



TOWNSHIP OF WEST ORANGE

66 MAIN STREET, WEST ORANGE, N.J. 07052

WEST ORANGE POLICE DEPARTMENT INTERNAL AFFAIRS

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TO: *Deputy Chief Michael Keigher*

FROM: *Captain William Varanelli*

DATE: *02/05/2020*

SUBJECT: *2019 Use of Force Review*

As per *West Orange Police Department (WOPD) Directive 1:8-6d*, an administrative review of all use of force incidents was conducted to assess patterns, training needs and performance gaps in our existing directive. The purpose of this report is to conduct a comprehensive evaluation of police/citizen "use of force" incidents involving members of the West Orange Police Department to ensure compliance with guidelines promulgated by the New Jersey Attorney General, Essex County Prosecutor, CALEA national standards and current court decisions. The report will begin with an evaluation of information that was collected from Use of Force reports, investigative reports and command reviews.

Assessing the data

In 2019, the West Orange Police Department personnel responded to 42,811 calls for service and only used reasonable and justifiable force, as defined in *Directive 1:8*, on a total of 38 individual citizens, during 35 calls for service. This equates to our officer using force on .08% of the calls for service. Although it's difficult to assess the exact number of police/citizen encounters, it is objectively reasonable to say our officer interacted with a minimum of 42,811 citizens based on calls for service data. During these interactions police officers only used force when necessary and justified, on 38 individual citizens. This is an astounding low number of "use of force" incidents, and clearly shows our officers utilize de-escalation tactics effectively to manage over 99% of the police citizen encounters.



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Finally, the data has shown every use of force incident involving our officers began with a citizen call for service or assistance.

The following information was obtained from the West Orange Police Department Use of Force Summary Report Form and an independent review of suspect characteristics on each Use of Force Form submitted. Analysis was based on the force used on thirty-eight (38) offenders, during 35 calls for service. Pursuant to *WOPD Directive 1:8-6a*, which requires each officer who is present and employs force to prepare and submit a use of force form. Eighty-five (85) use of force forms were submitted and evaluated for this analysis:

Suspect characteristics:

- 82 % of the force was used on males (31)
- 18 % of the force was used on females (7)
- 37% of the force was used on whites (14)
- 63% of the force was used on blacks (24)
- 27 % of the people force was used on were dealing with a mental health crisis (18)
- 18 % of the people force was used on were identified as being under the influence (12)

Data from the 2019 Use of Force Summary Report revealed that the majority of the use of force encounters occurred in the first and second quarter. The remaining two quarters showed a steady decline in use of force incidents in the third quarter and fourth quarter respectfully. It is unknown why we had a spike in use of force incidents during the first two quarters.

Force was used significantly more on adult males than females. This makes statistical sense as 75% (337) of arrestees during the year were male compared to 25 % (110) female. Based on the data, force was used more on blacks than on whites, however a comparison to arrest totals for the year show that 68% of our arrestees in 2019 were black as compared to 21% being white. 56 % of use of force incidents led to the arrest of the offender.

Twenty-seven percent of the use of force incidents involved persons dealing with a mental health crisis. This agency is seeing a growing trend in incidents involving persons with mental or cognitive disabilities (18). During the calendar year of 2019, officers responded to 354 calls for service related to handling persons with mental illness. 43 of the 354 calls for service required an involuntary transport of the patient to a medical crisis facility.

It should also be noted that 18% of the use of force incidents involved persons under the influence of intoxicants (12). It becomes evident when you view this data in its entirety that no disparaging patterns, practices or trends exist. The problem with the assessment of use of force incidents rests on the fact that the offender plays a significant role in the officer's decision to use force. This fact, makes it nearly impossible to prevent certain use of force events.



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Type of force used according to Summary Report:

- Compliance holds: 53% of the time (35)
- Chemical/Natural Agent <1% of time (1)
- Constructive Authority 72% of the time (48)
- Hands/fists: 15% of the time (10)
- Kicks/feet:<3% of the time (2)
- Deadly force was never used

During 2019, the overwhelming majority of force used by our officers fell into two categories, compliance holds and constructive authority. *Compliance holds* involve a low level of force used to combat resistance, such as arm locks, wrist locks or other means of physical force to bring a combatant into compliance. *Constructive authority*, according to the New Jersey Attorney General Guideline, is not a category of force, however the West Orange Police Department collects and measures every time our officers display a firearm to exert authority over a potentially dangerous or resistant combatant. If we did not measure Constructive Authority our actual total use of force incidents would be significantly lower, however a census of national best practices suggest we should be measuring the display of a firearm. During 2019, no officers in this agency used deadly force in any citizen encounter. A review of this data reveals that the officer in the West Orange Police Department consistently use the lowest levels of force to accomplish their objectives in 87% of the incidents. This is consistent with the 2018 analysis, which revealed 86% of all use of force incidents involved the lowest level of physical force. There was one incident of mechanical force in 2019, and zero in 2018.

