



Ohio Attorney General's Office
Bureau of Criminal Investigation
Investigative Report



2023-0557

Officer Involved Critical Incident – 2900 Towne Boulevard,
Middletown, OH 45044 (L)

Investigative Activity: Records Received
Involves: Victor L. Lykins (S), Middletown Police Department (O)
Date of Activity: 03/02/2023
Activity Location: Middletown Police Department – Business – 1 Donham Plaza,
Middletown, OH 45042
Author: SA Lauren Frazier, #129

Narrative:

On Saturday, February 25, 2023, the Ohio Bureau of Criminal Investigation (BCI) was contacted by the Middletown Police Department in Butler County, Ohio, to assist with an Officer-Involved Critical Incident that occurred at the Walmart, located at 2900 Towne Boulevard, Middletown, OH (Warren County) between Victor Lykins and Middletown police officers.

BCI Special Agent Lauren Frazier received numerous case related documents from Middletown Police Chief David Birk and Middletown Communications & Records Supervisor Shelley Meehan, to include:

- Radio traffic and CDR personnel log (attachments #01 & 02)
- Middletown police incident report (attachment #03)
- Middletown Police Department's Use of Force policy (attachment #04)
- Officer Hilgendorf and Officer Renner's cruiser video (no audio), which has been uploaded to the AGO network F: drive (reference #01)

Attachments:

Attachment # 01: 2023-02-25 Radio Traffic
Attachment # 02: 2023-02-25 CDR Personnel Log
Attachment # 03: Middletown Police Incident Report
Attachment # 04: Middletown Police – General Order 4 (Use of Force)

References:

Case video stored on AGO Network – F: drive

This document is the property of the Ohio Bureau of Criminal Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency except as provided by law – a statute, an administrative rule, or any rule of procedure.

Exhibit 1

Included as a separate file.

Exhibit 2

Butler Logger-1

Sequential export of 85 track(s) as Mu-Law

ID	START TIME	AGENT NAME	DURATION	DTMF	CALLER ID	CALLING PARTY	ADDRESS	LOCATION
1419_09-8L_MAIN	2023-02-25 17:19:35 -05:00		00:01	09-8L_MAIN	09MD-HilgeJ	943271		
1420_09-8L_MAIN	2023-02-25 17:19:39 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1421_09-8L_MAIN	2023-02-25 17:19:41 -05:00		00:05	09-8L_MAIN	09MD-HilgeJ	943271		
1422_09-8L_MAIN	2023-02-25 17:19:47 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1423_09-8L_MAIN	2023-02-25 17:20:36 -05:00		00:01	09-8L_MAIN	09MD-SwangJ	943240		
1424_09-8L_MAIN	2023-02-25 17:20:37 -05:00		00:02	09-8L_MAIN	09MD-SwangJ	943240		
1425_09-8L_MAIN	2023-02-25 17:20:41 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1426_09-8L_MAIN	2023-02-25 17:20:43 -05:00		00:05	09-8L_MAIN	09MD-SwangJ	943240		
1427_09-8L_MAIN	2023-02-25 17:20:53 -05:00		00:04	09-8L_MAIN	09 8COM3	943003		
1428_09-8L_MAIN	2023-02-25 17:20:59 -05:00		00:01	09-8L_MAIN	09MD-SwangJ	943240		
1429_09-8L_MAIN	2023-02-25 17:21:01 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1430_09-8L_MAIN	2023-02-25 17:22:19 -05:00		00:01	09-8L_MAIN	09MD-RenneA	943256		
1431_09-8L_MAIN	2023-02-25 17:22:21 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1432_09-8L_MAIN	2023-02-25 17:24:21 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1433_09-8L_MAIN	2023-02-25 17:24:25 -05:00		00:02	09-8L_MAIN	09MD-MorganN	943274		
1434_09-8L_MAIN	2023-02-25 17:24:27 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1435_09-8L_MAIN	2023-02-25 17:24:34 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1436_09-8L_MAIN	2023-02-25 17:24:36 -05:00		00:01	09-8L_MAIN	09MD-SwangJ	943240		
1437_09-8L_MAIN	2023-02-25 17:24:39 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1438_09-8L_MAIN	2023-02-25 17:24:52 -05:00		00:03	09-8L_MAIN	09MD-EleyV	943254		
1439_09-8L_MAIN	2023-02-25 17:25:00 -05:00		00:02	09-8L_MAIN	09 8COM3	943003		
1440_09-8L_MAIN	2023-02-25 17:25:03 -05:00		00:01	09-8L_MAIN	09MD-SwangJ	943240		
1441_09-8L_MAIN	2023-02-25 17:25:06 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1442_09-8L_MAIN	2023-02-25 17:25:09 -05:00		00:03	09-8L_MAIN	09MD-EleyV	943254		
1443_09-8L_MAIN	2023-02-25 17:25:13 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1444_09-8L_MAIN	2023-02-25 17:25:17 -05:00		00:01	09-8L_MAIN	09MD-HilgeJ	943271		
1445_09-8L_MAIN	2023-02-25 17:25:20 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1446_09-8L_MAIN	2023-02-25 17:25:58 -05:00		00:03	09-8L_MAIN	09MD-HilgeJ	943271		
1447_09-8L_MAIN	2023-02-25 17:26:01 -05:00		00:03	09-8L_MAIN	09 8COM3	943003		
1448_09-8L_MAIN	2023-02-25 17:26:03 -05:00		00:02	09-8L_MAIN	09MD-HilgeJ	943271		
1449_09-8L_MAIN	2023-02-25 17:26:05 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1450_09-8L_MAIN	2023-02-25 17:26:10 -05:00		00:01	09-8L_MAIN	09MD-MosleE	943229		
1451_09-8L_MAIN	2023-02-25 17:26:12 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1452_09-8L_MAIN	2023-02-25 17:26:13 -05:00		00:02	09-8L_MAIN	09MD-HilgeJ	943271		
1453_09-8L_MAIN	2023-02-25 17:26:16 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1454_09-8L_MAIN	2023-02-25 17:26:23 -05:00		00:01	09-8L_MAIN	09MD-HilgeJ	943271		
1455_09-8L_MAIN	2023-02-25 17:26:26 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1456_09-8L_MAIN	2023-02-25 17:26:30 -05:00		00:02	09-8L_MAIN	09MD-HilgeJ	943271		
1457_09-8L_MAIN	2023-02-25 17:26:34 -05:00		00:02	09-8L_MAIN	09MD-HilgeJ	943271		
1458_09-8L_MAIN	2023-02-25 17:26:37 -05:00		00:02	09-8L_MAIN	09 8COM3	943003		
1459_09-8L_MAIN	2023-02-25 17:26:52 -05:00		00:02	09-8L_MAIN	09 8COM3	943003		
1460_09-8L_MAIN	2023-02-25 17:26:58 -05:00		00:03	09-8L_MAIN	09MD-MosleE	943229		
1461_09-8L_MAIN	2023-02-25 17:27:02 -05:00		00:02	09-8L_MAIN	09 8COM3	943003		
1462_09-8L_MAIN	2023-02-25 17:27:06 -05:00		00:01	09-8L_MAIN	09MD-MosleE	943229		
1463_09-8L_MAIN	2023-02-25 17:27:29 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1464_09-8L_MAIN	2023-02-25 17:27:31 -05:00		00:01	09-8L_MAIN	09MD-HilgeJ	943271		
1465_09-8L_MAIN	2023-02-25 17:27:33 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1466_09-8L_MAIN	2023-02-25 17:27:45 -05:00		00:02	09-8L_MAIN	09MD-HilgeJ	943271		
1467_09-8L_MAIN	2023-02-25 17:27:48 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		

