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## Section 8-800

Police departments

Village (VIL)

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The board of trustees of a village may, by resolution, establish a police department in such village and appoint a chief of police and such personnel as may be needed, and fix their compensation. The board of trustees may abolish a police department established pursuant to this section by local law, subject to permissive referendum, and the department shall be deemed abolished as presented in such proposition. The board of trustees of a village, upon establishing or abolishing a police department, shall notify the commissioner of the division of criminal justice services of such action within thirty days thereafter.

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## Section 8-802

Powers and duties of police officers  
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The police officers so appointed shall have all the powers and be subject to the duties and liabilities of constables of towns in serving process in any civil action or proceeding. In addition to other powers conferred by law, said police officers shall have power to execute any warrant or process issued by a court of the county or counties in which such village is situated.



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## Section 8-804

Discipline and charges

Village (VIL)

SHARE



1. Except as otherwise provided by law, a member of such police force or department shall continue in office unless suspended or dismissed. The board of trustees or municipal board shall have power and is authorized to adopt and make rules and regulations for the examination, hearing, investigation and determination of charges, made or preferred against any member or members of such police force or department. Except as otherwise provided, no member or members of such police force or department shall be fined, reprimanded, suspended, removed or dismissed until written charges shall have been examined, heard and investigated in such manner or procedure, practice, examination and investigation as the board may by rules and regulations from time to time prescribe. Any member of such police force or department at the time of the hearing or trial of such charges shall have the right to a public hearing and trial and to be represented by counsel at any such hearing or



trial, and any person who shall have preferred such charges or any part of the same shall not sit as judge upon such hearing or trial. Any and all witnesses produced in such support of all or any part of such charges shall testify thereto under oath. Any member of such force or department who shall have been so dismissed shall not be reinstated as a member of such force or department unless he shall within twelve months of his dismissal file with such board a written application for a rehearing of the charges upon which he was dismissed. Such board shall have the power to rehear such charges and, in its discretion, reinstate a member of the force or department after he has filed such written application therefor. Any member of such force or department found guilty upon charges, after five days' notice and an opportunity to be heard in his defense, of neglect or dereliction in the performance of official duty, or violation of rules and regulations, or disobedience, or incompetency, to perform official duty, or an act of delinquency seriously affecting his general character or fitness for office, may be punished by the board of trustees or other municipal board having jurisdiction, by reprimand, forfeiture and the withholding of salary or compensation for a specified time not exceeding twenty days, suspension from duty for a specified time not exceeding twenty days and the withholding of salary or compensation during such suspension, or by dismissal from the department. Such board shall have the power to suspend, without pay for a period not to exceed thirty days, pending the trial of charges, any member of such police force or department. If any member of such police force or department so suspended shall not be convicted by such board of the charges so preferred, he shall be entitled to full pay from the date of suspension,

notwithstanding such charges and suspension. 2.

Notwithstanding any other provision of law, no charges shall be commenced more than three years after the occurrence of the alleged neglect or dereliction in the performance of official duty, or violation of rules and regulations, or disobedience, or incompetency, to perform official duty, or an act of delinquency seriously affecting his general character or fitness for office, complained of and described in the charges provided, however, that such limitation shall not apply where the aforementioned conduct complained of and described in the charges would, if proven in a court of appropriate jurisdiction, constitute a crime.

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## Section 8-806

Review  
Village (VIL)

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The conviction of any member of such police force or department shall be subject to review by the supreme court in the judicial district in which such village is located, in the manner provided by article seventy-eight of the civil practice law and rules on the ground that said conviction is illegal provided the proceeding is commenced within sixty days after the conviction.



## SECTION 120-1. Internal Affairs; Special Investigations Unit



<b>Date Issued</b>	<b>Date Effective</b>	<b>Revision No.</b>	<b>General Order</b>
10-1-2002	Immediate	A-1	02-21
<b>Accreditation Standards 25.1, 25.2, 25.6 and 25.8</b>			

### § 120-1A. Purpose.

The purpose of this section is to establish a Special Investigations Unit for the Amityville Police Department and to clearly delineate its duties and responsibilities.

### § 120-1B. Composition.

Due to the size of this Department and the number of internal investigations conducted, the necessity for assigning full-time personnel to a Special Investigations Unit does not exist. Accordingly, the Special Investigations Unit shall be comprised of the Chief of Police and the Lieutenant, who will be called upon to serve this function as necessity dictates.

### § 120-1C. Policy.

The unit shall be responsible for carrying out internal affairs functions and investigating personnel complaints and background investigations. When required, the members of the Special Investigations Unit shall be the liaison between the District Attorney's office, or any other department or agency requiring investigations of alleged criminal misconduct.

### § 120-1D. Procedure.

1. Complaints received by this Department that allege that a Department member has used inappropriate behavior, is accused of misconduct or has committed a violation of the law will be treated as a personnel complaint. The Chief of Police will direct the investigation of the allegations and assign the necessary qualified personnel to conduct the investigation. When an investigation has been initiated, the subject of the investigation shall be notified by the Chief or the investigating officers of the nature of the complaint. In cases where such notification would jeopardize the investigation, the notification may be given immediately prior to the interview of the subject. The member will be advised of the charges or allegations and of his/her rights and responsibilities relative to the investigation.
2. A file will be made by the Lieutenant and it will be assigned an incident number. Upon completion of the investigation, the file will be turned over to the Chief, or in his absence the Lieutenant, who will review the file to determine whether the allegations are founded or unfounded. If the allegations are founded, the Chief will take the action he/she deems

appropriate for the allegations. All reprimands, Article #75 charges, or criminal charges will be made part of the file. Final disposition of any charges, if founded, will become part of the member's personnel file.

### § 120-1E. Office of Special Investigation.

Section 70-B has been added to the New York State Executive Law to establish the Office of Special Investigation within the Office of the Attorney General to investigate and, if warranted, prosecute any alleged criminal offense or offenses committed by a person, whether or not formally on duty, who is a police officer concerning any incident in which the death of a person, whether in custody or not, is caused by an act or omission of such police officer or peace officer or in which the attorney general determines there is a question as to whether the death was in fact caused by an act or omission of such police officer or peace officer.

Note: This law goes into effect on April 1, 2021.

## SECTION 120-4. Use of Force or Injury Investigations



Date Issued	Date Effective	Revision No.	General Order
10-1-2002	Immediate	A-1	02-22
Accreditation Standard(s) N/A		NYS Civil Service Law §§ 75 and 76	

### § 120-4A. Purpose.

The purpose of this section is to establish the framework for the proper investigation of firearms discharges by members of the Department or in other instances where actions by members have caused injuries or death.

### § 120-4B. Background.

The police are uniquely vested with the lawful use of force, a necessary but awesome responsibility in our democratic society. Departmental policy narrows the parameters of such authorized force, allowing full protection to the officers or others in their presence, but restricting otherwise lawful use of force and firearms in apprehension situations. (See Manual Sections 103-3, 103-4, and 103-5.) A mechanism must be established to ensure compliance with that policy, and this section creates the process and structure for the investigation of injuries caused by the use of force and the discharge of firearms.

### § 120-4C. Policy.



Whenever a member discharges a firearm, other than during legitimate competition, practice, or ballistic testing, at approved sites, or the actions of members cause injuries and/or death, the following procedures will be carried out immediately. It is important that a complete and thorough investigation be conducted and that it is properly documented.

#### § 120-4D. Use of force reporting requirements.

A Defensive Action Report or Use of Force Report shall be completed whenever force above soft hands is utilized.

#### § 120-4E. Injurious (visible or nonvisible) use of nondeadly force.

##### 1. Patrol officer responsibilities.

- a. The member using force will notify the tour supervisor of such force as soon as practical after the occurrence.
- b. The member using force will describe the circumstances of the use of force in the APD Use of Force Report.

##### 2. Supervisory responsibilities.

- a. The tour supervisor shall respond to the scene and determine which support services, if any, would be beneficial to the report and evaluation of the occurrence. During the initial response to the scene, the supervisor shall:
  - i. Look for evidence.
  - ii. Interview any witnesses; document witnesses.
  - iii. Interview on-scene officers.
  - iv. Interview the officer who used force if still on scene.
  - v. Interview the subject upon whom the force was used.
- b. Review the APD Use of Force Report and if additional information is necessary, write a supplemental report on the use of force.
- c. If written, the narrative of the supplemental report may include:
  - i. Additional officers involved.

- ii. Notifications made.
- iii. Description of the incident scene.
- iv. Summary of the incident.
- v. Investigation conducted.
- vi. Witness statements/canvass.
- vii. Summary of evidence.
- viii. Injuries (offender, officer, witness, medical attention required).
- ix. Discrepancies.
- x. Analysis of forced use.
- xi. Training points.
- xii. Attachments.

d. Copies of all reports shall be forwarded to the Lieutenant (or Chief) for review.

#### § 120-4F. Accidental or intentional firearms discharges.

In cases involving the intentional or accidental discharge of a firearm, other than exceptions cited under § **120-4C**, Policy, of this section or Section 107-4, the animal complaint section of this Manual, where no person has been injured, the desk officer will dispatch the tour supervisor to the scene to conduct an investigation. Both he/she and the officer involved will forward the aforementioned reports under this case to the Chief of Police:

1. In all incidents involving the discharge of a firearm at a person but where no injury is sustained; and
2. In all cases involving the shooting of a person (including a self-inflicted wound by accidental/intentional discharge); and
3. In every case where any use of force by members of this Department has or is likely to result in death or serious physical injury.



### § 120-4G. Desk officer responsibilities.

The desk officer shall take the following actions:

1. Dispatch a supervisor to the scene to take command of the scene.
2. Make all necessary notifications.
3. Dispatch Suffolk County investigative personnel to take investigative responsibility for the incident.
4. Notify the Chief of Police, or the Lieutenant in his absence.
5. Dispatch the necessary technical personnel.

### § 120-4H. Responding supervisor responsibilities.

The responding supervisor shall:

1. Take command of the scene, protect evidence and detain all witnesses, if any.
2. Ensure that investigative personnel are dispatched, if warranted.
3. Note general conditions in the area, such as lighting, pedestrian and vehicular traffic, etc.
4. If a firearm was used, note the points of discharge and impact for the round(s) fired.
5. Assign an officer to complete and submit a Crime Scene Log, Incident/Complaint Report and related supplementary reports, e.g., Arrest Report, Case Narrative, etc.

**NOTE:** The scene is to be treated as any crime scene. All unauthorized personnel are to be removed and unneeded police personnel relieved to resume their regular duties.

## SECTION 103-3. Use of Physical Force



<b>Date Issued</b>	<b>Date Effective</b>	<b>Revision No.</b>	<b>General Order</b>
1-4-2021	Immediate	21-A	21-01

**Accreditation Standards 20.1.**

### § 103-3A. Purpose.

The purpose of this section is to establish the policy and procedure of the Department in the use of physical force. Officers are expected to use only such force as is reasonable and necessary.

### § 103-3B. Policy.

- (1) Members of the Department may only use the level of physical force necessary to affect lawful objectives in the performance of their duties within the limits established in Article 35 of the New York State Penal Law and consistent with the training given by this Department. It is the responsibility of each member to be aware of the requirements of Article 35 and to guide his/her actions based upon the law. The use of indiscriminate force is prohibited.
- (2) The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape, or in defense of themselves or others. The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor*, is used in this policy and is intended to provide officers with guidelines for the use of force, including deadly physical force.  
As the Supreme Court has recognized, this reasonableness inquiry embodies "allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation."

### § 103-3C. Definitions.

- (1) Objectively Reasonable - An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.