A notable point developed during this portion of the analysis. In 2019, the figures suggest that when the “*force factor*” was increased from compliance holds to hand or foot strikes to control a suspect, both the offender(s) and the officer(s) were significantly more likely to sustain injuries during the encounter. Eight incidents occurred this year where the “*force factor*” was increased to hand/foot strikes resultant in seven officers injured and three offenders injured. In three of the eight incidents both officer(s) and offender(s) were injured and treated accordingly. To quantify this information, when a situation escalates from compliance holds or constructive authority to the use of hands/kicks there is an 88% probability the officer will sustain an injury and a 64% probability the offender will sustain an injury. There is a 38% probability both the officer and offender will sustain injuries under the same circumstances. *These finding are significant and should be addressed in our 2020 defensive tactics training.*



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66 MAIN STREET, WEST ORANGE, N.J. 07052

More than one type of force per officer:

- Constructive Authority and Compliance holds 16 times
- Compliance holds and hands/fists 7 times
- Compliance holds and Chemical/Natural Agent 1 time
- Compliance Holds, hands/fists and constructive authority 4 times
- Compliance holds. Hands/fists and feet/kicks 2 times

The data indicates that officers were forced to transition from one type of force to another to accomplish their objective. *I recommend our defensive tactics training coordinator review these incidents to determine what caused these escalations.* The failure in the execution of a compliance holds could be related to many factors, such as strength, conditioning or the competency of the officers involved in the specific incidents.

In 2019, 15% of offenders reported injuries from the use of force incident and received medical treatment in accordance with our directive. Officers were injured in approximately 11% of the incidents that required a use of force (7) and received medical treatment. When comparing 2018 and 2019 results related to injuries, we see a significant increase in injuries to both officers and offenders. In 2018, no officers were injured and only one offender was injured. It appears based on the investigative records and command reviews that offenders who sustained injuries were not photographed to memorialize the extent of the injuries. *I recommend this is addressed in our Directive and become a component of our command review process.*

Incidents where more than one officer used more than one type of force

- (3) incidents where three officers used more than one type of force
- (1) incident where nine officers used more than one type of force
- (4) incidents where two officers used more than one type of force
- (4) incidents where one officer used more than one type of force
- 77% of the incidents involved multiple officers.

Depending on the level of violence or aggression displayed by the offender, more than one officer may be involved in a single incident. A multiple officer response is consistent with this agency's directive system for most calls for service. This is also an important training area for defensive tactics considerations. *I recommend these incidents are also reviewed by our defensive tactic coordinator so our training curriculum can incorporate strategies that involve more than one officer on a single offender to mitigate unnecessary risks to everyone involved.* There were ten (10) documented use of force incidents, or 29% of the time, where an offender was armed with a weapon as defined in N.J.S. 2C:39-1r.



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Officer/suspect characteristics

It's impossible to collect data on how many incidents occurred where officers de-escalated a situation and force was not necessary. The difficulty lies in the interaction patterns between the suspect and officer, the officer's characteristics and behavior, number of officer's present and the officer's race/ethnicity compared to the suspects race/ethnicity. The following analysis may help to shed some light on these interactions during the thirty-five incidents where force was used.

Ratio of officers to suspects analysis

- Ratio of one officer/one offender occurred eight times.
- Ratio of two officers/one offender occurred eleven times
- Ratio of two officers/two offenders occurred one time
- Ratio of three officers/two offenders occurred twice.
- Ratio of three officers/one offender occurred five times
- Ratio of four officers/one offender occurred four times
- Ratio of five officers/one offender occurred three times

A review of these officer to offender ratios reveal a disproportionate number of "use of force" incidents occur when a single officer engages an offender eight (8) times or when two officers engage a single offender eleven times (11).

Officer's race/suspect's race during use of force incident

- Officer's race white / offender's race white thirteen (13) incidents
- Officer's race white / offender's race is black eighteen (18) incidents
- Two officers' race white and black / offender race four (4) incidents

A review of these racial comparisons, does not reveal any discernable pattern, practice or trend. It should also be noted that force was not used on persons of any other races during 2019.

