




**WINCHESTER POLICE DEPARTMENT OPERATION ORDER**

**NOTE: This policy is for internal use only, and does not enlarge an employee’s civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.**

<b>Number</b> 2-4B		<b>Effective Date</b> February 8, 2023	<b>Review Date</b> February 1, 2023	<b>Reviewing Division</b> Administration
<b>Subject</b> <b>Use of Force Reporting</b>		<input type="checkbox"/> New Policy <input type="checkbox"/> Replaces: <input checked="" type="checkbox"/> Revised:		This policy shall apply to personnel assigned to the following divisions: <input type="checkbox"/> All Personnel <input checked="" type="checkbox"/> Patrol Division <input checked="" type="checkbox"/> Administration Division <input checked="" type="checkbox"/> Investigation Division
<b>References</b>  VLEPSC: ADM.05.01-.04, ADM.06.01  CALEA				
 <hr/> Chief of Police or Designee		March 23, 2023 <hr/> Date		

**I. PURPOSE**

The purpose of this policy is to establish guidelines governing the reporting of use of force.

**II. POLICY**

It is the policy of this Department that instances of use of force are documented consistently using established protocols and form(s).

**III. DEFINITIONS**

A. Deadly Force

Any force applied in any manner by any means that could reasonably be expected to cause death or serious physical injury. Serious physical injury means bodily injury which creates a substantial risk of death or which is likely to cause serious permanent disfigurement or loss, or extended impairment of the function of any body member or organ.

B. Force

Any physical strike or instrumental contact with an individual, or any significant physical contact that restricts an individual’s movement. Force does not include leading or handcuffing an individual who is exhibiting minimal or no resistance. Merely placing an individual in handcuffs as a restraint in arrest or transport activities, officer presence or verbal commands does not constitute a reportable action.

C. Less Lethal Force

Force employed which is neither likely nor intended to cause death or serious physical injury.

D. Serious Physical Injury

A physical injury, which creates a substantial risk of death, or which causes death or serious and protracted disfigurement or impairment of the function of any bodily organ or limb.

**IV. REPORTING AND INVESTIGATION**

A. Reporting the Use of Force

1. Officers shall document all applications of force, unintentional discharge of a firearm, and discharge of a firearm at an animal.
  - a. The use of deadly force against any non-domesticated animal will be documented by a written incident report classified as Animal: Other and shall be reviewed by the shift supervisor to ensure compliance. This review shall include a thorough review of incident report and body worn camera. This review will be documented and forwarded through the chain of command to the Deputy Chief of Administration for logging purposes.
2. When an officer has used force, the officer shall first render medical aid and then:
  - a. Immediately notify the on-duty supervisor or the next supervisor in the chain of command; and
  - b. Take photographs of the suspect and any injuries claimed or sustained; and
  - c. Submit an incident report by end of shift.
3. A thorough Use of Force Report must be completed by the officer by the end of shift and should contain the following:
  - a. A description of the type of force used;
  - b. A description of the justification of force which is what the officer knew, observed, or believed at the time of the incident. Facts recalled after submission of the Use of Force should be submitted in a supplemental narrative to the incident report;
  - c. A description of the injuries sustained by any party and medical treatment received;

d. All witness information and statements;

4. The supervisor shall notify the Division Captain, Deputy Chief of Police, and Chief of Police of the use of force by the end of shift by adding it to the shift summary report. In officer involved shootings or instances of serious bodily injury, the supervisor shall follow section V. of this policy.
5. The justification for use of force shall be substantiated by the on-duty supervisor. This justification shall be in writing and included on the Use of Force Report.
6. A copy of the Use of Force Report and the related incident report shall be forwarded to the appropriate Division Captain. The Captain shall complete an administrative review within fourteen (14) days of the initial incident and forward it to the Deputy Chief of Police.

B. Duty to Intervene

1. Officers who intervene against any suspected use of excessive force shall document the complete details of their intervention in a detailed incident report by the end of their duty shift.
2. The alleged use of excessive force or intervention in potential use of force shall be documented by the investigating supervisor in an administrative review.
3. A copy of the alleged excessive force report or intervention in potential use of force shall be forwarded to the appropriate Division Captain. The Captain shall complete an administrative review within fourteen (14) days of the initial incident and forward it to the Deputy Chief of Police.