- (2) Physical Force - Is the striking, kicking, fighting or any other physical or violent confrontation and force greater than restraining force not amounting to deadly physical force.
- (3) Deadly Physical Force (DPF) - Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
- (4) Physical Injury - Impairment of physical condition or substantial pain.
- (5) Serious Bodily Injury (Serious Physical Injury) - Bodily injury that creates or causes:
  - a. a substantial risk of death; or
  - b. unconsciousness; or
  - c. serious and protracted disfigurement; or
  - d. protracted loss or impairment of the function of any bodily member, organ or mental faculty.
- (6) Instrument - Any article, device, object, apparatus, implement or tool used to effect cooperation and control by forceful means
- (7) Restraining Force - Is the use of a minimal amount of physical strength or energy exerted to hold, restrain, control etc., required to overcome resistance or reluctance to obey the direction of an officer.
- (8) Display a Chemical Agent - To point a chemical agent at a person or persons.
- (9) Use/Deploy a Chemical Agent - The operation of the chemical agent against a person or persons in a manner capable of causing physical injury.
- (10) Brandishes a Firearm - To point a firearm at a person or persons.
- (11) Uses/Discharges a Firearm - To discharge a firearm at or in the direction of a person or persons.
- (12) Brandishes an Electronic Control Weapon - To point an electronic control weapon at a person or persons.
- (13) Uses/Deploys Electronic Control Weapon - The operation of an electronic control weapon against a person or persons in a manner capable of causing physical injury.
- (14) Brandishes an Impact Weapon - To point an impact weapon at a person or persons.
- (15) Uses/Deploys an Impact Weapon - The operation of an impact weapon against a person or persons in a manner capable of causing physical injury.
- (16) Uses a Chokehold or Other Similar Restraint - Any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.

RESTRICTIVE THAN ARTICLE 35 IN THE USE OF PHYSICAL FORCE/DEADLY  
PHYSICAL FORCE.

§ 103-4C. Policy.

- (1) In all cases, only the minimum amount of force necessary to effect lawful objectives, which is consistent with the accomplishment of a mission, will be used and is authorized. The firearm shall be viewed as a defensive weapon, NOT a tool of apprehension.
- (2) Guidelines for the use of firearms by members is clearly set forth in § 103-1H; however, the importance of these regulations is so critical that they merit being restated in the remaining subsections of this section. Members may discharge a firearm ONLY under the following situations:
  - (a) Every other reasonable alternative means will be utilized before a police officer resorts to the use of his/her firearm.
  - (b) Deadly physical force shall NOT be used to effect the arrest of a fleeing felon unless the officer has probable cause to believe that:
    - (1) Deadly physical force was used or threatened by the perpetrator; OR
    - (2) The perpetrator caused serious physical injury; OR
    - (3) The perpetrator is armed with a deadly weapon.
- (3) In addition, Department policy prohibits the use of deadly physical force unless ALL of the following factors are present:
  - (a) The police officer must have probable cause based upon knowledge of the crime involved and the surrounding circumstances; AND
  - (b) The police officer has probable cause to believe that fleeing felon poses an immediate threat of serious physical injury to the officer, or has probable cause to believe that failure to apprehend the fleeing felon poses a threat of serious injury to others; AND
  - (c) Reasonable means to apprehend the perpetrator, other than use of a firearm, are NOT available.

§ 103-4D. Restrictions and prohibitions.

- (1) Deadly physical force shall not be used to effect an arrest or prevent or terminate a felony unless the officer has probable cause to believe that the victim may be killed or seriously



### § 103-3D. Procedure.

- (1) Physical force, when used, shall be the minimum force necessary for a given situation and shall be reasonable in degree to the extent that it is necessary to effect cooperation and control of the situation. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.
- (2) Under the 4th Amendment, a police officer may use only such force as is "objectively reasonable" under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.
- (3) Only issued and approved equipment will be carried on duty, and used only when applying physical force, except in an emergency when the officer may use other resources at his/her disposal.
- (4) Physical force may be used when it is lawful and when the exercise of persuasion, advice and/or warning is found to be insufficient to obtain cooperation and control.
- (5) When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
- (6) Factors that may be used in determining the reasonableness of force include but are not limited to:
  - (a) The severity of the crime or circumstances; [Graham, 490 U.S. at 396 (1989)]
  - (b) The level and immediacy of the threat or resistance posed by the suspect; [Graham, 490 U.S. at 396 (1989)]
  - (c) The potential for injury to citizens, officers, and suspects; [Scott v. Harris, 550 U.S. 372 (2007)]
  - (d) The risk or attempt of the suspect to escape; [Graham, 490 U.S. at 396 (1989)]
  - (e) The knowledge, training, and experience of the officer; [Graham, 490 U.S. at 396 (1989), Terry v. Ohio, 392 U.S. 1 (1968)]
  - (f) Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects; [Sharrar v. Felsing, 128 F. 3d 810 (3<sup>rd</sup> Cir. 1997)]
  - (g) Other environmental conditions or exigent circumstances. [Chew v. Gates, 27 F. 3d 1432, 1475 n.5 9<sup>th</sup> Cir. (1994)]

(7) Duty to Intervene

- (a) Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force; if and when the officer has a realistic opportunity to prevent harm.
- (b) An officer who observes another officer use force that exceeds the degree of force described in subdivision (a) of this section should promptly report these observations to a supervisor.

§ 103-3E. Prohibited Uses of Force.

- (1) Force shall not be used by an officer for the following reasons:
  - (a) To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
  - (b) To coerce a confession from a subject in custody;
  - (c) To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purpose of scientific testing in lieu of a court order when required;
  - (d) Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

§ 103-3F. Medical Aid and Reporting Use of Force.

- (1) If it is necessary to use physical force by a member of the Department, the member shall immediately evaluate if the subject requires medical assistance. If the subject suffered a physical injury and/or complains of injury or pain, the member off the Department involved shall transport, or cause the subject to be transported, to the nearest medical facility for a clinical evaluation.
- (2) If any physical injury occurs, notification must be made without delay to the tour supervisor.
- (3) When a member of the Department uses physical force, including deadly physical force, whether an arrest is made or not and/or in any case where a person is charged with Resisting Arrest(205.30 N.Y.S. P.L.) wherein any level of force is used, all involved officers shall, prepare a Use of Force Report, to detail their respective involvement and submit this report for supervisory approval.



- (4) In addition to the aforementioned use of force reporting requirements and in accordance with New York State Executive Law § 837-t and 9NYCRR 6058, members of the Department shall also submit the Use of Force Report for the following use of force incidents:
- (a) Brandishes, uses or discharges a firearm at or in the direction of another person; or
  - (b) Uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or
  - (c) Displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or
  - (d) Brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy; or
  - (e) Brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long-range acoustic device; or
  - (f) Engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.
- (5) Photographs will be taken of any injury to a subject and when charging Resisting Arrest, photographs will be taken, whether or not the person is injured or alleges injury. The required photos are taken in addition to mug shots.

### § 103-3G. Use of Force Training.

- (1) In accordance with New York State Law Enforcement Accreditation Program standard 33.1, members of the Department receive annual training regarding the use of force and the use of deadly physical force via a Department training video entitled "Deadly Physical Force/Physical Force-Less Lethal".
- (2) In accordance with New York State Executive Law Section 840 and New York State Law Enforcement Accreditation Program standard 20.1, the Department shall conspicuously post the Department's use of force directive(s) on the public website.

## SECTION 103-4. Use of Firearms and Deadly Physical Force



<b>Date Issued</b>	<b>Date Effective</b>	<b>Revision No.</b>	<b>General Order</b>
1-4-2021	Immediate	21-A	21-01
<b>Accreditation Standards 20.1, 20.5, 21.1.</b>			

[1]:

*Editor's Note: See also Section 120-4, Use of Force/Injury Investigations.*

### § 103-4A. Purpose.

The purpose of this section is to establish clear guidelines for officers regarding the use of deadly physical force. Members of the Department have traditionally displayed commendable restraint in resorting to the use of deadly physical force. The irreversible consequences of such force place a responsibility on the Department to establish a policy that:

- (1) Clearly guides personnel in its application.
- (2) Maximizes officers' safety.
- (3) Minimizes the possibility of injury to innocent persons.
- (4) Reduces the unnecessary loss of human life to the lowest level consistent with the need for public safety.

### § 103-4B. Background.

- (1) There is probably no more serious act that a law enforcement officer can engage in than the use of a firearm. The occasions for such use are life and death situations, which are invariably confusing and complex, affording precious little time for meditation or reflection. It is imperative, then, that the officer, through training\* and the absorption of these guidelines, be able to respond quickly, confident that he/she is acting within the limits of Department policy. This serves to protect the public from unlawful and unreasonable use of force; at the same time, it enables officers to act without hesitation, to protect themselves or another person. Perhaps equally important, it minimizes the second-guessing to which the officer is subjected when no such guidelines exist. (\*Note: All officers are required to take yearly in-service deadly physical force training and exam scoring no less than 100.)
- (2) Members should have a thorough knowledge of Article 35 of the New York State Penal Law and should periodically review this body of law. Members should bear in mind that Article 35 of the Penal Law only authorizes use of physical force/deadly physical force; it does not command its use. Members should also be aware that DEPARTMENT POLICY IS MORE



injured and there is no other reasonable means to effect the arrest or prevent or terminate the felony other than by deadly physical force.

- (2) A police officer may use deadly physical force upon another person when he/she reasonably believes that such other person is using or about to use deadly physical force against the officer or a third person.
- (3) Where feasible, and consistent with personal safety, some warning (other than a warning shot) MUST be given. Deadly physical force should only be used as a last resort.
- (4) The firing of warning shots is prohibited.
- (5) Discharging a firearm from or at a moving vehicle is prohibited, unless the occupants of the other vehicle are using deadly physical force against the officer or another.
- (6) Discharging a firearm to summon assistance is prohibited, except where someone's safety is endangered.
- (7) The discharge of a firearm at dogs or other animals should be an action employed ONLY when no other means to bring the animal under control exist.

#### § 103-4E. Choke holds and carotid holds.

Choke holds, carotid holds, and similar compressions of the neck represent potential use of deadly force and shall never be used unless an officer or another person is in imminent danger of death or serious physical injury and all other measures to reasonably repel the attack have been exhausted.

#### § 103-4F. Responding supervisor responsibilities.

- (1) The responding supervisor shall:
  - (a) Take command of the scene, protect evidence and detain all witnesses, if any.
  - (b) Ensure that investigative personnel are dispatched if warranted.
  - (c) Note general conditions in the area, such as lighting, pedestrian and vehicular traffic, etc.
  - (d) If a firearm was used, note the points of discharge and impact for the round(s) fired.

- (e) Assign an officer to complete and submit a Crime Scene Log, Incident/Complaint Report and related supplementary reports, e.g., Arrest Report, Case Narrative, etc.
- (2) The scene is to be treated as any crime scene. All unauthorized personnel are to be removed and unneeded police personnel relieved to resume their regular duties.

## SECTION 103-5. Expandable Police Baton and Utility Knife



Date Issued	Date Effective	Revision No.	General Order
1-4-2021	Immediate	21-A	21-01
Accreditation Standards 20.6, 32.4, 41.3.			

### § 103-5A. Purpose.

The purpose of this section is to outline the procedure for the proper use of the expandable police baton.

### § 103-5B. Policy.

The use of the police baton is regarded by this Department as an escalation in the use of force to a level slightly less than deadly physical force but greater than the application of Chemical Mace or physical force. As their improper or unreasonable use may cause serious physical injury or even death, they should be resorted to only in those instances where lesser means of restraint or protection have failed or are clearly inappropriate.

### § 103-5C. Authorized use of baton.

Members may use an expandable police baton to subdue a violently resisting subject or in self-defense or defense of a third party, if lesser methods have failed, or if circumstances warrant its immediate use.

### § 103-5D. Unauthorized use of baton.

Members are prohibited from using an expandable police baton in the following circumstances:

- (1) As a threat to make a person comply with a member's verbal order, when no physical violence is imminent. This does not, however, prevent the deployment of the expandable police baton when the officer feels it necessary.