Excessive force complaints received by this agency.

On 07/29/19, this agency received an excessive force complaint from a citizen. The complainant, alleged that she was threatened with arrest and shoved twice by an officer during a call for service (Affray). This matter was logged into the internal affairs index filing system and a thorough and objective investigation was conducted into the allegations of excessive force by one of our officers. With the assistance of body worn camera footage it was determined that the complainant made a



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66 MAIN STREET, WEST ORANGE, N.J. 07052

false report related to the use of force, which did not occur. In this particular case the complainant was charged criminally for filing a false police report.

A comparison of 2018 and 2019 excessive force complaints remained the same at one. The excessive force complaint in 2018 was investigated and deemed to be unfounded. In addition to a review of the complaint above, forty-seven (47) internal affairs complaints/investigations were undertaken in 2019. The results of these investigations were compared and contrasted in conjunction with this data analysis. The results failed to disclose a perceivable pattern, practice or trend that one or more of our agency personnel had engaged in any discernable incidents involving excessive force.

Additional steps were implemented in 2019, by our Internal Affairs Unit to monitor the quantity of use of force incidents per officer within a twelve (12) month period. This tracking and monitoring component disclosed we had one officer with seven use of force incidents within a twelve-month period. All the use of force incidents were reviewed and deemed to be objectively reasonable and justified in accordance with our directive and state and federal law. Based on this finding we provided informal counseling and de-escalation training to this particular officer as a nonpunitive means to assist the officer in the future.

Deficiencies in reporting

In accordance with *West Orange Police Department Directive 1:8-8a*, "all incidents of uses of force which qualify as Physical Force, Mechanical Force or Deadly Force are subject to command review". Division commanders reviewed and prepared sixteen (16) command reviews for qualifying incidents. All qualifying incidents were deemed to be objectively reasonable and justifiable in scope, intensity and duration. To ensure the highest level of compliance all command reviews were subsequently evaluated and approved by senior level management.

In the interest of continuous improvement, we evaluated our command review process and identified some minor performance gaps. My year end evaluation of all command reviews identified the following weaknesses in our process. I identified some "Use of Force" reports with inconsistent or incomplete information. To cure this, *I recommend, the division commander begin with a review of all reports for completeness and consistency, noting same in review.* An evaluation of incident reports compared to use of force reports revealed poorly explained narratives in the body of the report. An example, would be an officer stating in the narrative of an incident report that "physical force" was used to control a suspect. In contrast, the related use of force report would indicate compliance holds and hand or foot strikes. *I recommend when force is used the officer should be specific as to the type of force used, its specific justification, the number of strikes or type of compliance hold. e.g. arm bar. I also recommend any sustained injuries by suspects are photographed at the time of the incident and attached to reporting file.*



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Finally, I recommend in 2020, the development of a consistent format for the evaluation of a use of force incident and the preparation of the command review. This format should include the process for evaluating whether or not the person force was used on is a criminal offender in the investigation or a person with mental disabilities in need to medical assistance.

Conclusion

This annual review was conducted to ensure we promote a culture of professionalism, accountability and transparency to our community. It is well settled and all personnel are thoroughly indoctrinated as to the necessity in ensuring we are vigilant in protecting the constitutional rights of all those we encounter. To achieve this high level of competency and accountability the West Orange Police Department will continue to use the data we are collecting, along with community feedback, evolving best practices and the experiences of other law enforcement agencies to improve our organization. Our goal is to make sure that our use-of-force directive gives police officers the guidance they need to effectively and fairly protect public safety while maintaining their own safety and the trust of the communities they serve.

Based on the information contained herein, I identified some performance gaps in our command review process which may need to be memorialized in our Use of Force Directive. I also identified some areas where our defensive tactics training may be re-engineered in 2020 to ensure consistency in our directive and the application of our training. Traditionally this type of training precluded the use of choke holds and head strikes as a means of bringing an actor into compliance. We have always recognized that the deliberate use of these techniques increases the potential of causing serious bodily injury or death to a person. To address these performance gaps in our directive, language specifically defining chokeholds and/or neck restraints will be defined to ensure clarity. These policy recommendations will harmonize both our written procedures and rigorous training protocols. I recommend we stay committed to continually enhancing our Use of Force continuum and protocols during our semiannual firearms training. Finally, provide all personnel with training on any directive changes made as a result of these recommendations.

Respectfully,
Captain William Varanelli
Office of Professional Responsibility



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