C. Administrative Review

1. The Department has a duty to ensure that Department personnel conduct themselves in a highly professional, proper, and legal manner at all times. To ensure that officers conduct themselves in proper accordance with established Department rules and regulations and general orders an administrative review must be completed on all Use of Force Reports, Reports of Excessive Force Allegations, or Intervention of Use of Force.
2. An administrative review is not an internal investigation. The purpose of an administrative review is to review all available information to determine if an officer's action requires further investigation.
3. It shall be the responsibility of the Division Captain, to which the involved officer is assigned, to conduct the administrative review. In conducting the administrative review, the Division Captain shall review at a minimum, the following documents:

- a. The initial incident report and all supplement reports;
  - b. The call notes from the Emergency Communications Center (ECC);
  - c. An audio copy of radio transmissions of officers involved in the incident;
  - d. Body worn camera footage of all officers involved in the incident;
  - e. Any photographs associated with the incident; and
  - f. Related Department rules and regulations and general orders.
4. After reviewing the collected documents, the Division Captain shall submit a written report to the Deputy Chief of Police. The written report shall contain the following information:
    - a. The date, time, and incident number which references the incident and the type of incident being reviewed;
    - b. The facts of the specific incident;
    - c. A list of documents attached;
    - d. A diagram of the incident area, if appropriate; and
    - e. A recommendation to the Deputy Chief of Police on proposed further course(s) of action.
  5. It is possible that an administrative review could lead to an administrative investigation. This action shall be determined by the Deputy Chief of Police based on the findings and conclusions from the administrative review.
  6. Department personnel, who in the course of their duties, are directly involved in an incident which is subjected to an administrative review, shall be notified by their Division Captain of the final administrative review findings of the Deputy Chief of Police.

**V. OFFICER INVOLVED SHOOTINGS AND INCIDENTS RESULTING IN DEATH OR SERIOUS PHYSICAL INJURY**

**A. Involved Officer**

1. Whenever a death or serious physical injury of a citizen occurs during police contact, or the officer discharges a firearm either unintentionally or officially against a person, or anytime an unintentional discharge occurs

which results in injury, death or damage to any property, the officer shall immediately:

- a. Determine the physical condition of any injured person(s) and render first aid when appropriate;
  - b. Request necessary emergency medical aid; and
  - c. Notify the on-duty supervisor and ECC of the incident and location.
2. The officer will remain at the scene (unless injured) until the arrival of the on-duty supervisor. However, if the circumstances are such that the continued presence of the officer at the scene might cause a more hazardous situation to develop (violent crowd), the supervisor or senior officer at the scene shall have the discretion to instruct the officer to respond to another more appropriate location.
  3. The officer will preserve and protect any weapon used immediately and submit said weapon to the appropriate supervisor.
  4. The officer shall not discuss the case with anyone except:
    - a. The assigned police personnel;
    - b. A representative of the Commonwealth's Attorney;
    - c. A representative of the City Attorney;
    - d. The officer's attorney;
    - e. The officer's chosen clergy;
    - f. The officer's immediate family; and
    - g. The officer's mental health counselor.
  5. The officer will be assigned to non-field duties or be placed on administrative leave without loss of pay or benefits, pending the results of an administrative review of the incident, completion of identified training, counseling, or any other readjustment assignment designated by the Chief of Police. The duration of such an assignment or leave will be a minimum of five (5) days.
  6. The officer shall be available for official interviews and statements regarding the incident and shall be subject to recall to duty at any time.
  7. Any officer involved in an incident which does not result in an injury or death may be assigned to non-field duties or placed on administrative leave without loss of pay, pending the results of an administrative review

of the incident. The assignment to non-field duties or administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly.

B. ECC Responsibilities

During the incident, ECC shall:

1. Dispatch requested medical aid; and
2. Confirm notification to the on-duty supervisor; and
3. Send supervisor page.

C. Supervisor Responsibilities

If the initial incident began or occurred within the City of Winchester, the on-duty supervisor shall:

1. Proceed immediately to the scene;
2. Assign sufficient patrol personnel to adequately secure the scene;
3. As soon as feasible, secure and safeguard the involved officer's weapon;
4. Notify members of the Department command staff: Chief of Police, Deputy Chief of Police, Division Captains and Media Relations Liaison Officer.
5. Conduct a preliminary investigation;
6. Arrange for notification of the involved officer's family; and
7. Assure that proper notifications have been made.