- (2) In retaliation for nonphysical abuse toward a member.
- (3) On persons secured and properly in custody.
- (4) To "stop" a person for a field interrogation.

### § 103-5E. Care and use of baton.

When a member uses his/her baton in any authorized situation, its use is subject to the following regulations:

- (1) Blows delivered should be delivered in accordance with training received from the Suffolk County Police Academy so as to render the opponent temporarily incapacitated but without causing serious permanent injury.
- (2) The expandable police baton should not be raised above the head to deliver a blow to any person.
- (3) When use of the expandable police baton is justified, blows should NOT be directed to the head; impact to large muscle areas tends to offer the best chance of not inflicting permanent injury. However, it must be remembered that the use of the police baton may be the last step available to a member before the application of deadly physical force.

### § 103-5F. Authorized utility knife.

Section 104-5C (8) of the Department Manual allow members to carry a folding-type utility knife on their duty belt. Although a knife by definition is a weapon, the purpose of the knife on the duty belt is that it is to be used as a tool. The knife is NOT TO BE REGARDED AS AN OFFENSIVE OR DEFENSIVE WEAPON EXCEPT UNDER EXTREME POLICE EMERGENCY AND AS A LAST RESORT OF THE MEMBER.

### § 103-5G. Report of use.

In all cases when the expandable police baton or utility knife is used against another person, the member using either will report the occurrence as directed in § 103-3F(3), Medical Aid and Reporting Use of Force.

## SECTION 103-6. OC Pepper Spray (Oleo-Resin Capsicum)



<b>Date Issued</b>	<b>Date Effective</b>	<b>Revision No.</b>	<b>General Order</b>
1-4-2021	Immediate	21-A	21-01
<b>Accreditation Standards 20.6, 32.4, 41.3.</b>			

### § 103-6A. Purpose.

The purpose of this section is to establish uniform policy for the use of nonflammable OC pepper spray.

### § 103-6B. Background.

Oleo-resin capsicum, or OC spray, is the active ingredient in the First Defense OC Pepper Aerosol. OC is a natural derivative of the cayenne pepper which, when sprayed in the face, causes a temporary burning sensation to the eyes, nose and throat. OC pepper spray is a nonlethal aerosol that is designed to subdue a person by projecting the specially formulated aerosol into the face. It thus provides the member with another alternative level of force.

### § 103-6C. Policy.

ONLY NONFLAMMABLE OC PEPPER SPRAY IS TO BE CARRIED BY THE MEMBERS OF THE AMITYVILLE POLICE DEPARTMENT. THIS IS TO ENSURE THE SAFETY OF ALL INVOLVED IN THE EVENT OC PEPPER SPRAY IS USED IN CONJUNCTION WITH THE DEPARTMENT TASER.

- (1) OC pepper spray should only be used in circumstances when it is necessary to overcome violent physical force or resistance likely to result in injury to the subject, member or another person.
- (2) OC pepper spray shall never be used:
  - (a) Against any person in retaliation for his/her verbal or other abuse of a member.
  - (b) To elicit information from any person.

### § 103-6D. Instructions for use.

- (1) Range. The effective range of OC pepper spray is 10 feet to 12 feet; however, it is most effective from three or more feet.
- (2) How to use. The most effective use of OC pepper spray is two well-aimed 1/2- to one-second bursts aimed into the face of the aggressor from a distance of three or more feet and a maximum of 12 feet.
- (3) Medical attention.
  - (a) The officer shall ensure that ample quantities of water are made available to the person to flush the affected area as soon as practical after being sprayed.
  - (b) The officer shall ask the subject, if possible, if he or she is wearing contact lenses. If the subject is wearing contact lenses, the officer shall advise the subject to remove them. The officer will give the subject an opportunity to remove the contacts as soon as



practical. Eye injury can occur if affected lenses remain in the eyes for more than six hours. The officer should detail this information on the incident report.

- (c) The officer shall ask the subject, if possible, if he or she suffers from any upper respiratory disease such as asthma, emphysema or bronchitis. OC sprays do not aggravate these disorders; however, the stress of the entire incident can. The officer should reassure the subject that the effects of the spray are short-lived and that the subject will be assisted in flushing the affected areas. The officer should detail this information on the incident report.

- (d) The person shall also be informed that medical attention is available. If the person desires medical attention or otherwise appears in need of same, it is the responsibility of the officer in charge of the subject at that time to ensure that he/she is transported to the nearest hospital for treatment.

- (4) In all cases when OC spray is used, the officer using same will report it on the Use of Force Report.

## SECTION 103-7. Use of Shotguns and Patrol Rifles



Date Issued	Date Effective	Revision No.	General Order
1-4-2021	Immediate	21-A	21-01
Accreditation Standards 20.5, 21.1.			

### § 103-7A. Purpose.

The purpose of this section is to establish the policy and procedures regulating the carrying and use of shotguns and patrol rifles by members of this Department.

### § 103-7B. Background.

Because of the unusually dangerous potential of a shotgun and patrol rifle, the carrying and use of such weapons must be carefully controlled and monitored at all levels.

### § 103-7C. Policy.

The policies, procedures and regulations of this Department governing the use, carrying and reporting requirements of firearms will strictly apply to the use, carrying and reporting requirements for shotguns and patrol rifles.

### § 103-7D. Issuance of shotguns and patrol rifles.

- (1) Shotguns and patrol rifles will be drawn from the shotgun/rifle locker by qualified members assigned to marked patrol units.
- (2) Shotguns will be loaded at the start of each tour with four rounds of .00 buckshot, no round in chamber, safety in "on" position.
- (3) Patrol rifles will be loaded at the start of each tour with a 30 round magazine (loaded with 5.56 ammo), no round in chamber, safety in "on" position.
- (4) Shotguns and patrol rifles will be unloaded and placed back into the shotgun/rifle locker at the end of each tour by the assigned member.
- (5) All shotguns and patrol rifles shall not be loaded or unloaded inside of Headquarters. The sally port or outside parking lot is appropriate.

Note: The Shotgun/rifle locker WILL be LOCKED at all times.

### § 103-7E. Safety.

Extreme caution will be used when handling a shotgun or patrol rifle. Supervisory personnel shall be alert to and correct any careless handling of such weapons. The following safety precautions will be strictly adhered to:

- (1) Except when in the act of using the weapon, the shotgun shall be carried with the muzzle pointing upward and the safety in the "on" position.
- (2) Except when in the act of using the weapon, the patrol rifle shall be carried in a single point sling with the muzzle pointing at the ground and the safety in the "on" position.
- (3) Members issued shotguns or patrol rifles will carefully inspect the weapon to be certain that it is in good working order. If there appears to be any problem with the weapon, such will immediately be brought to the attention of a supervisor.

### § 103-7F. Responsibility.

- (1) Indication will be made on the roll call regarding shotgun or patrol rifle assignment.
- (2) Responsibility for the security and/or the use of a shotgun or patrol rifle will be borne by the member assigned the weapon. No member shall accept the assignment of a shotgun or patrol rifle unless he/she has been determined to be qualified to use said shotgun or patrol rifle by the Suffolk County Police Department Firearms section or by a N.Y.S. DCJS Certified Firearms Instructor.

### § 103-7G. Security.



- (1) When not in use, shotguns or patrol rifles will be locked in the mounts located in the patrol vehicle.
- (2) When member's vehicle is taken out of service for repairs, the shotgun or patrol rifle shall be removed from the vehicle by the assigned member and secured in the shotgun/patrol rifle locker.

## § 103-7H. Authorized and prohibited use.

- (1) Situations where the deployment of a shotgun or patrol rifle might be appropriate are:
  - a) Felony situations where a suspect is believed to be on the scene and is possibly armed.
  - b) When dispatched to the scene of a crime where it is known that a firearm is involved in the commission thereof.
  - c) In searches for suspects reported to be armed.
  - d) To destroy a dangerous animal.
- (2) Situations where the deployment of a shotgun would NOT be appropriate are:
  - a) Routine calls.
  - b) Disturbance calls, except when the caller indicates that a weapon is present and being used in the disturbance.
  - c) As a show of force.

## SECTION 103-8. TASER(CED)



Date Issued	Date Effective	Revision No.	General Order
1-4-2021	Immediate	21-A	21-01
Accreditation Standards 20.6, 32.4, 41.3		Ref: DCJS Guidelines	
Penal Law § 265.00, paragraphs 15-a, 15-c, 1-1			

## § 103-8A. Purpose.

The purpose of this section is to establish uniform policy for the use of TASER (Thomas A. Smith Electric Rifle), also known as a "conducted energy device" (CED).

### § 103-8B. Definition.

TASER or CONDUCTED ENERGY DEVICE (CED)- A less lethal weapon primarily designed to disrupt a subject's nervous system by means of deploying a high-voltage, low-power current of electrical energy sufficient to cause pain and/or uncontrolled muscle contractions to override an individual's voluntary motor response.

### § 103-8C. Background.

Consistent with the Department philosophy and policy of using the minimum amount of force necessary to control violent subjects (See Section 103-3 of the Department Manual.), the Department has approved the use of the TASER (conducted energy device). For a substantial part of the last two decades, TASER weapons have proved an effective and invaluable law enforcement tool. The TASER is a nonlethal, hand-held electronic control device specifically designed to subdue a subject within a range of 3 feet to 25 feet. The optimum range is 12 feet to 18 feet. When activated, the weapon propels a pair of barbed darts attached to two trailing wires. Once contact is made with the intended target, the weapon will begin discharging a metered and pulsed current throughout the subject's body. Results are virtually instantaneous. Involuntary muscle spasms and severe loss of motor control cause the subject to fall and be subdued quickly without any permanent harm or serious aftereffects.

### § 103-8D. Policy.

- (1) The primary duty of all law enforcement officers is to preserve human life. Deadly force will only be used as a last resort to protect the life of officers or other persons who are present. The TASER may be used to control violent or potentially violent suspects when an officer reasonably believes that the following conditions exist:
  - (a) Attempts to subdue the subject by conventional tactics have been or will likely be ineffective in the situation at hand; OR
  - (b) There is a reasonable expectation that it will be unsafe for an officer(s) to approach to within contact distance of the subject; AND
  - (c) Lethal force does not appear to be justifiable and/or necessary.
- (2) The TASER will be carried by trained officers at all times on their person. (The TASER should be carried in the holster on the opposite side of their service weapon.) These officers will have completed Department-approved TASER training and may deploy a TASER and use it in accordance with this established policy and procedures. Supervisor's approval is not required. These trained officers will respond to all calls involving violent mental aided and situations in which they feel the use of the TASER could be needed. If the tactical situation



permits, verbalization regarding the possible use of the TASER should be directed towards the subject.

- (3) As with other methods of human restraint, including batons, asps, manual restraint, chemical agents, nets, and leg grabbers, which also depend completely or partially upon kinetic force to achieve their desired result, the use of the TASER could result in traumatic injury to the subject, operator, and/or bystanders from impact (especially projectile impact) and uncontrolled falls.
- (4) Officers should be aware of this and also consider the following critical warning regarding the TASER weapon. (See § **103-8P** below.)

### § 103-8E. Officer responsibilities.

Only officers who have completed a Department-approved TASER training program may deploy a TASER. The TASER will be stored in the shotgun/patrol rifle locker and is to be safeguarded by the person assigned to the desk for the tour. The following procedure will be followed:

- (1) At the start of each tour, the officer who will be assigned the TASER will sign out same, along with one cartridge. This will be accomplished by having the desk officer make a notation on the duty log in the appropriate area.
- (2) An officer assigned a TASER will ensure the TASER is not loaded and conduct a spark test for the full five seconds. The TASER utilizes the DPM battery. **Note:** The spark test will NOT be conducted inside of headquarters; the sally port or the outside parking lot is appropriate.
- (3) At the end of the tour, the officer will unload the TASER in the sally port. The TASER-assigned officer will return the TASER to the shotgun/patrol rifle locker area for storage. **Note:** TASERs will not be stored while loaded.
- (4) Any and all damage to the TASER and associated equipment will be reported, along with any required reports involving the use of the TASER. Any questions regarding training, use or the tactical deployment of the TASER should be directed to the TASER training officer(s).