ID	START TIME	AGENT NAME	DURATION	DTMF	CALLER ID	CALLING PARTY	ADDRESS	LOCATION
1468_09-8L_MAIN	2023-02-25 17:27:49 -05:00		00:03	09-8L_MAIN	09MD-HilgeJ	943271		
1469_09-8L_MAIN	2023-02-25 17:27:54 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1470_09-8L_MAIN	2023-02-25 17:27:56 -05:00		00:01	09-8L_MAIN	09MD-HilgeJ	943271		
1471_09-8L_MAIN	2023-02-25 17:27:58 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1472_09-8L_MAIN	2023-02-25 17:28:32 -05:00		00:03	09-8L_MAIN	09MD-JordaD	943210		
1473_09-8L_MAIN	2023-02-25 17:28:35 -05:00		00:01	09-8L_MAIN	09MD-HilgeJ	943271		
1474_09-8L_MAIN	2023-02-25 17:28:39 -05:00		00:06	09-8L_MAIN	09MD-JordaD	943210		
1475_09-8L_MAIN	2023-02-25 17:28:47 -05:00		00:03	09-8L_MAIN	09 8COM3	943003		
1476_09-8L_MAIN	2023-02-25 17:28:53 -05:00		00:01	09-8L_MAIN	09MD-JordaD	943210		
1477_09-8L_MAIN	2023-02-25 17:29:28 -05:00		00:03	09-8L_MAIN	09MD-HilgeJ	943271		
1478_09-8L_MAIN	2023-02-25 17:29:31 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1479_09-8L_MAIN	2023-02-25 17:29:53 -05:00		00:03	09-8L_MAIN	09 8COM3	943003		
1480_09-8L_MAIN	2023-02-25 17:29:58 -05:00		00:04	09-8L_MAIN	09MD-RenneA	943256		
1481_09-8L_MAIN	2023-02-25 17:30:02 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1482_09-8L_MAIN	2023-02-25 17:30:51 -05:00		00:05	09-8L_MAIN	09MD-HilgeJ	943271		
1483_09-8L_MAIN	2023-02-25 17:30:59 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1484_09-8L_MAIN	2023-02-25 17:31:00 -05:00		00:02	09-8L_MAIN	09MD-MosleE	943229		
1485_09-8L_MAIN	2023-02-25 17:31:04 -05:00		00:03	09-8L_MAIN	09MD-JordaD	943210		
1486_09-8L_MAIN	2023-02-25 17:31:08 -05:00		00:01	09-8L_MAIN	09MD-KessiR	943234		
1487_09-8L_MAIN	2023-02-25 17:31:11 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1488_09-8L_MAIN	2023-02-25 17:31:12 -05:00		00:03	09-8L_MAIN	09MD-JordaD	943210		
1489_09-8L_MAIN	2023-02-25 17:31:16 -05:00		00:11	09-8L_MAIN	09MD-MosleE	943229		
1490_09-8L_MAIN	2023-02-25 17:31:31 -05:00		00:02	09-8L_MAIN	09 8COM3	943003		
1491_09-8L_MAIN	2023-02-25 17:31:36 -05:00		00:04	09-8L_MAIN	09MD-JordaD	943210		
1492_09-8L_MAIN	2023-02-25 17:32:02 -05:00		00:02	09-8L_MAIN	09MD-MosleE	943229		
1493_09-8L_MAIN	2023-02-25 17:32:05 -05:00		00:02	09-8L_MAIN	09MD-KessiR	943234		
1494_09-8L_MAIN	2023-02-25 17:32:09 -05:00		00:03	09-8L_MAIN	09MD-MosleE	943229		
1495_09-8L_MAIN	2023-02-25 17:32:31 -05:00		00:03	09-8L_MAIN	09MD-JordaD	943210		
1496_09-8L_MAIN	2023-02-25 17:32:34 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1497_09-8L_MAIN	2023-02-25 17:35:14 -05:00		00:03	09-8L_MAIN	09 8COM3	943003		
1498_09-8L_MAIN	2023-02-25 17:35:18 -05:00		00:02	09-8L_MAIN	09MD-JordaD	943210		
1499_09-8L_MAIN	2023-02-25 17:35:21 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1500_09-8L_MAIN	2023-02-25 17:35:55 -05:00		00:02	09-8L_MAIN	09MD-JordaD	943210		
1501_09-8L_MAIN	2023-02-25 17:35:58 -05:00		00:01	09-8L_MAIN	09MD-JordaD	943210		
1502_09-8L_MAIN	2023-02-25 17:36:00 -05:00		00:01	09-8L_MAIN	09 8COM3	943003		
1503_09-8L_MAIN	2023-02-25 17:36:02 -05:00		00:10	09-8L_MAIN	09MD-JordaD	943210		

