Subject: Use of Force Annual Analysis of 2022

It is the policy of the State of New Jersey, and this department, that officers will use only that force that is objectively reasonable, necessary, and proportional considering the totality of the circumstances, including the subject’s mental and physical condition, the nature of the offense, and most importantly the level of resistance or threat known to the officer at the time.

The WOPD policy reinforces the responsibility of officers to take those steps possible to prevent or stop the illegal or inappropriate use of force by other officers. Every law enforcement officer is expected and required to take appropriate action in any situation where that officer is clearly convinced that another officer is using force in violation of state law or this directive. Force shall only be used as a last resort when necessary to accomplish lawful objectives that cannot reasonably be achieved through verbal commands, critical decision making, tactical deployment or de-escalation techniques. Force shall never be used as a retaliatory or punitive measure.

Pursuant to West Orange Police Department Directive 1:8-6d and CALEA Standard 4.2.4, an administrative review of all use of force incidents was conducted to assess patterns, training needs and performance gaps in our existing directive to ensure we meet the highest national standards and the demands of our community. The purpose of this report is to conduct a comprehensive evaluation of police/citizen “use of force” incidents involving members of the WOPD to ensure compliance with our directive system, guidelines promulgated by the New Jersey Attorney General, Essex County Prosecutor, CALEA national standards and current court decisions.
An analysis of 2022 revealed that the agency had 38 total UOF incidents involving the application of force on 40 subjects.

**Date and Times:**

![Days of Week Graph]

![Times of Day Graph]

**Analysis:** The days of the week appear to be spread out, although a majority of incidents occurred between Friday and Monday. The two highest individual days of the week were Monday (10) and Sunday (8).

When analyzing the UOF incidents involving mental health or medical calls, it seems to reason that there may not be a specific pattern regarding nights or days of the week as we sometimes anticipate when analyzing certain crime patterns. Mental health calls can occur sporadically throughout the day and evening hours.

Of the 12 incidents in which alcohol was involved (crimes and/or medical calls), all occurred in the late evenings or after midnight hours.

Of the 19 UOF incidents involving a crime in progress, 17 occurred between 1500hrs and 0600 hrs. These included stolen motor vehicle arrests, Domestic Violence arrests, burglary arrests and 3 Driving While Intoxicated arrests.
Types of Incidents:

There were 38 total incidents involving UOF on 40 subjects. In one incident of a fight in the street, force was utilized on 3 separate individuals. 19 incidents were crimes in progress calls and 19 were mental health crisis and/or medical calls. With the increase in mental health crisis calls over the past four to five years, the number of UOF incidents has increased as well.

These numbers were consistent with the previous year of 2021, in which the agency had 36 total UOF incidents. This was broken down to 19 subjects dealing with a mental health crisis and 17 crimes in progress.

Gender of Subjects:

Although the percentage of incidents with females may appear high in comparison to arrest data (nationally females account for 1 to every 3.5 males arrested), the 16 UOF incidents involving females were broken down as follows:

- 7 mental health crisis calls where compliance holds needed to be utilized
- 2 medical calls where subjects were highly intoxicated and compliance holds needed to assist subject to hospital
- 6 calls were crimes in progress/resisting arrest (3 DV assaults, 1 DWI and 2 intoxicated/fighting in public)
- 1 Medical call involving a seizure where the subject attempted to run onto a highway and a takedown was utilized for her safety
The ratio of which officers utilize force on subjects of color is an issue which brings attention on law enforcement nationwide. In West Orange, force was utilized on subjects who were Black/African American in 60% of the incidents. Although this ratio would look disproportionate when compared with the demographics of the Township, it does look proportionate when compared to the demographics of those who come into contact with law enforcement within the jurisdiction. This begs further inquiry as to why more Blacks/African Americans are coming into contact with the WOPD. The obvious is answer is geography as West Orange is situated right in the center of Essex County and is split in half to the north and south by Interstate 280. The more difficult fact which needs to be acknowledged is this country’s-stained legacy of structural racism. Within our urban centers exists a lack of quality education coupled with inadequate pre-school availability, poor employment opportunities, affordable housing deficiencies, and a dearth of basic food/nutritional availability. These societal ills have historically subjected communities of color to be paradoxically both more reliant upon the police and subjected to abuse by the police at the same time. As successful as community policing initiatives have been, only a national commitment to level the playing field will bring about the systemic changes needed to break the existing paradigm.