Note: The Shotgun/rifle locker WILL be LOCKED at all times.

### § 103-8F. Testing at start of tour.

- (1) Make sure the TASER is unloaded and pointed in a safe direction. **Note:** This is NOT to be conducted within headquarters.
- (2) Check to make sure the TASER is not loaded, and never place hands in front of or within the cartridge chamber.

- (3) Check battery level.

### § 103-8G. Loading.

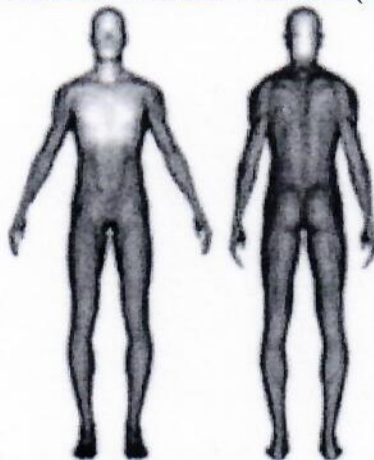
The TASER will be carried by the assigned officer in a loaded state. When not being carried by trained personnel, the TASER will be properly stored and secured in the shotgun/patrol rifle locker.

- (1) Check to make sure safety is down in a safe position.
- (2) Load cartridge into the firing bay, making sure that fingers and hands are clear of the blast doors. Push the cartridge in while holding the side buttons until you hear a "click." The TASER is now loaded.

### § 103-8H. Use and deployment.

- (1) For most effective results, an officer should stand within 12 feet to 15 feet of the subject.
- (2) Aim the laser sight at the preferred target area. This should be the back, but if a frontal shot is necessary, aim the TASER sight at the abdominal to the pelvic region. This has been found to be more effective and does increase safety margins and enhances the ability to defend such case in post-event legal proceedings.
- (3) Place the safety switch in the "up" position (unit ready for deployment).
- (4) Depress the trigger; this will activate a five-second discharge cycle.

#### **PREFERRED TARGET AREA (Dark Shaded**



**Areas)**



## § 103-8I. Targeting.

- (1) Simplify targeting for all TASER systems to one easy-to-remember map, avoiding chest shots when possible and the risk of a head/eye shot in a dynamic situation, as is standard for impact munitions.
- (2) When possible, avoiding chest shots with CEDs avoids the controversy about whether CEDs do or do not affect the human heart.
- (3) Close-spread CED discharges to the front of the body are more effective when at least one probe is in the major muscles of the pelvic triangle or thigh region.
- (4) Back shots, below the neck, remain the preferred target area when practical.

## § 103-8J. Multiple applications.

(1)

TASER operators should be aware that the associated risks with multiple exposures to a TASER are unknown and the role of TASERs causing death in these cases is unclear. Caution should be used in using multiple activations to subdue a subject. [See § 103-8P(14) regarding elevated risk populations.]

(2)

Officers are reminded to use only the appropriate force necessary to accomplish the necessary purpose intended. If more than three consecutive cycles are required, officers should reassess the situation and consider transitioning to another applicable force option.

(3)

Officers should be mindful that direct contact mode creates pain compliance only and may not stop a subject from struggling with an officer and pulling away from the electrodes as the officer attempts to apply the TASER in direct contact mode. As a result of the struggle, multiple contact marks may be left on a subject's skin, indicative of multiple cycles being applied by an officer as he/she attempts to subdue a subject. Downloaded data should be checked to verify the actual number of cycles used during the incident.

(4)

Generally, only one TASER should be used on a subject at a time, absent reasonable appearance that one or more of the TASERs are malfunctioning.

## § 103-8K. Use on animals.

- (1) TASERs have been shown to be an effective option on animals by reducing the need for more injurious force.
- (2) Because of uncertain effects on animals, TASER use against attacking animals is only recommended as a last resort alternative to lethal force. A TASER may be deployed on an animal when:
  - (a) The animal is threatening (posing active threat) or attacking a person(s), including officers, another animal or property.
  - (b) The animal needs to be immediately captured for reason of nuisance to public peace or safety, and preservation of property.
- (3) Due to rapid and unpredictable movements of animals, it is more likely unintended areas may be struck. The center mass of an animal should be targeted.
- (4) Animals will most likely be momentarily incapacitated, and then quickly leave the scene, breaking the wires. When applicable, consider having animal control stand by to collar/capture the animal, or in the event the animal's health is in jeopardy and its welfare needs to be provided for.

#### § 103-8L. Unloading.

- (1) Immediately engage the safety switch in the "down" position when the decision is made that the TASER is no longer needed
- (2) Point the TASER in a safe direction and press the side buttons to remove the cartridge.
- (3) Do not remove the battery from the TASER.

#### § 103-8M. Verbal commands.

When applicable, an announcement to other officers that the TASER is about to be activated should be made. The command "TASER, TASER" should be shouted loud and clear when practical. This is an opportunity for the assisting officers to visually confirm that the engaging officer is in fact deploying the TASER and ready themselves for immediate assistance.

#### § 103-8N. Medical treatment and reporting.

- (1) Any time the TASER or darts make contact with a subject, the officer is required to obtain medical treatment for that person.



- (2) Only medical personnel may remove darts that are imbedded in a suspect's skin. Medical personnel shall include a doctor or nurse at a hospital.
- (3) The officer will clip the leads to the barbs to prevent them from catching on an object and dislodging barbs. When barbs are removed at the hospital, they will be placed in an evidence bag along with the spent cartridge and leads. This will then be packaged and stored as evidence in accordance with current Department evidence collection and storage procedures.
- (4) Photographs of the injury site shall be taken as soon as practical, whether or not the barbs are still imbedded in the skin.
- (5) Serious incidents, including felonies, may require the TASER items to be recovered by a crime scene technician.
- (6) The origination incident will be given a case number and, in addition to the Use of Force Form, a TASER Report will be completed and forwarded to the Lieutenant.<sup>11</sup>

[1]:

*Editor's Note: A copy of the TASER Report is included at the end of this chapter.*

### § 103-8O. In-service training.

Officers who are certified in the use of the TASER will be given an in-service refresher yearly. This, along with the training bulletin, will keep the officers updated on any new changes or procedures. The training bulletins will be stored in a binder marked "TASER." It is the responsibility of each trained officer to make sure they read these updates.

### § 103-8P. Critical warnings.

- (1) Never point the TASER at another person unless in self-defense. The TASER performs best from 12 feet to 18 feet.
- (2) Never aim the TASER at the eyes or face.
- (3) Keep the TASER out of the reach of children.
- (4) Do not remove the DPM (digital power magazine) from the TASER under any conditions. The DPM should only be removed by the Lieutenant. Failure to follow this warning may result in weapon failure, corrupted data, clock errors, or software problems. The DPM batteries will be replaced when battery life is less than 20%.
- (5) Set the unit down gently; avoid dropping the unit.

- (6) Keep hands away from the front of the unit (blast doors) at all times unless the safety slide is down and the TASER is deactivated.
- (7) Hold the TASER with the line-of-sight indicator level.
- (8) Always replace cartridges by the expiration date printed on each cartridge.
- (9) Do not fire the TASER near flammable liquids and fumes.
- (10) The TASER can ignite gasoline or other flammables. Some self-defense sprays are flammable and would be extremely dangerous to use in conjunction with a TASER. Use Department-issued mace only!
- (11) The TASER causes temporary paralysis. This paralysis can be dangerous and even fatal under specific circumstances. For example, someone who is shot by a TASER in a swimming pool would probably drown as they could not swim or support themselves. Due to potential dangers, only use the TASER when absolutely necessary to protect your life or others.
- (12) Always make certain your safety slide is in the down position whenever your TASER is loaded and not intended for immediate use. When carrying the TASER, store it in an enclosed container or authorized holster.
- (13) Do not carry the TASER or cartridges in a pocket.
- (14) An officer should not use the TASER on "elevated risk populations" as these may increase the risk of injury. Because of the lack of independent research which definitively predicts the effects of TASER exposure on these groups, added caution should be used when deploying a TASER on the below-mentioned persons. Although there are perceived heightened risk factors and societal perceptions which generally assume that many of these individuals are not capable of being an imminent threat, officers should understand individuals from this elevated risk population can potentially be an imminent threat to officers, others, and themselves which may ultimately require the use of the TASER:
  - a. Smaller people or children.
  - b. Individuals with known diseased hearts.
  - c. Elderly.
  - d. A subject who is obviously pregnant.



- e. Those who are frail or infirm.
  - f. Individuals with known neuromuscular illness (i.e., multiple sclerosis, muscular dystrophy).
  - g. Individuals that require more than three applications to gain custody and control.
  - h. Individuals exhibiting "excited delirium." While not a recognized medical or psychiatric diagnosis, it is a term often used to describe a state in which someone presents themselves. The manifestations of excited delirium vary depending on the individual. Usually most of the following characteristics are observed in an individual in the condition often call a state of "excited delirium": violent behavior, extreme agitation and restlessness, incoherent and rambling speech, hallucinations and delusions with paranoid features, lack of purposeful activity and/or destruction, elevated body temperature, little or no clothing, lack of response to pain stimuli, combativeness and extraordinary strength and history of stimulant abuse, most commonly cocaine and/or methamphetamine. **Note:** A person exhibiting signs and symptoms of "excited delirium" should be transported to a medical facility as soon as reasonably possible.
- (15) An officer should only apply the number of cycles reasonably necessary to safely restrain the subject.

## SECTION 103-9. Firearm Safety/Loading & Unloading Firearm



Date Issued	Date Effective	Revision No.	General Order
6-18-2009	Immediate		09-02
Accreditation Standards 21.1			

### § 103-9A. Purpose.

The purpose of this section is to establish policy and procedure for the safe loading or unloading of a firearm.

### § 103-9B. Background.

- (1) Firearm safety is an ever-present reality. Extreme caution must always be taken whenever handing a firearm. To prevent injury from an accidental discharge when loading or unloading a firearm the Department has purchased a specially designed bullet trap.

- (2) Bullet Trap- comprises a lid over a container body holding aggregated, randomly- or not-randomly-arranged swatches of one or more types of polyacrylamide fiber material or the like. The lid is penetrable by bullets and the aggregated swatches slow any bullets which penetrate the lid sufficiently to retain them in the container. The bullet trap is intended for use in a method of safely loading and unloading firearms in which the firearm is aimed at the trap during loading and unloading to trap any bullets accidentally discharged during loading and unloading.

## § 103-9C. Policy

The policy of the Police Department is to use the bullet trap whenever loading or unloading your weapon at Headquarters. The bullet trap is located in the sally port.

## § 103-9A. Procedures.

Whenever handling a firearm take all necessary precautions to prevent an accidental discharge:

### (1) Unloading Procedure:

- i. Presume the firearm is loaded.
- ii. Remove weapon from holster keeping trigger finger outside trigger guard.
- iii. Keep firearm pointed in a safe direction.
- iv. Be aware of your surrounding and backstop.
- v. Place firearm barrel in the trap opening until unloading procedure is completed.
- vi. Remove magazine and rack the slide several times to remove any round in chamber.
- vii. Lock the slide back and visually inspect the firearm to ensure it is safe.