Exhibit 3

Call Report

CFSID
23-009399

SIG CODE
33

CALL DATE / TIME
02/25/23 17:19



Address : **2900 TOWNE BLVD**
City / State / Zip : **MIDDLETOWN, OH 45044**
Call Description : **JVA2156**

Caller's Name :
Caller's Phone :

BADGES BY UNIT

UNIT ID	BADGE ID	UNIT NAME	DEPARTMENT NAME
2L12	634	RENNER, AUSTIN	MIDDLETOWN PD
2L18	644	HILGENDORF, JONATHAN	MIDDLETOWN PD
2L5	601	KESSLER, RYAN	MIDDLETOWN PD
2L5	626	MORGAN, NATHAN	MIDDLETOWN PD
2L7	632	RENNER, SCOTT	MIDDLETOWN PD
2L8	651	SWANGER, JACOB	MIDDLETOWN PD
2L9	657	ELEY, VANESSA	MIDDLETOWN PD
3L8	588	DOWNING, GARRETT	MIDDLETOWN PD
D6	478	WARGO, JASON A	MIDDLETOWN PD
KC1	431	BIRK, DAVID M.	MIDDLETOWN PD
KL1	538	TIPTON, MALCOLM	MIDDLETOWN PD
KS5	564	ROGERS, RYAN H	MIDDLETOWN PD
KS7	551	GIBSON, ANTHONY L	MIDDLETOWN PD
KS8	453	JORDAN, DENNIS R	MIDDLETOWN PD
R5	587	MOSLEY, EVAN	MIDDLETOWN PD
R9	591	WALL, JAKE	MIDDLETOWN PD
R9	596	SCHWARBER, LINDSEY	MIDDLETOWN PD
Z1	611	MOONEY, AUSTIN	MIDDLETOWN PD
Z1	637	BEEL, CONNOR	MIDDLETOWN PD
Z3	608	AARON ADKINS	MIDDLETOWN PD
Z3	635	BOWLES, KENDAHL	MIDDLETOWN PD

CFS UNIT TIMES

UNIT ID	UNIT TYPE	UNIT NAME	STATUS	DATE	TIME
2L18	POLICE	PATROL	DIS	02/25/2023	17:19:53
2L18	POLICE	PATROL	ENR	02/25/2023	17:19:53
2L18	POLICE	PATROL	ONS	02/25/2023	17:19:53
2L12	POLICE	PATROL	DIS	02/25/2023	17:22:29
2L12	POLICE	PATROL	ENR	02/25/2023	17:22:29
2L12	POLICE	PATROL	ONS	02/25/2023	17:22:29
2L5	POLICE	PATROL	DIS	02/25/2023	17:26:58
2L5	POLICE	PATROL	ENR	02/25/2023	17:26:58
2L7	POLICE	PATROL	DIS	02/25/2023	17:26:58
2L7	POLICE	PATROL	ENR	02/25/2023	17:26:58
2L8	POLICE	PATROL	DIS	02/25/2023	17:26:58
2L8	POLICE	PATROL	ENR	02/25/2023	17:26:58
2L9	POLICE	PATROL	DIS	02/25/2023	17:26:58
2L9	POLICE	PATROL	ENR	02/25/2023	17:26:58
KS7	POLICE	SGT TONY GIBSON	DIS	02/25/2023	17:26:59
KS7	POLICE	SGT TONY GIBSON	ENR	02/25/2023	17:26:59
KS8	POLICE	SGT DENNY JORDAN	DIS	02/25/2023	17:26:59