D. Criminal Investigations Division (CID)

1. The initial phase in an investigation is to establish if the incident was permitted by law. The criminal investigation shall be conducted in close coordination with the Commonwealth's Attorney and the Department's administrative investigation representative.
2. The Chief of Police may, if appropriate, request an outside agency such as the Virginia State Police to investigate the incident.
3. The CID supervisor shall assume direct control of police involved incidents. The criminal investigation is the primary investigation into the

incident. The CID supervisor shall request and assign sufficient personnel to assure a thorough and expeditious investigation.

4. The CID supervisor shall coordinate any interviews of involved officers with the administrative investigation representative. The involved officer shall be afforded the same legal rights and procedures as any citizen involved in a criminal investigation. It is the intent of the Department not to require the officer to make a statement as part of the criminal investigation.
5. The involved officer shall be required to make a detailed statement to the administrative investigation representative(s) at any point during the investigation. Such statements will be used for administrative (non-criminal) purposes only. The interview shall be conducted in accordance with the Law Enforcement Officer's Procedural Guarantees outlined in GO 1-17, Employee Discipline. Such statements shall not be made available to the CID unless the officer making the statement consents to its release in writing.
6. A copy of all reports will be provided to the administrative investigation representative.
7. The CID supervisor will brief the Commonwealth's Attorney and the Chief of Police concerning the facts of the incident and shall request a decision regarding any criminal liability.

E. Administrative Investigation

1. The Chief of Police or his/her designee will assign an administrative investigation to coincide with the CID investigation.
2. The designated administrative investigation representative will respond to the scene of the incident to assure that all aspects of the incident are thoroughly investigated and documented.
3. The administrative investigation representative will be present when the CID supervisor briefs the Commonwealth's Attorney concerning the facts of the incident and requests a decision as to any criminal liability.
4. The administrative investigation shall determine if the incident:
  - a. Adhered to Department rules and regulations and general orders;
  - b. Did not adhere to Department rules and regulations and general orders; or
  - c. Was unintentional.
5. The administrative investigation shall evaluate training considerations to include, if applicable:

- a. The drawing and exhibiting of firearms;
  - b. The firing of weapons;
  - c. Tactics during and after the incident;
  - d. The quality of supervision prior to, during, and after the incident.
6. If the incident involves a death or use of a firearm, the administrative investigation representative may recommend to the Chief of Police the assembly of the Use of Deadly Force Review Board.

F. Media Relations Responsibilities

1. The Media Relations Liaison or the City's Public Information Officer will respond to the scene of the incident if directed by the Chief of Police or his/her designee.
2. The Liaison or PIO will be responsible for gathering information pertaining to the incident and will prepare a written press release detailing the circumstances. The press release will be submitted to the Chief of Police or his/her designee for approval prior to distribution.
3. In the event that members of the news media respond to the scene, the Liaison or PIO will gather sufficient information to make a brief statement with the approval of the Chief of Police or his/her designee.

G. Use of Deadly Force Review Board.

1. At the direction of the Chief of Police, the Use of Deadly Force Review Board shall convene and review circumstances regarding the use of deadly force by a Department officer.
2. Unless directed otherwise by the Chief of Police or his/her designee, the Use of Deadly Force Review Board shall consist of:
  - a. Deputy Chief of Police;
  - b. Captain of the Administration Division;
  - c. Captain of the Patrol Division;
  - d. Captain of the Criminal Investigations Division;



- e. One (1) officer of the same rank as the officer(s) who discharged the weapon;
  - f. Firearms supervisor; and
  - g. Administrative investigation representative (non-voting member).
3. The Use of Deadly Force Review Board will evaluate, in explicit and fact finding fashion, each aspect of the incident. Such evaluation shall include:
  - a. A thorough review of the criminal investigation report;
  - b. A thorough review of the administrative investigation report; and
  - c. Hearing of direct testimony, if necessary, from officers and witnesses.
4. The Use of Deadly Force Review Board will develop findings and make recommendations to the Chief of Police in the following areas:
  - a. Whether the incident was within established Department rules and regulations and general orders;
  - b. Whether the incident was not within established Department rules and regulations and general orders;
  - c. Whether the incident was unintentional;
  - d. Tactical considerations;
  - e. Training considerations;
  - f. The quality of supervision prior to, during, and after the incident;
  - g. Discipline considerations; and
  - h. The post-incident investigative process and quality of the investigation.
5. The Chief of Police shall review all reports and information and will rule as to whether or not the incident was within established Department rules and regulations and general orders. Adverse administrative actions, if any, against the involved officer(s) shall be processed in accordance with GO 1-17, Employee Discipline.