### (2) Loading Procedure:

- i. Presume the firearm is loaded.
- ii. Keep firearm pointed in a safe direction.
- iii. Keep trigger finger outside trigger guard.
- iv. Be aware of your surroundings and backstop.
- v. Place firearm barrel in the trap opening until loading procedure is completed.



- vi. Insert magazine and rack the slide to place a round in the chamber.
- vii. Place the loaded weapon back in your holster.

***By Order Of:***

***Chief Bryan O. Burton,  
Jr.***

Amityville Village Police Department  
USE OF FORCE REPORT

CASE #

[illegible]

ORIGINAL COPY TO LT and COPY IN CASE JACKET





STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

EXHIBIT J

LETITIA JAMES  
ATTORNEY GENERAL

DIVISION OF CRIMINAL JUSTICE  
SPECIAL INVESTIGATIONS AND PROSECUTIONS UNIT

November 18, 2020

Re: Office of Special Investigations

Dear Chief Law Enforcement Officer:

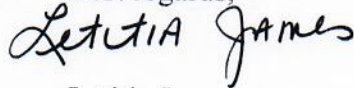
I hope all is well with you and your department during this challenging time.

I am reaching out to engage with you about plans for implementing the new law, Executive Law 70-b, which creates the Office of Special Investigations within the Office of the Attorney General, as of April 1, 2021. As you may know, the New York State Legislature passed legislation to codify and replace Executive Order 147, which currently requires this Office to investigate and, if appropriate, prosecute cases in which a police officer caused the death of an unarmed civilian. The new legislation expands our jurisdiction to also include the deaths of armed civilians caused by a police officer and any death caused by a corrections officer, whether the officers are on or off duty.

The law gives the Office jurisdiction over these cases from the time of the civilian's encounter with the officer, and therefore the county District Attorney will no longer be our initial point of contact. As a result, it is important that we work closely with all involved law enforcement agencies from the moment of the occurrence. We have already begun the process of reaching out for input from leading law enforcement organizations, to which many police and sheriff's departments belong. These organizations have provided us with rich feedback, which we are incorporating into our implementation strategy. Our immediate plan is to develop a set of draft policies, protocols, and guidance, which we will share with you for comment. Once this process is completed, we will begin formal presentations to law enforcement agencies, and then a phased roll out.

I have a deep respect for your professionalism and the work of your department in keeping our communities safe. I look forward to working with you in this new and important undertaking.

Best regards,

A handwritten signature in black ink that reads "Letitia James". The signature is written in a cursive style, with the first name "Letitia" and the last name "James" clearly legible.

Letitia James

Attorney General of the State of New York



[PREV](#)

[SECTION 70-A](#)

[Statewide Organized Crime Task Force \(/Legislation/Laws/EXC/70-A/\)](#)

[NEXT](#)

[SECTION 71](#)

[Attorney-General Authorized To Appear In Cases Involving The Constitutionality Of An Act Of The Legislature, Or A Rule Or Regulation Adop... \(/Legislation/Laws/EXC/71/\)](#)

## Section 70-B

Office of special investigation

Executive (EXC)

SHARE



1. There shall be established within the office of the attorney general an office of special investigation. Notwithstanding any other provision of law, the office of special investigation shall investigate and, if warranted, prosecute any alleged criminal offense or offenses committed by a person, whether or not formally on duty, who is a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer as defined in section 2.10 of the criminal procedure law, provided that such peace officer is employed or contracted by an education, public health, social service, parks, housing or corrections agency, or is a peace officer as defined in subdivision twenty-five of section 2.10 of the criminal procedure law, concerning any incident in which the death of a person, whether in custody or not, is caused by an act or omission of such police officer or peace officer or in which the attorney general determines there is a question as to whether the death was in fact caused by an act or omission of such police officer or peace officer.

2. The attorney general has investigative authority and criminal jurisdiction under this section at the time of the death of the person and the attorney general retains investigative authority and criminal



jurisdiction over the incident unless the attorney general determines that such incident does not meet the requirements of this section. If the attorney general determines the incident does not meet the requirements for the attorney general to have investigative authority and criminal jurisdiction pursuant to this section, the attorney general shall, as soon as practicable, provide written notice of such determination to the district attorney for the county in which the incident occurred.

3. In connection with any particular incident encompassed by this section, the attorney general shall conduct a full, reasoned and independent investigation, including but not limited to: (a) gathering and analyzing evidence; (b) conducting witness interviews; (c) reviewing and commissioning any necessary investigative and scientific reports; and (d) reviewing audio and video-recordings. The attorney general shall be empowered to subpoena witnesses, compel their attendance, examine them under oath before himself or herself or a magistrate and require that any books, records, documents or papers relevant or material to the inquiry be turned over to him or her for inspection, examination or audit, pursuant to the civil practice law and rules, in connection with such incident.

4. The attorney general shall have criminal jurisdiction over any criminal conduct arising from any incident herein, and shall exercise all of the powers and perform all of the duties with respect to such actions or proceedings that a district attorney would otherwise be authorized or required to exercise or perform, including all the powers necessary to prosecute acts and omissions and alleged acts and omissions to obstruct, hinder or interfere with any inquiry, prosecution, trial or judgment arising from the incident. The criminal jurisdiction of the office of special investigation shall displace and supersede the jurisdiction of the district attorney where the incident occurred; and such district attorney shall only have the powers and duties reserved to him or her in writing by the attorney general.

5. The attorney general shall designate a deputy attorney general for



special investigation to exercise the powers and duties of the office of special investigation, who shall be in the exempt class of the civil service. The deputy attorney general may designate deputies or assistants, who shall be in the exempt class of the civil service, as necessary and appropriate. The other employees of the office of special investigation within the department of law, who are not otherwise exempt, shall all be in the competitive class of the civil service and shall be considered for purposes of article fourteen of the civil service law to be public employees in the civil service of the state, and shall be assigned to the appropriate collective bargaining unit. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining units as they would have been assigned to were such titles created prior to the establishment of the office of special investigation within the department of law by this chapter. The deputy attorney general for special investigation may appear and conduct proceedings in person or by his or her deputy or assistant before any court or grand jury in connection with proceedings under this section.

6. (a) For any incident under this section, the office of special investigation shall issue a public report and post the report on its website whenever the office of special investigation initiates an investigation and (i) the office of special investigation declines to present evidence to a grand jury or (ii) the office of special investigation does present evidence to a grand jury but the grand jury declines to return indictment on any charges. The report will include, to the extent possible and lawful, the results of the investigation of the incident.

(b) The report shall also include: (i) with respect to subparagraph (i) of paragraph (a) of this subdivision, an explanation as to why the office of special investigation declined to present evidence to a grand jury; and (ii) any recommendations for systemic or other reforms arising from the investigation.

7. Six months after this subdivision takes effect, and annually on such date



thereafter, the office of special investigation shall issue a report, which shall be made available to the public and posted on the website of the department of law, which shall provide information on the matters investigated by such office during such reporting period. The information presented shall include, but not be limited to: the county and geographic location of each matter investigated; a description of the circumstances of each case; racial, ethnic, age, gender and other demographic information concerning the persons involved or alleged to be involved; information concerning whether a criminal charge or charges were filed against any person involved or alleged to be involved in such matter; the nature of such charges; and the status or, where applicable, outcome with respect to all such criminal charges. Such report shall also include recommendations for any systemic or other reforms recommended as a result of such investigations.

\* NB Effective April 1, 2021

PREV

SECTION 70-A

Statewide Organized Crime Task Force (/Legislation/Laws/EXC/70-A/)

NEXT

SECTION 71

Attorney-General Authorized To Appear In Cases Involving The Constitutionality Of An Act Of The Legislature, Or A Rule Or Regulation Adop... (/Legislation/Laws/EXC/71/)



## SECTION 106-5. Vehicle and Traffic Stops



Date Issued	Date Effective	Revision No.	General Order
5-18-2000	Immediate	A-1	00-27
Accreditation Standards 47.1, 47.2			

### § 106-5A. Purpose.

The purpose of this section is to establish guidelines for members to follow in order to effectively and safely stop and approach vehicles and their occupants while on patrol.

### § 106-5B. Policy.

Uniform traffic enforcement supports the ultimate goal of traffic law enforcement, which is to achieve voluntary compliance with traffic laws and regulations. It is the policy of this Department to provide for the safe and orderly flow of traffic through its jurisdiction by public compliance with traffic laws. To this end, the Department shall enforce all state and local vehicle and traffic laws in a uniform manner, while allowing for the use of the member's discretion. The safety of both officers and persons at the scene of a traffic stop is paramount. Traffic stops must be performed in accordance with the precepts of both the United States and New York State Constitutions and case law. Lawful stops reduce unwarranted accusations of misconduct. In all cases, the motorist is treated fairly and professionally without regard to race, color, ethnicity, national origin, religion, age, gender, gender identity, or sexual orientation.

### § 106-5C. General Background.

1. Enforcing traffic laws is one of the more routine functions that law enforcement officers perform. All too frequently members are injured or killed in the process. Therefore, detailed guidelines for members to follow when making contact with violating motorists are necessary.
2. Vehicles may be stopped at roadblocks, checkpoints and weighing stations as long as they are conducted in a uniform, nonarbitrary, nondiscriminatory fashion. Furthermore, a motor vehicle may be stopped when an officer has reasonable suspicion to believe that the motorist has committed a violation of the Vehicle and Traffic Law. In fact, even when an officer has another, underlying reason for stopping a vehicle, a pretextual vehicle stop is permissible if the officer had probable cause to believe a VTL violation occurred. Additionally, where specific facts and circumstances give a police officer reasonable suspicion to believe that the motorist or occupant of a motor vehicle has committed, is committing, or is about to commit a crime, the officer may stop the car and conduct an investigation.
  - a. Members of the Department must be guided by the totality of the circumstances, their personal police experience, and current laws.



- b. Members are reminded that the use of characteristics such as race, color, ethnicity, national origin, religion, age, gender, gender identity, or sexual orientation as the sole determinative factor for taking police action is prohibited and constitutes illegal profiling.

The Police Department does not condone racial profiling and Members of the Department will not engage in racial profiling. It is inconsistent with effective policing and equal protection of the law for all persons. Racial profiling undermines the efforts of law enforcement by causing a loss of respect for the law and a loss of credibility for the Department. Even the perception of racial profiling creates a distrust that discourages participation in the criminal justice system.

Racial profiling occurs when a police officer relies on race or ethnicity as the primary basis for law enforcement action such as a traffic stop, pedestrian stop or request for a consent search. However, when an officer has information which links specific criminal activity to an individual whose race, ethnicity or other identifying characteristic is known, that information may and should be appropriately used to identify and locate the individual.

Discretion is at the core of a police officer's job and it permits innovative, flexible problem solving. However, it also provides opportunities for conscious and unconscious bias and prejudice that could affect decision-making. A Fourth Amendment basis to stop does not legitimize stops which are initiated essentially because of race or ethnicity. Such stops can cause deep cynicism about fairness and the legitimacy of law enforcement and the judicial system.

3. The stopping of a motorist's vehicle constitutes a seizure and is governed by federal and state law. Officers should strive to maintain a proper balance between sufficient command presence and an attitude of fairness to maintain control of the vehicle and traffic stop.
4. The procedures outlined herein for stopping and approaching a stopped motorist's vehicle are intended to provide maximum safety for the officer, the motorist and other users of the roadways. Varying conditions regarding the engineering of the particular traffic way, the urgency to stop the motorist (e.g., DWI), and the existing volume of traffic may require adjusting or altering recommended procedure.