CFS UNIT TIMES BY UNIT

UNIT	DIS	ENR	ONS	TOH	ATH	FRH	TOS	ATS	CLR
2L12	02/25/23 17:22:29	02/25/23 17:22:29	02/25/23 17:22:29						02/25/23 21:56:43
2L18	02/25/23 17:19:53	02/25/23 17:19:53	02/25/23 17:19:53						02/25/23 21:56:42
2L5	02/25/23 17:26:58	02/25/23 17:26:58	02/25/23 17:32:06						02/25/23 21:56:45
2L7	02/25/23 17:26:58	02/25/23 17:26:58							02/25/23 21:56:43
2L8	02/25/23 17:26:58	02/25/23 17:26:58							02/25/23 21:56:43
2L9	02/25/23 17:26:58	02/25/23 17:26:58							02/25/23 21:56:43
3L8	02/25/23 21:55:22	02/25/23 21:55:22							02/25/23 21:56:48
D6	02/25/23 18:58:16	02/25/23 18:58:16	02/25/23 18:58:16			02/25/23 21:48:16			02/25/23 21:48:16
KC1	02/25/23 17:35:28	02/25/23 17:35:28	02/25/23 17:35:28						02/25/23 21:56:46
KL1	02/25/23 17:35:23	02/25/23 17:35:23	02/25/23 17:35:23						02/25/23 21:56:45
KS5	02/25/23 17:57:51	02/25/23 17:57:51	02/25/23 17:57:51			02/25/23 18:30:18			02/25/23 18:30:18
KS7	02/25/23 17:26:59	02/25/23 17:26:59							02/25/23 21:56:44
KS8	02/25/23 17:26:59	02/25/23 17:26:59	02/25/23 17:31:20						02/25/23 21:56:44
R5	02/25/23 17:26:59	02/25/23 17:26:59	02/25/23 17:31:58			02/25/23 19:37:25			02/25/23 19:37:25
R9	02/25/23 21:39:02	02/25/23 21:39:02				02/25/23 21:39:20			02/25/23 21:39:20
Z1	02/25/23 19:04:01	02/25/23 19:04:01	02/25/23 19:26:24						02/25/23 21:56:47
Z3	02/25/23 20:15:28	02/25/23 20:15:28	02/25/23 20:15:28						02/25/23 21:56:48

CFS PERSONS

Person Type	Name (Last with Suffix, First - Middle)	DOB	OLN
	Full Address including Apartment/Unit/Lot and City, State, and Zip Code		
	Home Phone	Cell #	Work Phone #
	ANDERS , JOHN FITZGERALD 1104 KUNZ AVE MIDDLETOWN, OH 45044	11/19/1986	
	LYKINS , VICTOR L 216 GARFIELD ST MIDDLETOWN, OH 45044	07/29/1975	

CFS COMMENTS

Type	Comment	User	Date
CHECKUP	Nicole Kirsch: CHECKUP TIMERS RESET FOR UNIT 2L18	Nicole Kirsch	02/25/23 17:25:05
CHECKUP	Nicole Kirsch: CHECKUP TIMERS RESET FOR UNIT 2L12	Nicole Kirsch	02/25/23 17:27:37
CHECKUP	Nicole Kirsch: CHECKUP TIMERS RESET FOR UNIT 2L18	Nicole Kirsch	02/25/23 17:30:13
CHECKUP	Nicole Kirsch: CHECKUP TIMERS RESET FOR UNIT 2L12	Nicole Kirsch	02/25/23 17:32:49
CHECKUP	Nicole Kirsch: CHECKUP TIMERS CANCELLED FOR UNIT 2L18	Nicole Kirsch	02/25/23 17:35:59
CHECKUP	Nicole Kirsch: CHECKUP TIMERS CANCELLED FOR UNIT KS8	Nicole Kirsch	02/25/23 17:37:02
CHECKUP	Nicole Kirsch: CHECKUP TIMERS CANCELLED FOR ALL UNITS	Nicole Kirsch	02/25/23 17:37:16
CHECKUP	Nicole Kirsch: CHECKUP TIMERS CANCELLED FOR UNIT KS5	Nicole Kirsch	02/25/23 18:02:58
CHECKUP	Nicole Kirsch: CHECKUP TIMERS CANCELLED FOR UNIT D6	Nicole Kirsch	02/25/23 19:03:28
CHECKUP	Nicole Kirsch: CHECKUP TIMERS CANCELLED FOR UNIT Z1	Nicole Kirsch	02/25/23 19:31:32
CHECKUP	Gabriella Rodriguez: CHECKUP TIMERS RESET FOR UNIT Z3	Gabriella Rodriguez	02/25/23 20:21:11
CHECKUP	Gabriella Rodriguez: CHECKUP TIMERS CANCELLED FOR UNIT Z3	Gabriella Rodriguez	02/25/23 20:26:18
COMMENT	JVA2156	Nicole Kirsch	02/25/23 17:19:50
COMMENT	SHOTS FIRED	Nicole Kirsch	02/25/23 17:26:11
COMMENT	13 IN HAND	Nicole Kirsch	02/25/23 17:26:21
COMMENT	39 ENROUTE	Nicole Kirsch	02/25/23 17:29:06
COMMENT	WET UP PERMIETER	Nicole Kirsch	02/25/23 17:31:10
COMMENT	CLEARING GROCERY SIDE	Nicole Kirsch	02/25/23 17:32:46
COMMENT	ALL AGENCENT UNITS REPOSNDING	Nicole Kirsch	02/25/23 17:34:30
COMMENT	ALL MIDNIGHT PERSONELL PAGED IN	Nicole Kirsch	02/25/23 17:39:28
COMMENT	BCI CONTACTD	Nicole Kirsch	02/25/23 17:43:08
COMMENT	PRINTED WEATHER CONDITIONS	Nicole Kirsch	02/25/23 17:47:03
COMMENT	ROW 10	Nicole Kirsch	02/25/23 17:52:54
COMMENT	TRENTON OFFICER ENROUTE WITH SUBJECT	Nicole Kirsch	02/25/23 17:54:29
COMMENT	CALL CLOSED: DISPOSITION: COMP	Nicole Kirsch	02/25/23 21:56:59
TOW	TOW ACCEPT: MARKS TOWING for JVA2156 2008 Cherokee M**	Nicole Kirsch	02/25/23 21:33:47