For comparison, the ratio of arrestees for 2022 is 62% Black/African American to 35% white. The comparison of the race of subjects involved when force is used is considered within acceptable range when compared to the ratio of the race of arrestees.
Ethnicity of Subjects:

Twelve percent of UOF incidents involved subjects of Hispanic ethnicity. In comparison, 20% of arrestees in 2022 were Hispanic. Thus, force is utilized against Hispanic subjects at a lower ratio than arrest encounters.

Age of Subjects:

Analysis of Age Results: The ages of subjects appear to be spread out evenly, based on the average age of interactions with police officers.

The utilization of force against subjects under the age of 18 is a prudent and sensitive decision, of which officers are strongly encouraged to err on the side of caution and patience. Of the 5 subjects under the age of 18, 3 subjects were actors arrested together in a stolen mv. When they attempted to flee on foot, officers utilized constructive authority to affect the arrest. No physical force was used.

The other 2 subjects were mental health crisis situations. In one situation, a 12-year-old female was threatening suicide and throwing objects at officers when she starting running towards her bedroom. Officers on scene utilized compliance holds to prevent her from harming herself and then escorted her to a mental health facility. In the other incident, a 14-year-old female was actively harming herself, threatening a sharp object and attempted to run up the stairs. The officer on scene used a takedown to secure her on the stairs until an ambulance arrived on scene.
Of the 5 incidents with persons over the age of 55 years old, four subjects were arrested during crimes in progress (DWI, Possession of Imitation Firearm, and 2- DV arrests) and one subject was a 57-year-old mental health crisis subject who was experiencing a psychosis and was determined to be hospitalized by crisis screeners. Officers on scene assisted the crisis screeners by utilizing compliance holds on the subject.

**Injuries to Subjects/Officers:**

There were (0) reported injuries to subjects as a result of the UOF incidents.

There were (2) reports of injuries to officers during these incidents. One officer was bitten on the hand by an intoxicated subject and had abrasions. Another officer reported abrasions to his hand as a result of a takedown against a burglary subject in a close quarter situation.

**Subject Factors in Crimes in Progress:**

Subject Factors Justifying **Constructive Authority** in Crimes in Progress:

- DV Assault/ Report of Gun on Scene
- Stolen MV/ 5 actors running from crashed vehicle
- Stolen MV Investigation/ 4 actors in Vehicle
- Stolen MV/ 2 actors hiding in vehicle and ignoring commands

Subject Factors Justifying **Compliance Holds** in Crimes in Progress:

- Burglary Suspect Hiding Under Car
- Intoxicated and Combative: (4)
- Call of Person with Gun; refusing PO Orders (2)
- Resisting Arrest for Crime: (5)

Subject Factors Justifying **Takedowns** in Crimes in Progress:

- DV Arrest with report of Knife on Scene
- DV Arrest, actor tried to run

Subject Factors Justifying **Push** in Crimes in Progress:

- Large fight in street, actor attempted to pull on the officer during an arrest
Subject Factors in Mental Health/Medical Incidents:

Subject Factors Justifying **Constructive Authority** on Mental Health/ Medical Calls:
- Subject holding knife threateningly

Subject Factors Justifying **Compliance Holds** during Mental Health Crisis/Medical Calls:
- Subject hiding in fridge throwing cans at officers
- Non-verbal autistic runaway was destroying property (2)
- Subject on hallucinating drugs, attempt to run
- Subject attempted to swallow handful of drugs on scene
- Subject was determined to be admitted by mental health crisis screeners, refused transport (7)
- Subject was attempting to actively harm him/herself (2)
- Subject was entering another person’s property unwanted
- Medical emergency (seizure) and subject attempting to run into traffic
- Intoxicated individuals (no crime but needed medical attention) (2)

Multiple Officers Utilizing Force:

Whenever possible, officers are encouraged to wait for other officers to arrive on scene prior to utilizing force. Having multiple officers on scene has been proven through various studies to decrease the chance for deadly force to be utilized, decrease the number and severity of subject injuries, and decrease the number and severity of officer injuries. Multiple officer DT tactics are trained and encouraged.