#### § 106-5D. Emergency equipment.

1. The proper use of emergency equipment is essential to the safety of the police officer and other motorists. Members shall utilize emergency equipment when situations warrant such use, and shall exercise extreme caution while engaged in emergency operations.
2. Authorized emergency equipment contained in or on vehicles used for patrol includes emergency red lights, emergency flashers, take-down lights, spotlight, siren and public address system. Emergency equipment shall be used in the following manner:



- a. Emergency red lights and flashers must be used to protect the patrol vehicle at hazardous locations, to signal traffic violators to the extreme right/left of the roadway as conditions may dictate, and while engaged in emergency operations.
- b. Spotlights and take-down lights shall be used to protect members from hazardous conditions, i.e., illuminating the interior of a vehicle during a traffic stop, or in conjunction with red lights and flashers when making a traffic stop.
- c. Sirens shall be used when signaling violators to stop, when other means of attracting them have failed, and to expedite the member's arrival at a destination, based on existing traffic and roadway conditions. Discretion should be used because sirens can complicate traffic problems. Under extreme conditions, the siren should be actuated continuously.
- d. Sirens and emergency lights in combination shall be utilized during pursuit situations, and in response to an emergency, as appropriate.
- e. Public address systems can be used to give general information to the public and to give instructions to motorists from a distance.

#### § 106-5E. Location of stop.

The general location of the stop is predetermined by where the violation occurs. Regardless of location, traffic stops should be accomplished as soon after the violation as traffic and other conditions will permit. Stopping the motorist immediately avoids confusion and arguments. Police officers should avoid any locations that create a hazard for themselves, the motorist, or other traffic.

#### § 106-5F. Making stop.

1. Prior to making the stop, the member should inform the desk officer of the license number and the location of the stop. If assistance may be required, he/she should request a backup unit. The desk officer will record this information and check the vehicle via computer.
2. The member should use the safest and simplest maneuvers to bring a motorist to a stop. For example, the member should first attempt to gain the attention of the motorist by use of the vehicle's emergency lights. Then the public address system should be used. Finally, the siren can be used briefly. The member can then motion the driver to move to the right or left shoulder of the roadway. The member will then position his/her patrol vehicle behind the rear of the violator's vehicle.
3. When stopping behind the vehicle on the roadway shoulder, the member should park so that his/her patrol car is about two feet to three feet to the left and 10 feet to 12 feet to the rear of the violator's vehicle. Using the public address system or hand movements, the member

should indicate to the violator that he/she should park as far away from the traffic lanes as possible.

### § 106-5G. Approaching vehicle.

The member should approach the vehicle in a direct line just inside the left of the driver's side. This approach allows the member to use the trunk of the vehicle for cover should an attack occur. It also enables the member to observe the driver and occupants without significantly exposing himself/herself. The member should peer through the rear window and check the back seat; at no time should the member turn his/her back to the violator or passengers. The member should position himself/herself slightly to the rear of the driver's door; from this position, the driver cannot suddenly open the door and knock the member off balance, nor can he/she assault the member with a weapon without making a very noticeable turning movement. The violator should be told to remain seated in his/her vehicle; never let the violator stand between the vehicles or in the roadway. The member should always remain aware of the violator's movements, especially when the violator is outside the vehicle and the member is seated in the patrol vehicle.

### § 106-5H. Approaching motorist.

1. Once the motorist has been stopped and the member is about to communicate with the operator, the member shall:
  - a. Maintain a professional image, dress, grooming, language, bearing and demeanor.
  - b. Be certain of the observations of the traffic violation.
  - c. Greet the motorist with appropriate title and in a courteous manner.
  - d. Inform the motorist why the stop is being made.
  - e. Request the motorist's driver's license, vehicle registration, insurance card and any other necessary identification.
  - f. Check for signs of physical impairment, emotional distress, or alcohol/drug abuse.
  - g. Explain the violation; if a summons is issued, advise the motorist of the:
    - i. Date, time and location of the court appearance.
    - ii. Types of pleas (guilty/not guilty), and how the plea may be made via mail or in person.



- iii. Procedure to follow if a plea of guilty is to be made by mail.
  - iv. Procedure to follow if an equipment defect form was issued in conjunction with the stop.
2. Upon completion of the traffic stop, the member should not leave before the motorist's vehicle leaves. If traffic is heavy, assist the motorist back into the flow of traffic.

### § 106-5I. Special circumstances.

1. Diplomats. (See also Sections 109-6 and 109-7 of this Manual.)
  - a. A motorist stopped and claiming diplomatic status/immunity may be issued a summons; however, a motorist having full diplomatic agent status may not be unnecessarily detained, but he/she may still be issued the summons.
  - b. Diplomatic and consular immunity.
    - i. The United States Department of State has issued a publication entitled "Diplomatic and Consular Immunity, Guidance for Law Enforcement and Judicial Authorities." This publication provides a guide to the categories of foreign mission personnel and the privileges and immunities to which each is entitled. It explains how to identify (and verify the identity of) such persons and furnishes guidance to assist law enforcement officers in the handling of incidents involving foreign diplomatic and consular personnel. This publication is kept in the Communications Section of the Police Department.
    - ii. The United States Department of State has issued a manual entitled "Consular Notification and Access: Instructions for Federal, State and Local Law Enforcement and Others Regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them." This manual is to help officers deal with the arrest procedures of foreign nationals, to protect the rights of foreign nationals and to comply with United States treaty obligations. The manual is kept at the police desk or is available online at [http://travel.state.gov/pdf/CNA\\_Manual\\_3d\\_Edition.pdf](http://travel.state.gov/pdf/CNA_Manual_3d_Edition.pdf).
2. Resident/Nonresident motorists. All motorists will be treated in an impartial manner without regard to their resident or nonresident status.
3. Juveniles. Juveniles may not be issued a traffic summons for a violation. If they are found to be operating a vehicle, they should be handled in accordance with Amityville Village Police Department Manual Section 109-4, Juvenile Processing/Arrest Referral.

### § 106-5J. Summons accountability.

All Uniform Traffic Tickets are issued through the TSLED and/or TraCS system administered by the State of New York. Parking summonses issued are forwarded to the Amityville Village Justice Court where they are entered into the FBS program for tracking.

### § 106-5K. Vehicle and Traffic Stop Data.

1. Every time a Member of the Department makes a vehicle and traffic stop; a corresponding blotter/cc report shall be generated in the IMPACT module (i.e., Traffic Stop Warning, Tracs Traffic Stop, Arrest, etc.) and any follow up reports if necessary. These reports shall include data on:
  - a. Motorist stopped;
  - b. Basic pedigree information;
  - c. Apparent gender;
  - d. Apparent race;
  - e. Disposition.
2. This data will be analyzed to ensure that all traffic enforcement operations are conducted in an efficient and bias-free manner.



SECTION 104-10. Body Worn Cameras

Date Issued	Date Effective	Revision No.	General Order
Pending	Immediate	A-1	TBD
Accreditation Standard			

§ 104-10A. Purpose.

This policy is intended to provide officers of the Amityville Police Department with instructions on when and how to use body-worn cameras (BWCs) so that officers may reliably record their contacts with the public in accordance with law.

§ 104-10B. Policy.

It is policy of the Amityville Police Department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law.

§ 104-10C. Objectives.

The Amityville Police Department has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

1. BWCs allow for accurate documentation of police-public contacts, arrests and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
2. Audio and video recordings also enhance the department's ability to review probable cause for arrest. Officer and suspect interaction, evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. The BWCs may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

§ 104-10D. Procedure.

## SECTION 104-11. Use of Department Owned Cell Phones



<b>Date Issued</b>	<b>Date Effective</b>	<b>Revision No.</b>	<b>General Order</b>
1-18-2021	Immediate		21-04
<b>Accreditation Standard 41.3</b>			

### § 104-11A. Policy.

To provide members of the Amityville Police Department with guidelines on the use of Department issued cell phones.

### § 104-11B. Procedure.

1. Department issued cell phones shall be used strictly for official Police Department business only. Police Department business may include:
  - a. Signing on and off duty as necessary.
  - b. Making necessary notifications to other members of the Department or other agencies (e.g., Suffolk County Police Department, Suffolk County Medical Examiner's Office, etc.)
  - c. E-Justice NY Integrated Justice Portal inquiries or entries.
  - d. Accessing Department Language Line.
  - e. Documenting photos and videos of evidentiary value as outlined in section 111-1 of the Department Manual.
  - f. All other Police Department business as necessary.
2. Do not use any other personal cell phone device to conduct official Police Department business except under exigent circumstances.
3. Before the start of the tour, members will sign out a Department issued cell-phone from the radio dispatch desk and make proper notation on the duty log.
4. Officers will make sure these cell phones are on silent ring or vibrate mode for officer safety purposes.
5. Maintain situational awareness at all times and limit the use of Department issued cell phones in the absence of another member of the Department who can provide proper tactical cover.
6. Access to Department issued cell phones shall be given to nobody except members of the Amityville Police Department.
7. A supervisor shall be notified immediately when a member of the Department believes a Department issued cell phone may have been lost, damaged or stolen.



8. In the case of a Department issued cell phone being lost or stolen, the tour supervisor shall make every attempt to locate said phone. If the phone cannot be located, the tour supervisor shall make the proper entries on the NYS E-Justice Portal and then call the cell phone carrier to lock the phone and/or cancel service.
9. At the end of the tour, members will return the cell phone to the charging/docking station at the radio dispatch desk.

**By Order Of:**

*CHIEF Bryan O. Burton, Jr.*

**Chief Bryan O. Burton, Jr.**

**SPECIAL ORDER**

Amityville Village  
POLICE DEPARTMENT  
COUNTY OF SUFFOLK

ORDER NUMBER 21-08

## TYPE

SPECIAL ORDER

## AUTHORITY

Chief Bryan O. Burton Jr.

## SIGNATURE

SUBJECT/TOPIC/TITLE: Crowd Control-Civil Protests

## DISTRIBUTION

Department Wide

## DATE ISSUED

01/15/2021

## DATE EFFECTIVE

01/15/2021

## DATE TO BE REVIEWED

N/A

## Crowd Control

It is the policy of the Amityville Village Police Department to protect individual rights related to assembly and free speech, effectively manage crowds to prevent loss of life, injury, or property damage; and minimize disruption to persons who are not involved.

Crowd management techniques such as pre-operational planning, communication and collaboration, when possible, shall be used to achieve public safety and protect civil liberties.

The Amityville Village Police Department Members assigned to protests shall exhibit professionalism and restraint while using de-escalation techniques, verbal judo, active listening and persuasive speaking to maintain control.

In instances where protesters disobey clearly expressed requests by officers to not block roadways and or intersections during their protests, circumstances permitting, officers may in lieu of a physical arrest issue a Uniform Traffic Ticket for NYS VTL section 1156 Pedestrians on roadways.

S 1156. Pedestrians on roadways.

(a) Where sidewalks are provided and they may be used with safety it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. Upon the approach of any vehicle from the opposite direction, such pedestrian shall move as far to the left as is practicable.

By authority of Chief of Police,  
Chief Bryan O. Burton Jr.



## SECTION 107-3. Hate Crimes



Date Issued	Date Effective	Revision No.	General Order
01-18-21	Immediate	A-1	21-08

Accreditation Standard(s) 44.2

### § 107-3A. Purpose.

The purpose of this section is to facilitate members of the Department in identifying and investigating Hate Crimes and assisting victimized individuals and communities. A swift and strong response by the Department can help stabilize and calm the community as well as aid in a victim's recovery.

### § 107-3B. Policy.

Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate and bias and designed to infringe upon the rights of individuals are viewed very seriously by the Amityville Village Police Department and will be given the highest priority. The Department shall employ necessary resources and vigorous law enforcement action to identify and arrest Hate Crime suspects. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, members of the Department shall be mindful of and responsive to the security concerns of victims and their families.