ADMINISTRATIVE	AGENCY NAME MIDDLETOWN PD		*INCIDENT NUMBER 23-009399		
	CALL NUMBER 23-009399	*GEOCODE	*CLEARANCES		
	TOA 17:19	<input type="checkbox"/> INCIDENT	<input type="checkbox"/> A Death of Suspect <input type="checkbox"/> B Prosecution Declined <input type="checkbox"/> C In Custody of Other Jurisd. <input type="checkbox"/> D Victim Refused to Coop. <input type="checkbox"/> E Juvenile/No Custody <input type="checkbox"/> F Arrest - Adult		
	TOC 21:56	<input checked="" type="checkbox"/> OFFENSE <input type="checkbox"/> SUPPLEMENT	<input type="checkbox"/> G Arrest - Juvenile <input type="checkbox"/> H Warrant Issued <input type="checkbox"/> I Invest. Pending <input type="checkbox"/> J Closed <input type="checkbox"/> K Unfounded <input type="checkbox"/> U Unknown		

OHIO UNIFORM INCIDENT REPORT

*REPORT DATE/TIME				*INCIDENT OCCURRED FROM				*INCIDENT OCCURRED TO			
MONTH	DAY	YEAR	TIME	MONTH	DAY	YEAR	TIME	MONTH	DAY	YEAR	TIME
02	25	2023	17:19	02	25	2023	17:19	02	25	2023	17:19

INCIDENT LOCATION (Street, Apt., City, State, Zip)
2900 TOWNE MIDDLETOWN, OH 45044

*OFFENSE	*OFFENSE CODE	*A/C	F/M & DEGREE	*HATE/BIAS	*LARCENY	*TYPE CRIMINAL ACTIVITY
1. Felonious Assault	1. 2903.11	C	F	N		1. N 2. 3. _____ B. BUYING/RECEIVING C. CULTIVATING/MFG./PUB. D. DISTRIBUTING/SELLING E. EXPLOITING CHILDREN O. OPER/PROPOTING/ASSIST. P. POSSESSING/CONCEALING T. TRANSP/TRANSMITTING U. USING/CONSUMING G. OTHER GANG ACTIVITY J. JUVENILE GANG ACTIVITY N. NO GANG ACTIVITY
2.	2.					1. 2. 3. _____
3.	3.					1. 2. 3. _____
4.	4.					1. 2. A 3. _____
5.	5.					1. 2. 3. _____

*LOCATION OF OFFENSE (Enter up to two)						*SUSPECTED OF USING	
1. 48	2. _____	12 Jail/Prison	59 Daycare Facility	40 Other Retail Store	OTHER	A <input type="checkbox"/> ALCOHOL	
RESIDENTIAL STRUCTURE		13 Parking Garage	41 Factory/Mill/Plant	42 Other Building	53 Abandoned/	D <input type="checkbox"/> DRUGS	
COMMERCIAL LOCATIONS		14 Other Public Access Buildings	26 Bar	27 Buy/Sell/Trade Shop	55 Arena/Stadium/	C <input type="checkbox"/> COMPUTER EQUIPMENT	
PUBLIC ACCESS BLDGS.		15 Auto Shop	28 Restaurant	29 Gas Station	58 Cargo Container	N <input checked="" type="checkbox"/> NOT APPLICABLE	
		16 Financial Institution	30 Auto Sales Lot	31 Jewelry Store	60 Dock/Wharf/Freight/	*TYPE WEAPON/FORCE USED	
		17 Barber/Beauty Shop	32 Clothing Store	33 Drugstore	61 Farm Facility	1. 11 2. 3. _____	
		18 Hotel/Motel	34 Liquor Store	35 Shopping Mall	62 Gambling Facility/		
		19 Dry Cleaners/Laundry	36 Sporting Goods	37 Grocery/Supermarket	63 Military Installation		
		20 Professional Office	38 Variety/Convenience	39 Department Store	65 Shelter-Mission/		
		21 Doctor's Office	43 Yard	44 Construction Site	66 Tribal Lands		
		22 Other Business Office	45 Lake/Waterway	46 Field/Woods	67 Other		
		23 Recreation/Entertainment Center	47 Street	48 Parking Lot			
		24 Rental Storage Facility	49 Park/Playground	50 Cemetery			
		25 Other Commercial Service Loc.	51 Public Transit Vehicle	52 Other Outside Location			
		56 ATM Machine Separate from Bank	53 Abandoned/	54 Other Building			

