agreed and understood that the primary responsibility of the parties to this Agreement is to provide law enforcement services within the geographical boundaries of their respective jurisdictions. Therefore, it is agreed that the law enforcement agency whose assistance is requested shall be the sole judge as to whether or not it can respond and to what extent it can comply with the request for assistance from the requesting agency.

4. PROCEDURE FOR REQUESTING LAW ENFORCEMENT ASSISTANCE

- A. Request. A request for assistance shall only be made by the Sheriff [**or Chief**] of [XXXXXXXX] County, or his/her designee, or the Sheriff [**or Chief**] of [XXXXXXXX] County, or his/her designee. This request shall be made in writing.

- B. Officer in Charge. The responding law enforcement officers shall be subject to the lawful orders and commands of the personnel of the requesting law enforcement agency. The responding law enforcement officers shall be responsible at all times for acting within the policies and procedures established by the law enforcement agency by which they are regularly employed.

5. PERSONNEL, COSTS AND RECORDS

Except as otherwise agreed herein, each agency shall maintain control over its own personnel, including for administrative purposes and for pay, and each agency shall bear its own costs incurred in the performance of its obligations herein.

Any and all records of law enforcement activities conducted pursuant to this Agreement shall be the property of and maintained by the agency conducting the activity, including any incident reports, citations, photographs, or other images captured on any photographic or digital media, including body-worn camera and dashboard camera media. Nothing contained herein prohibits or precludes any participating agency from making or maintaining a copy of any such records referenced above, with the consent of the agency that created the record.

6. COMPENSATION

This Agreement shall in no manner affect or reduce the compensation, pension, or retirement rights of any responding officer. Except as otherwise agreed herein, each party shall bear its own costs and expenses incurred in complying with this Agreement.

7. INSURANCE

Each agency shall maintain such insurance coverage for general liability, workers' compensation, and other such coverage as may be required by law or deemed advisable by that agency.

8. EMPLOYMENT STATUS

Nothing herein shall be construed or interpreted to imply that the law enforcement officers responding in accordance with this Agreement shall be the employees of the law enforcement agency requesting such assistance.

9. MODIFICATION OR AMENDMENT

This Agreement shall not be modified, amended, or changed in any manner except upon express written consent of the parties to this Agreement.

10. RESPONSIBILITY TO RESPECTIVE GOVERNING BODIES

Pursuant to South Carolina Code Ann. Section 23-20-40(B), South Carolina law enforcement agencies must obtain prior approval from their respective governing body prior to entering into a mutual aid agreement. This approval does not apply to South Carolina sheriffs' offices because those offices are

elective offices and the sheriff is therefore not required to obtain approval from the county. South Carolina Code Ann. Section 23-20-40(C).

11. SEVERABILITY

Should any part of this Agreement be found to be unenforceable by any court or other competent authority, then the remainder of this agreement shall remain in full force and effect.

12. BINDING SUCCESSORS IN OFFICE

All parties agree that any successor to their office will be similarly bound by the terms of this agreement without necessitating execution of any amendment. Any successor may terminate this agreement as provided below.

13. TERMINATION

This Agreement may be terminated at any time upon notice from one party to the other party, delivered in writing.

14. TERM AND RENEWAL

This Agreement is effective as to each party at the date and time set forth above and remains in full force and effect unless and until a party exercises its right to terminate as provided for herein.

15. USE OF EQUIPMENT AND FACILITIES

Each party shall be responsible for the maintenance of its own equipment and facilities.

IN WITNESS WHEREOF, these parties have set their hands and seals effective on the date set forth above.

**XXXXXX COUNTY SHERIFF’S OFFICE [OR POLICE DEPARTMENT]**

\_\_\_\_\_  
**XXXXXXXX, Sheriff**  
**XXXXXX County Sheriff’s Office**

\_\_\_\_\_  
**Witness**

**XXXXXX COUNTY SHERIFF’S OFFICE [OR POLICE DEPARTMENT]**

\_\_\_\_\_  
**XXXXXXXX, Sheriff**  
**XXXXXX County Sheriff’s Office**

\_\_\_\_\_  
**Witness**