### § 107-3C. Definitions.

1. Hate Crime- A person commits a hate crime when one commits a specified offense and either targets a victim or commits a specified offense because of a perception or belief about the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether or not the perception or belief is correct. Hate crimes can be perpetrated against an individual, a group, or against public or private property.
2. Bias- A negative opinion or attitude toward a person or group of persons based on their race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation.
3. Specified Offense- Any offense defined by the provisions of hate crime law in NYS Penal Law §485.05(3).
4. Hate Group- An organization whose ideology is primarily or substantially based on antipathy, hostility, or hatred toward persons based on race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person.



5. Age- sixty years old or more.
6. Disability- a physical or mental impairment that substantially limits a major life activity.
7. Gender- Used synonymously with sex to denote whether an individual is male or female.
8. Gender Identity or Expression- a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.
9. Interpreter- A person who is able to convert source language into targeted language, both receptively (i.e., understanding what the person is saying) and expressively (i.e., having the skill needed to convey information back to that person).
10. Race- A group of persons who possess common physical characteristics, for example, color of skin, eyes, and/or hair, facial features, and so forth, which are genetically transmitted by descent and heredity and that distinguish them as a distinct division of humankind. Examples include Asians, Blacks or African Americans, and Whites.
11. Sexual Orientation- heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.
12. Hate Incident - An incident involving an element of hate or bias regarding a Protected Class, regardless of whether said incident is unlawful. The verbal use of racial or bias epithets motivated by the recipient's Protected Class shall constitute a Hate Incident.

### § 107-3D. Procedure.

1. Officers shall conduct a thorough and complete investigation in all suspected and confirmed Hate Crimes or Hate Incidents.
2. Officers shall make every effort to become familiar with organized hate groups operating in the community and information regarding such activity should be documented and a copy forwarded to the Suffolk County Police Department Hate Crimes Unit and the Criminal Intelligence Section.
3. First officers at the scene of a suspected Hate Crime or Hate Incident shall take preliminary actions deemed necessary, including, but not limited to, the following:
  - a) Secure the scene. Steps should be taken so that the initial situation does not escalate. This includes but is not limited to:
    - 1) Stabilizing injured victims and providing necessary medical aid.
    - 2) Providing protection to victims and witnesses at the scene.
    - 3) Protecting the crime scene and any physical evidence for collection (If evidence of an inflammatory nature cannot be physically removed, after it has been



properly documented for investigatory purposes (e.g., painted words or signs on a wall), the owner of the property shall be contacted to do all that is possible to ensure that the graffiti is removed as soon as possible).

- 4) Start a crime scene log.
  - b) Notify and brief a supervisor, as soon as practicable, of any report of a suspected hate crime or activity that reasonably appears to be a hate crime. The mere perception that the incident may be motivated by bias should necessitate a notification to a supervisor.
  - c) Request and notify the Suffolk County Police Department Hate Crimes Unit of the incident via the Desk Officer.
  - d) Request the assistance of an interpreter when necessary.
  - e) Identify criminal evidence on the victim if applicable.
  - f) Conduct a preliminary investigation and record information.
  - g) Arrest suspect(s) if probable cause exists.
4. The Suffolk County Police Department Hate Crimes Unit will have primary investigative responsibility for Hate Crimes and Hate Incidents, except for incidents involving death or other violent felony incidents resulting in serious physical injury. In such cases the Suffolk County Police Department Homicide Section or the appropriate Suffolk County Police Department Precinct Detective Squad shall have primary investigative responsibility. The Hate Crimes Unit shall nevertheless investigate the hate related nature of the incident, and assist the primary investigator(s) as required. The Hate Crimes Unit is charged with and will be responsible for determining at any stage of an investigation if the offense is a Hate Crime or Hate Incident.
5. Incident Report Preparation
- a. Incident reports should clearly indicate the following information:
    - i. Specified offense - as designated by hate crime penal law.
    - ii. Victim age, gender, race, and ethnicity (when applicable)
    - iii. Offender age, gender, race, and ethnicity (when available).
  - b. The narrative portion of the Incident report should document that the victim(s) was intentionally selected or that the act was intentionally committed because of a belief or perception regarding such victim(s)'s race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation. The specific bias motivation of the perpetrator should be documented (Ex: selected victim because the victim was Hispanic, Jewish, Muslim, transgender, etc.)

Note: Do Not title the Incident Report "Hate Crime"

### § 107-3E. Specified Offenses.

NYS Penal Law §485.05(3) lists the following as Specified Hate Crime Offenses:

- 120.00 assault in the third degree
- 120.05 assault in the second degree
- 120.10 assault in the first degree
- 120.12 aggravated assault upon a person less than eleven years old
- 120.13 menacing in the first degree
- 120.14 menacing in the second degree
- 120.15 menacing in the third degree
- 120.20 reckless endangerment in the second degree
- 120.25 reckless endangerment in the first degree
- 121.12 strangulation in the second degree
- 121.13 strangulation in the first degree
- 125.15 (sub div 1) manslaughter in the second degree
- 125.20 (sub div 1, 2 or 4) manslaughter in the first degree
- 125.25 murder in the second degree
- 120.45 stalking in the fourth degree
- 120.50 stalking in the third degree
- 120.55 stalking in the second degree
- 120.60 stalking in the first degree
- 130.35 (sub div 1) rape in the first degree
- 130.50 (sub div 1) criminal sexual act in the first degree
- 130.65 (sub div 1) sexual abuse in the first degree
- 130.67 (sub div 1a) aggravated sexual abuse in the second degree
- 130.70 (sub div 1a) aggravated sexual abuse in the first degree
- 135.05 unlawful imprisonment in the second degree
- 135.10 unlawful imprisonment in the first degree
- 135.20 kidnapping in the second degree
- 135.25 kidnapping in the first degree
- 135.60 coercion in the second degree
- 135.65 coercion in the first degree
- 140.10 criminal trespass in the third degree
- 140.15 criminal trespass in the second degree
- 140.17 criminal trespass in the first degree
- 140.20 burglary in the third degree
- 140.25 burglary in the second degree
- 140.30 burglary in the first degree
- 145.00 criminal mischief in the fourth degree
- 145.05 criminal mischief in the third degree
- 145.10 criminal mischief in the second degree
- 145.12 criminal mischief in the first degree
- 150.05 arson in the fourth degree
- 150.10 arson in the third degree
- 150.15 arson in the second degree
- 150.20 arson in the first degree



- 155.25 petit larceny
- 155.30 grand larceny in the fourth degree
- 155.35 grand larceny in the third degree
- 155.40 grand larceny in the second degree
- 155.42 grand larceny in the first degree
- 160.05 robbery in the third degree
- 160.10 robbery in the second degree
- 160.15 robbery in the first degree
- 240.25 (sub div 1, 2 or 4) harassment in the first degree
- 240.30 aggravated harassment in the second degree
- 490.10 soliciting or providing support for an act of terrorism in the second degree
- 490.15 soliciting or providing support for an act of terrorism in the first degree
- 490.20 making a terroristic threat
- 490.25 crime of terrorism
- 490.30 hindering prosecution of terrorism in the second degree
- 490.35 hindering prosecution of terrorism in the first degree
- 490.37 criminal possession of a chemical weapon or biological weapon in the third degree
- 490.40 criminal possession of a chemical weapon or biological weapon in the second degree
- 490.45 criminal possession of a chemical weapon or biological weapon in the first degree
- 490.47 criminal use of a chemical weapon or biological weapon in the third degree
- 490.50 criminal use of a chemical weapon or biological weapon in the second degree
- 490.55 criminal use of a chemical weapon or biological weapon in the first degree
- or any attempt or conspiracy to commit any of the foregoing offenses

### § 107-3F. Victim Assistance.

Provide immediate assistance to the crime victim utilizing a victim centered approach:

1. Express the law enforcement agency's official position on the importance of hate crime cases and describe the measures that will be taken to apprehend the perpetrators.
2. Take preventive measures to ensure the safety of the victim.
  - a. Express the department's interest in protecting victims' anonymity whenever possible.
  - b. Explain any security measures and precautions to the victim.
  - c. Protect the privacy of the victim and their families as much as possible.
  - d. Provide the victim with community resources that may provide support and assistance such as advocacy, healthcare, civil legal services, and counseling services. Some resources are:

- i. Suffolk County Crime Victims Center's Hate Crime Advocacy and Outreach Program - Victims of Hate Crimes can experience mental, physical and/or emotional trauma that can have a lifelong devastating impact. Early intervention and the provision of crime victim services can greatly reduce the negative impact crime has on victims, their family and the community. The Suffolk County Crime Victim Center's Hate Crime Advocacy and Outreach Program may assist with the provision of crime victim services to Hate Crime Victims, and is available twenty-four hours a day at 631-626-3156.
- ii. New York State Office of Victim Services (OVS)- the OVS helps crime victims and can be reached by telephone (1-800-247-8035), by email ([ovsinfo@ovs.ny.gov](mailto:ovsinfo@ovs.ny.gov)) or online ([www.ovs.ny.gov](http://www.ovs.ny.gov)).

### § 107-3G. Reporting and Training.

1. Reporting Procedures- All incidents of reported hate crimes are to be submitted to DCJS each month using the NY DCJS form 3294. This form must be submitted even if no hate crimes were reported by checking the Nothing to Report (NTR) box.
2. Training- Officers will be periodically trained on:
  - a. Annual Decentralized Individualized In-Service Training (DIIT) on Hate Crimes;
  - b. The components of Penal Law § 485.05 and related case law;
  - c. Familiarity with organized hate groups operating in the community.





## SPECIAL ORDER

Amityville Village  
POLICE DEPARTMENT  
COUNTY OF SUFFOLK

ORDER NUMBER 21-06

TYPE

**SPECIAL ORDER**

AUTHORITY

Chief Bryan O. Burton Jr.

SIGNATURE

**SUBJECT/TOPIC/TITLE: 2020 Law Changes**

DISTRIBUTION

Department Wide

DATE ISSUED

01/14/2021

DATE EFFECTIVE

01/14/2021

DATE TO BE REVIEWED

N/A

The following is a partial summary of 2020 Legislative enactments that are of particular interest to law enforcement personnel and is set forth for the information and guidance of members of this Department. The following will be addressed in future updates of the Amityville Village Department Manual.

### Civil Rights Law

Bias-related violence or intimidation; civil remedy  
Medical Attention for Persons Under Arrest  
Right to Record Law Enforcement Related Activities

### Executive Law

Office of Special Investigation  
Reporting Duties of Law Enforcement Departments with respect  
to Arrest-Related Deaths  
Report of Discharge of Weapon

### Penal Law

Aggravated Strangulation  
Loitering

### Civil Rights Law

Bias-related violence or intimidation; civil remedy

Section 79-n subdivision 2 of the Civil Rights Law has been amended to establish civil penalties for a person who intentionally summons a police officer or peace officer without reason to suspect a violation of the penal law, any other criminal conduct, or an imminent threat to a person or property, in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person. A person in violation of this law shall be liable in a civil action for injunctive relief, damages, or any other appropriate relief in law or equity.

Effective: June 12, 2020

### Medical Attention for Persons Under Arrest

Section 28 has been added to the Civil Rights Law as follows:



## Section 28 – Medical attention for persons under arrest

When a person is under arrest or otherwise in the custody of a police officer, peace officer or other law enforcement representative or entity, such officer, representative or entity shall have a duty to provide attention to the medical and mental health needs of such person, and obtain assistance and treatment of such needs for such person, which are reasonable and provided in good faith under the circumstances. Any person who has not received such reasonable and good faith attention, assistance or treatment and who, as a result, suffers serious physical injury or significant exacerbation of an injury or condition shall have a cause of action against such officer, representative, and/or entity. In any such civil action, the court, in addition to awarding actual damages and costs, may award reasonable attorneys' fees to a successful plaintiff. The provisions of this section are in addition to, but shall not supersede, any other rights or remedies available in law or equity.