*METHOD OF ENTRY		*METHOD OF ENTRY - MOTOR VEHICLE THEFT				*METHOD OF ENTRY - BURGLARY/B&E					
1 <input type="checkbox"/> FORCE	01 <input type="checkbox"/> Motor Running/Keys in Car	06 <input type="checkbox"/> Hot Wire	ENTRY			1 <input type="checkbox"/> DOOR	EXIT	1 <input type="checkbox"/> FRONT	EXIT		
2 <input type="checkbox"/> NO FORCE	02 <input type="checkbox"/> Unlocked	07 <input type="checkbox"/> Slim Jim/Coat Hanger	01 <input type="checkbox"/> BASEMENT	02 <input type="checkbox"/> 1 ST FLOOR	03 <input type="checkbox"/> 2 ND FLOOR	04 <input type="checkbox"/> SKYLIGHT	05 <input type="checkbox"/> OTHER	2 <input type="checkbox"/> SIDE	3 <input type="checkbox"/> REAR	4 <input type="checkbox"/> ROOF	5 <input type="checkbox"/> OTHER
*NO. PREMISES ENTERED	03 <input type="checkbox"/> Duplicate Key Used	08 <input type="checkbox"/> Tumblers Removed	04 <input type="checkbox"/> OTHER	09 <input type="checkbox"/> Column Peeled	10 <input type="checkbox"/> Ignition Peeled			3 <input type="checkbox"/> GARAGE	4 <input type="checkbox"/> SKYLIGHT	5 <input type="checkbox"/> OTHER	
	04 <input type="checkbox"/> Window Broken							4 <input type="checkbox"/> SKYLIGHT	5 <input type="checkbox"/> OTHER		
	05 <input type="checkbox"/> Towed							5 <input type="checkbox"/> OTHER			

METHODS OF OPERATION *CARGO THEFT
Y N

*NO. 1	*TOTAL VICTIMS 1	*VICTIM TYPE	<input type="checkbox"/> INDIVIDUAL	<input type="checkbox"/> FINANCIAL INSTITUTION	<input type="checkbox"/> POLICE OFFICER (IN THE LINE OF DUTY)	<input type="checkbox"/> SOCIETY	<input type="checkbox"/> OTHER
			<input type="checkbox"/> BUSINESS	<input type="checkbox"/> GOVERNMENT	<input type="checkbox"/> RELIGIOUS ORGANIZATION	<input type="checkbox"/> UNKNOWN	
NAME (Last, First, Middle) MIDDLETOWN DIVISION OF POLICE							
ADDRESS (Street, Apt., City, State, Zip)						PHONE	
EMPLOYER NAME AND ADDRESS (Street, Apt., City, State, Zip)						PHONE	
*AGE/D.O.B.	*SEX	*RACE	<input type="checkbox"/> B <input type="checkbox"/> A	ETHNICITY	HGT	WGT	HAIR
0 02/24/2023	U	<input type="checkbox"/> W <input type="checkbox"/> I <input checked="" type="checkbox"/> U					EYES
OCCUPATION			SSN	*RESIDENT 1 <input type="checkbox"/> RESIDENT 3 <input type="checkbox"/> MILITARY 5 <input checked="" type="checkbox"/> OTHER		STATUS 2 <input type="checkbox"/> TOURIST 4 <input type="checkbox"/> STUDENT U <input type="checkbox"/> UNKNOWN	

*VICTIM INJURED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	IF INJURED, DESCRIBE INJURIES: None, Apparent Broken Bone(s)
*AGG. ASSAULT/HOMICIDE CIRC. 02	*LEOKA INFORMATION TYPE OF ACT. 10 ASSIGN. TYPE G ORI - OTHER
*VICTIM/SUSPECT RELATIONSHIP 0. 1. ST 2. 3. 4. 5.	
*VICTIM/OFFENSE LINK 2903.11	

My signature verifies that the information on this report is accurate and true DATE _____

REPORTING OFFICER Evan Mosley	BADGE NO. 587	DATE 02/27/2023
APPROVING OFFICER Malcolm Tipton	BADGE NO. 538	DATE 02/28/2023
FOLLOW-UP? <input type="checkbox"/> Y <input type="checkbox"/> N	If yes, follow-up Assignment:	
ADDITIONAL SUPPLEMENTS	<input type="checkbox"/> VICTIM/WITNESS <input type="checkbox"/> PROPERTY <input type="checkbox"/> STATEMENTS	FORM RECEIVED BY: <input type="checkbox"/> INTELLIGENCE <input type="checkbox"/> SPECIAL COPIES
	<input type="checkbox"/> SUSPECT/ARRESTEE <input type="checkbox"/> NARRATIVE <input type="checkbox"/> OTHER	<input type="checkbox"/> INVESTIGATION <input type="checkbox"/> RECORDS