While there were 38 actual incidents in which force was utilized, this was accomplished by 90 officers utilizing that force during those incidents. Those 90 occurrences were accomplished by 46 individual officers. It should also be noted that although only 1 officer reported utilizing force in 32% of the
incidents, most of these incidents had other officers on scene. The reporting officer was alone on scene in only three of the reported incidents.

**Officers With Multiple Uses of Force:**

- PO Louis and PO Piserchio each had 5 occurrences.
- PO Paye, PO Smeraldo, and PO Barna each had 4 occurrences.
- Lt Kearns, PO Herskovitz, PO Hernandez, PO Rodriguez, PO Verduga and PO Davis each had 3 occurrences.
- Sgt Berkery, Sgt Scioscia, Sgt J James, Sgt C Polizzano, Sgt DelPlato, Det Loreto, PO Carrera, PO Grande, PO Willis, PO Brown, PO Ayre, PO Hamilton, PO Dsurney, PO Gallo and PO Mango each had 2 occurrences.
- 20 WOPD officers had 1 occurrence.

It should be noted that only one UOF incident occurred during a self-initiated investigation by an officer. This occurred when an officer found an idling car sitting at a traffic intersection late at night with the driver sleeping and the officer thus initiated a mv stop/investigation. All others were incidents that officers were dispatched to, including the 2 other DWI incidents.

A review of PO Louis’ 5 UOF incidents revealed the following types of situations:

- Burglary Suspect with possible handgun hiding under a car- Constructive authority and then Compliance holds to affect arrest
- Burglary Suspect hiding in a vehicle, refusing to exit-Constructive authority first and then Compliance holds to affect arrest
- Non-verbal autistic subject destroying property and harming himself- Compliance Holds*
- Very intoxicated female who needed transport to hospital but was being uncooperative- Compliance holds to assist her into ambulance
- Intoxicated and combative driver found asleep in car- Compliance holds to affect arrest

As PO Louis is assigned to the midnight tour, he has an increased chance of dealing with intoxicated persons and crimes in progress such as DWI and burglaries to vehicles. A review of each incident’s Command Review revealed that PO Louis was determined to have acted properly, legally and utilizing the least amount of force necessary in each situation. There were no injuries, nor complaints in any of these incidents.

* PO Louis received a meritorious award as the uncooperative subject tried to swallow his hospital gown and PO Louis administered the Heimlich maneuver.
A review of PO Piserchio’s 5 UOF incidents revealed the following types of situations:

- Intoxicated and combative driver found asleep in car- Compliance holds to affect arrest
- Mental health call in which crisis screener determined subject needed transport- Compliance holds to assist the transport
- Call originally came in as burglary in progress and subject was immediately combative/ rushed at officers. After handcuffing and interviewing subject, it was determined to be a mental health call- Compliance holds until subject was compliant
- DV arrest for assault and actor resisted- Compliance hold to affect arrest
- Intoxicated actor found asleep in vehicle became very combative, biting and spitting at officers- Compliance hold during arrest and during booking procedures

Four of PO Piserchio’s UOF incidents occurred between 2300 and 0300hrs, where he had an increased chance of dealing with intoxicated persons and crimes in progress such as DWI and burglaries. A review of each incident’s Command Review revealed that PO Piserchio was determined to have acted properly, legally and utilizing the least amount of force necessary in each situation. There were no injuries to subjects, nor complaints in any of these incidents.

**Types of Force utilized (90 total):**

- 8 were Constructive Authority
- 72 were Compliance Holds
- 9 were Takedowns
- 1 was a push

There were NO incidents involving mechanical force (OC Spray or Baton) nor deadly force in 2022.

During 2022, the force types used by our officers fell into these categories:

- Physical Force (compliance holds, push, takedowns)
- constructive authority (display firearm to gain compliance)
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 any time our officers display a firearm to exert authority over a potentially dangerous or resistant combatant.

A review of all Command Reviews determined that in each incident, the officers utilized the lowest form of physical force necessary to accomplish their legal objective. On seven occasions, officers were forced to transition from one level of force to another in order to accomplish that objective (i.e. from constructive authority to compliance hold, etc).