Effective: June 15, 2020

## Right to Record Law Enforcement Related Activities

Section 79-p has been added to the Civil Rights Law to create the New Yorker's Right to Monitor Act as follows:

### Section 79-p – Recording certain activities

1. Definitions. For purposes of this section, the following terms shall have the following meanings:
  - (a) "Officer" means any peace officer, police officer, security officer, security guard, or similar official who is engaged in a law enforcement activity;
  - (b) "Law enforcement activity" means any activity by an officer acting under the color of law; and
  - (c) "Record" means to capture or attempt to capture any moving or still image, sound, or impression through the use of any recording device, camera, or any other device capable of capturing audio, moving or still images, or by way of written notes or observations;
2. Right to record law enforcement related activities.

A person not under arrest or in the custody of a law enforcement official has the right to record law enforcement activity and to maintain custody and control of that recording and of any property or instruments used by that person to record law enforcement activities, provided, however, that a person in the custody or under arrest does not, by that status alone, forfeit the right to have any such recordings, property and equipment
3. Private right of actions.
  - (a) A claim of unlawful interference with recording a law enforcement activity is established under this section when a person demonstrates that he or she exercised or attempted to exercise the right established in subdivision two of this section to record a law enforcement activity and an officer acted to interfere with that person's recording of a law enforcement activity, including but not limited to, by:
    - (i) intentionally preventing or attempting to prevent that person from recording law enforcement activity;
    - (ii) threatening that person for recording a law enforcement activity;
    - (iii) commanding that the person cease recording law enforcement activity when the person was nevertheless authorized under law to record;
    - (iv) stopping, seizing, searching, ticketing or arresting that person because that person recorded a law enforcement activity; or
    - (v) unlawfully seizing property or instruments used by that person to record a law enforcement activity, unlawfully destroying, or seizing a recorded image or recorded images of a law enforcement activity, or copying such a recording of a law enforcement activity without consent of the person who recorded it or approval from an appropriate court.
  - (b) It shall be an affirmative defense to a civil action under subparagraphs (i), (iii) and (iv) of paragraph (a) of this subdivision that at the time of such conduct by an officer, such officer had



probable cause to arrest the person recording such a law enforcement activity for a crime defined in the penal law involving obstructing governmental administration.

(c) A person subject to unlawful interference with recording law enforcement activities as described in paragraph (a) of this subdivision may bring an action for any violation of this section in any court of competent jurisdiction for damages, including punitive damages, for declaratory and injunctive relief, and such other remedies as the court may deem appropriate.

(d) In any action or proceeding brought pursuant to this section, the court may also allow a prevailing plaintiff reasonable attorney's fees and expert fees as a party of the costs which may be recovered.

(e) Any action or proceeding brought pursuant to this section shall be commenced no later than three years after the date on which the violation of this section is committed.

4. Preservation of Rights. This section shall be in addition to all rights, procedures, and remedies available under the United States Constitution, 42 USC 1983, the constitution of the state of New York and all other federal law, state law, law of the city of New York or the administrative code of the city of New York, and all other civil remedies, including monetary damages, created by statute, ordinance, regulation or common law.

Effective: July 13, 2020

### Executive Law

#### Office of Special Investigation

Section 70-b has been added to the Executive Law to establish the Office of Special Investigation with in the Office of the Attorney General to investigate and, if warranted, prosecute any alleged criminal offense or offenses committed by a person, whether or not formally on duty, who is a police officer concerning any incident in which the death of a person, whether in custody or not, is caused by an act or omission of such police officer or peace officer or in which the attorney general determines there is a question as to whether the death was in fact caused by an act or omission of such police officer or peace officer.

Effective: April 1, 2021

#### Reporting Duties of Law Enforcement Departments with Respect to Arrest-Related Deaths

Section 837-v has been added to the Executive Law as follows (there are 2 section 837-vs):

Section 837-v. Reporting duties of law enforcement departments with respect to arrest related deaths.

1. The chief of every police department, each county sheriff, and the superintendent of state police shall promptly report to the division any arrest-related death, disaggregated by county. The data shall include all information the division shall report pursuant to the requirements of subdivision five of this section.

2. The initial report required by this subdivision shall be for the period beginning six months after the effective date of this section and shall be submitted on an annual basis thereafter. Each annual report shall be submitted no later than February first.

3. The division shall make the information required by subdivision one of this section available to the public by posting it on the website of the division. With respect to the information required by subdivision one of this section, the division shall update such information on a monthly basis and such information shall be posted in alphanumeric form that can be digitally transmitted or processed and not in portable document format or scanned copies of original documents.

4. The division shall promulgate regulations to effectuate the reporting of data from law enforcement departments sufficient to make the reports required by subdivision five of this section.

5. The division shall submit to the governor and the legislature an annual report of arrest-related deaths disaggregated by county. An arrest-related death is a death that occurs while an individual is in law enforcement custody or during an attempt to establish custody including, but not limited to, deaths caused by any use of force. Such report shall include the following information: (a) the number of arrest-related deaths; (b) the race, ethnicity, age, and sex of the individual; (c) the zip code or location where the death occurred; and (d) a brief description of the circumstances surrounding the arrest-related death.

Effective: December 12, 2020



### Report of Discharge of Weapon

Section 837-v has been added to the Executive Law as follows (there are 2 section 837-vs):

Section 835-v – Report of discharge of weapon

1. Any law enforcement officer or peace officer who discharges his or her weapon while on duty or off duty under circumstances wherein a person could be struck by a bullet from the weapon, including situations wherein such officer discharges his or her weapon in the direction of a person, shall verbally report the incident to his or her superiors within six hours of the occurrence of the incident and shall prepare and file a written report of the incident within forty-eight hours of the occurrence of the incident. Nothing contained in this section shall prevent any officer from invoking his or her constitutional right to avoid self-incrimination.

2. As used in this section "law enforcement officer" means a state or local police officer and "peace officer" means any person designated as a peace officer pursuant to section 2.10 of the criminal procedure law.

Effective: September 13, 2020

### Penal Law

#### Aggravated Strangulation

Section 70.02 subdivision 1 paragraph (b) has been amended and Section 121.13-a has been added to the Penal Law establishing the crime of Aggravated Strangulation as follows:

Section 121.13-a – Aggravated strangulation

A person is guilty of aggravated strangulation when, being a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, or uses a chokehold or similar restraint, as described in paragraph b of subdivision one of section eight hundred thirty-seven-t of the executive law, and thereby causes serious physical injury or death to another person. Aggravated strangulation is a class C violent felony.

Effective: June 12, 2020

#### Loitering (Chapter 98)

Section 240.35 subdivision 4 of the Penal Law relating to being masked in public is repealed.

Effective: June 13, 2020

**By authority of Chief of Police,  
Chief Bryan O. Burton Jr.**



*This electronic version is provided for informational purposes only. For the official version please contact the municipality.*

**Authority of Amityville Police Department, NY - Archive 2014-01-14**

**SECTION 105-3. Mentally Ill or Emotionally Disturbed Persons**



Date Issued	Date Effective	Revision No.	General Order
11-26-2001	Immediate	00-22 A-1	01-49

**Accreditation Standard(s) N/A**

**§ 105-3A. Purpose.**

The purpose of this section is to safeguard a mentally ill or emotionally disturbed person who does not voluntarily seek medical assistance.

**§ 105-3B. Background.**

Members will encounter situations involving apparently mentally or emotionally disturbed individuals who may pose a danger to themselves or others, and who have committed no offense other than disruptive or peculiar conduct. Section 9.41 of the New York State Mental Hygiene Law empowers members to take into custody any person who appears to be mentally ill and is conducting himself/herself in a manner that is likely to result in serious harm to himself/herself or others. This section of state law has been interpreted by the New York State Attorney General to embrace conduct which, if committed by a stable person, would constitute disorderly conduct. Section 9.39 of the Mental Hygiene Law provides emergency admissions for immediate observation, care and treatment at such institutions that meet the requirements and have been approved by the Commissioner to receive and retain patients. Stony Brook Medical Center qualifies and will be utilized when other extenuating circumstances do not exist. Any available hospital will be utilized when the aided needs immediate medical care for injuries.

**§ 105-3C. Policy.**

The safety of all persons is paramount in a situation involving an emotionally disturbed person. If such person is dangerous to himself/herself or others, necessary force may be used to prevent serious physical injury or death. Physical force will be used in accordance with Section 105-3 of this Manual and only to the extent necessary to restrain the subject until delivered to a hospital or detention facility. Deadly physical force will be used only as a last resort to protect the life of a member of the Department or any other person present. If an emotionally disturbed person is not dangerous, the person should be contained until assistance arrives. In any case, when there is time to negotiate, all the time necessary to ensure the safety of all individuals concerned will be used.

**§ 105-3D. Procedure.**

The guidelines outlined below to contain a mentally ill or emotionally disturbed person, and to organize the Department's response, should be followed by the responding member unless specified conditions dictate otherwise.

(1) The first member at the scene will:

(a) Evaluate the situation, including:

- [1] Mental or emotional condition of the person.
- [2] Whether or not the mentally ill or emotionally disturbed person has used or threatened the use of any weapon or dangerous instrument.
- [3] Whether or not the mentally ill or emotionally disturbed person is conducting himself/herself in a manner that is likely to result in serious physical harm to himself/herself or others.



- [4] Determine if an ambulance or other medical assistance is required.
- (b) Inform the tour supervisor of the situation as soon as practical.
- (c) Ensure the safety of others in the area.
- (d) Ensure the security of any firearm or other dangerous instrument at the scene.
- (2) The tour supervisor will:
  - (a) Respond to the scene as soon as possible.
  - (b) Evaluate the situation, including:
    - [1] The mental or emotional condition of the person.
    - [2] Whether or not the mentally ill or emotionally disturbed person has used or threatened the use of any weapon or dangerous instrument.
    - [3] Whether or not the mentally ill or emotionally disturbed person is conducting himself/herself in a manner that is likely to result in physical harm to himself/herself or others in the area.
    - [4] Determine if an ambulance or other medical assistance is required.
  - (c) Ensure the safety of others in the area.
  - (d) Ensure the security of any firearm or dangerous instruments in the area.
  - (e) Attempt to isolate and contain the mentally ill or emotionally disturbed person.
  - (f) Attempt to obtain the identity of the mentally ill or emotionally disturbed person in order to determine if the individual is listed as missing (File 6) or wanted (File 5).
  - (g) If necessary arrange for the assistance of Crisis Intervention, 277-4700.
  - (h) Ensure that an adequate number of personnel remain available to respond to other calls for service.
  - (i) Formulate a plan of action to handle the situation.
  - (j) Arrange for the Suffolk County Police Department hostage negotiator to respond if the circumstances require. Refer to Section 114-1 of this Manual for available resources.
  - (k) When the mentally ill or emotionally disturbed person has been taken into custody he/she will be transported to Headquarters if an arrest is to be made, or taken to a medical/psychiatric facility if necessary. If the aided is being taken to Stony Brook Hospital, then a Police Escort Information Form will be completed. The COBRA law deals with the transporting of patients from one psych emergency room to another. In most situations, a person who is brought to or voluntarily arrives at an emergency room with a psych facility and who is experiencing emotional problems that could cause danger to himself/herself or others cannot be transported to another psych emergency hospital. The only exception is when special arrangements are made and secured by the initiating hospital with the receiving hospital.
  - (l) If necessary, the tour supervisor will assign a member to ride within the ambulance.
  - (m) Upon arrival at the medical/psychiatric facility, the member will safeguard all persons involved until the mentally ill or emotionally disturbed person has been delivered to a member of the hospital staff.
  - (n) The member shall prepare an Aided Report with all pertinent information, including the name and title of the member of the hospital staff to whom the mentally ill or emotionally disturbed person was delivered. An Incident Report will be taken for those incidents in which the mentally ill aided was from one of the outpatient facilities and the case jacket can then house all of the necessary copies of the doctors' reports.