INCIDENT NUMBER 23-009399

INCIDENT REPORT - PART 2

INCIDENT NUMBER 23-009399

VICTIM MIDDLETOWN DIVISION OF POLICE OFFENSE Felonious Assault INCIDENT DATE AND TIME 02/25/2023 17:19

REPORTER	NO. 1	NAME (Last, First, Middle) MIDDLETOWN DIVISION OF POLICE,	AGE/D.O.B.	SSN
	ADDRESS (Street, Apt., City, State, Zip)			PHONE
	EMPLOYER NAME AND ADDRESS (Street, Apt., City, State, Zip)			PHONE
	STATEMENTS OBTAINED <input type="checkbox"/> Y <input type="checkbox"/> N TYPE: <input type="checkbox"/> WRITTEN <input type="checkbox"/> ORAL <input type="checkbox"/> TAPED <input type="checkbox"/> OTHER			

VEHICLE	CHECK CATEGORIES <input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED <input type="checkbox"/> IMPOUNDED <input type="checkbox"/> RECEIVED <input type="checkbox"/> SUSPECT'S VEHICLE <input type="checkbox"/> VICTIM'S VEHICLE <input type="checkbox"/> UNAUTHORIZED USE <input type="checkbox"/> ABANDONED									
	NO.	<input type="checkbox"/> DAMAGE TO VEHICLE <input type="checkbox"/> THEFT FROM VEHICLE	LIC	LIS	LIY	LIT	VIN/OAN	*VALUE	\$0.00	
	VYR	VMA	VMO	VST	VCO TOP BOTTOM	VEHICLE LOCKED <input type="checkbox"/> Y <input type="checkbox"/> N	KEYS IN VEHICLE <input type="checkbox"/> Y <input type="checkbox"/> N	HOLD VEHICLE <input type="checkbox"/> Y <input type="checkbox"/> N	RELEASE CONTENTS <input type="checkbox"/> Y <input type="checkbox"/> N	
	VEHICLE ASSOC. W/ SUSPECT NO.	VEHICLE ASSOC. W/ VICTIM NO.	VEHICLE TOWED? <input type="checkbox"/> Y <input type="checkbox"/> N	TOWED BY	OWNERSHIP VERIFIED BY:	<input type="checkbox"/> TAG RECEIPT <input type="checkbox"/> BILL OF SALE	<input type="checkbox"/> TITLE <input type="checkbox"/> OTHER			

STOLEN MOTOR VEHICLE ONLY NO. STOLEN AREA STOLEN BUSINESS RESID. RURAL ADDITIONAL DESCRIPTION

AUTO INSURER NAME (Company) ADDRESS (Street, Apt., City, State, Zip) PHONE

MOTOR VEHICLE RECOVERY ONLY NO. RECOVERED DATE REC. STOLEN IN YOUR JURISDICTION Y N WHERE RECOVERED?

*TYPE PROPERTY LOSS/ETC. (enter codes below) 1 NONE 2 BURNED 3 COUNTERFEITED/FORGED 4 DESTROYED/DAMAGED/VANDALIZED 5 STOLEN/ETC. 6 SEIZED 7 RECOVERED U UNKNOWN P PHOTO E EVIDENCE TOTAL VALUE \$0.00

*LOSS CODE	QUANTITY	DESCRIPTION	*PROP CODE	*VALUE
E		HANDGUN	44	\$0.00
VICT. NO.	VEH. NO.	MAKE/BRAND	MODEL	DATE RECOVERED
	SERIAL NUMBER	NCIC NUMBER	OTHER NUMBER	
*LOSS CODE	QUANTITY	DESCRIPTION	*PROP CODE	*VALUE
				\$0.00
VICT. NO.	VEH. NO.	MAKE/BRAND	MODEL	DATE RECOVERED
	SERIAL NUMBER	NCIC NUMBER	OTHER NUMBER	
*LOSS CODE	QUANTITY	DESCRIPTION	*PROP CODE	*VALUE
				\$0.00
VICT. NO.	VEH. NO.	MAKE/BRAND	MODEL	DATE RECOVERED
	SERIAL NUMBER	NCIC NUMBER	OTHER NUMBER	
*LOSS CODE	QUANTITY	DESCRIPTION	*PROP CODE	*VALUE
				\$0.00
VICT. NO.	VEH. NO.	MAKE/BRAND	MODEL	DATE RECOVERED
	SERIAL NUMBER	NCIC NUMBER	OTHER NUMBER	