Even though officers were encountering subjects under the influence of alcohol or drugs (35% of the incidents), those experiencing a mental health or medical crisis (50% of the incidents) and subjects being actively combative (22% of the incidents), none of the uses of force caused injury to the subjects. This is a testament to the proper defensive tactics procedures being taught by the agency’s defensive tactics instructors.

Other Areas of Interest:

- Drugs and/or alcohol played a role in 14 of the 38 incidents.
- There were weapons involved or reports of weapons threatened in 5 incidents.
- Out of the 19 Mental Health Crisis/medical assistance incidents in which force was needed, verbal de-escalation skills were utilized prior to physical force in all but 1 incident. *
- Of the 18 incidents in which de-escalation techniques were utilized, officers had engaged the subject in excess of 35 minutes in 11 of those incidents before utilizing compliance holds to transport to a medical facility.
- Of these 19 total mental health crisis transports, mental health clinicians and/or crisis evaluators were on scene and assisted officers in 8 of those incidents.

*In that specific incident that de-escalation techniques were not attempted, the original call to police was a reported burglary in progress. The subject then lunged at officers as they entered the front door, forcing them to apply compliance holds until the subject was able to be communicated with. Once it was determined to be a mental health crisis situation, the subject was transported to a medical facility.
Conclusion:

Although officers needed to utilize force to accomplish their legal objectives on 38 occasions during 2022, there were no complaints of excessive force or improper behavior as a result of these incidents. There were no injuries reported to any subjects, and the injuries to officers were minor and not a result of excessive or improper tactics.

A review of each incident’s Command Review found that all Uses of Force are being properly investigated and reviewed by the reporting officer’s immediate supervisor as well as the command level one step above that. These command reviews include a review of Body Worn Camera footage and/or audio recordings, interviews with officers or subjects when needed and a thorough review of all necessary reports. While each Command Review in 2022 found the reporting officer to have acted properly, safely, legally and utilizing the lowest level of force necessary to accomplish their legal objectives, the following training issues were identified:

- Dispatcher K.R. was counseled to not dispatch only one officer to a call of a subject possibly on narcotics and acting erratically.
- Officer N.G. was counseled to request another officer on scene immediately when dealing with a subject possibly on narcotics and acting erratically. (Otherwise, the tactics and decisions on scene were determined to be appropriate.)

Directive 1:8 Use of Force was updated in January 2022. The revised policy goes into more detail concerning all officers’ Duty to Intervene, the updated DCJ Use of Force reporting portal, notification procedures to DCJ and ECPO, as well as new definitions for de-escalation techniques and levels of resistance. It should be noted that these revisions were mandated by new NJ Attorney General guidelines and updates to CALEA standards. None of the revisions were as a result of improper procedures from WOPD officers.

There does not appear to be any recommendations for upgrade in equipment at this time.

The agency has increased its commitment to defensive tactics training over the past few years and the results are apparent in the fact that no subjects were injured during these 38 incidents.

In 2021, the WOPD Training Bureau commissioned a medical practitioner to review our use of force policies, training and procedures. Dr Michael Kelly is a published author in sports medicine and fight science, a certified expert on the physiological effects and injuries caused by uses of force. The agency is utilizing Dr. Kelly’s expertise into all aspects of use of force training, with the ultimate goal of injury reduction.

As a result of Dr. Kelly’s observations of our force-on-force training, and arrest and control tactics training he submitted a written evaluation endorsing our training programs. He concluded: “Based on my experience as a sports medicine and ringside physician, the techniques demonstrated in the observed program have a low risk of injury and a high probability of effectiveness. Mixed Martial Arts
grappling and submission techniques are useful tools for law enforcement when physical force is required and may decrease the need for force escalation and may actually facilitate de-escalation.”

In January 2022, two WOPD defensive tactics instructors attended and were certified in the Gracie BJJ Instructor Course for Law Enforcement. This training program was then utilized to train all sworn WOPD officers in early 2022.

I recommend that the agency continue to take advantage of this training program and incorporate defensive tactics training multiple times a year during in-service training and even consider incentivizing officers to train defensive tactics while off-duty. The competency and confidence of officers to utilize hands-on skills with uncooperative or combative subjects will absolutely lower the chance of officers escalating physical situations when not necessary.