PROPERTY	PROPERTY CODES:	10 Other Valuables	22 Photographic Equipment	72 Musical Instruments	VEHICLES	STRUCTURES
	EXCHANGE MEDIUMS	PERSONAL EFFECTS	23 Farm Equipment	73 Portable Electronic Equip.	35 Aircraft	46 Single Occupancy
01 Money	11 Clothing/Furs	24 Heavy Construction/Industrial	74 Watercraft Equip./Parts/Acc.	36 Automobiles	47 Other Dwellings	
02 Credit/Debit Card	12 Purses/Handbags/Wallets	25 Building Supplies-Const.	29 Other Equipment	37 Bicycles	48 Commercial/Business	
03 Negotiable Instruments	13 Other Personal Effects	26 Tools	CONSUMABLE ITEMS	38 Buses	49 Industrial/Manufacturing	
04 Other Exchange Mediums	HOUSEHOLD ITEMS	27 Vehicle Parts/Accessories	30 Alcohol	39 Trucks	50 Public/Community	
DOCUMENTS	14 Household Items	57 Aircraft Parts/Accessories	31 Drugs/Narcotics	40 Trailers	51 Storage	
05 Non-Negotiable Instruments	EQUIPMENT	28 School Supplies	32 Consumable Goods	41 Watercraft	52 Other Structure	
06 Personal (Identity) Papers	15 Drug/Narcotic Equip.	58 Artistic Supplies/Accessories	60 Chemicals	42 Recreational Vehicle	OTHER	
62 Documents/Personal or Business	16 Gambling Equipment	59 Camping/Hunting/Fishing Equipment/Supplies	61 Crops	43 Other Motor Vehicle	53 Merchandise	
07 Other Documents	17 Computer Hardware/Soft.	67 Law Enforcement Equip.	63 Explosives	WEAPONS	54 Other Property	
VALUABLES	18 Office Equipment	68 Lawn/Yard/Garden Equip.	65 Fuel	44 Firearms	55 Pending Inventory	
08 Jewelry/Precious Metals	19 Stereo TV Equip.	69 Logging Equipment	ANIMALS	45 Other Weapons	66 Identity-Intangible	
09 Art Objects, Antiques	20 Recordings-Audio Visual	70 Medical/Medical Lab Equip.	33 Livestock	64 Firearm Accessories	71 Metals, Non-Precious	
	21 Sports Equipment		34 Household Pets			

NARRATIVE	

SUSPECT/ARREST SUPPLEMENT

ARRESTING AGENCY: MIDDLETOWN PD INCIDENT NUMBER: 23-009399

VICTIM: MIDDLETOWN DIVISION OF POLICE OFFENSE: Felonious Assault INCIDENT DATE AND TIME: 02/25/2023 17:19

NO. 1 ADULT JUVENILE UNKNOWN CHECK APPROPRIATE CATEGORY: SUSPECT ARRESTEE SUSPECT/ARRESTEE RUNAWAY MISSING OTHER _____ CHARGES FILED? Y N

NAME (Last, First, Middle): LYKINS, VICTOR L SSN: [REDACTED]

ALIASES: _____ GANG AFFILIATION: _____

ADDRESS (Street, Apt., City, State, Zip): 216 GARFIELD ST MIDDLETOWN, OH 45044 PHONE: _____

EMPLOYER NAME AND ADDRESS (Street, Apt., City, State, Zip): _____ PHONE: _____

PLACE OF BIRTH: _____ DL#/STATE: _____ OH OCCUPATION/SCHOOL: _____

*AGE/ D.O.B. 47 07/29/1975 *SEX: M *RACE: W B I A *ETHNICITY: _____ *HEIGHT: 602 *WEIGHT: 150 *HAIR: BRO *EYES: BLU

MARITAL STATUS: _____ SCARS, MARKS, TATOOS: _____

ADDITIONAL DESCRIPTIVES: _____

SUSPECTED OF USING: ALCOHOL DRUGS POTENTIAL INJURIES?: _____

*RESIDENT STATUS: 1 RESIDENT 2 TOURIST 3 MILITARY 4 STUDENT 5 OTHER (explain) _____ U UNKNOWN

*ARRESTEE WAS ARMED WITH: _____

ARRESTEE ARMED WITH 1. _____ 2. _____ 3. _____

- | | | | |
|---------------------------|------------------------------------|-----------------------------|------------------------------|
| 99 NONE | 13B OTHER FULLY AUTOMATIC FIREARM | 16 IMITATION FIREARM | 50 POISON |
| 11 FIREARM | 14 SHOTGUN | 17 SIMULATED FIREARM | 60 EXPLOSIVES |
| 12 HANDGUN | 15 OTHER FIREARM | 18 BB/PELLET GUN | 65 FIRE/INCENDIARY DEVICE |
| 12A AUTOMATIC HANDGUN | 15A SEMI-AUTOMATIC SPORTING RIFLE | 20 KNIFE/CUTTING INSTRUMENT | 70 DRUGS/NARC/SLEEPING PILLS |
| 13 RIFLE | 15B SEMI-AUTOMATIC ASSAULT FIREARM | 30 BLUNT OBJECT | 80 OTHER WEAPON |
| 13A FULLY AUTOMATIC RIFLE | 15C MACHINE PISTOL | | |

NAME: _____ ADDRESS (Street, Apt., City, State, Zip): _____ PHONE: _____

1: _____ 1: _____ 1: _____

2: _____ 2: _____ 2: _____

ARREST/OFFENSE DESCRIPTION *ARREST/OFFENSE CODE F/M & DEGREE WARRANT # *ARREST LARCENY TYPE

ARREST/OFFENSE DESCRIPTION	*ARREST/OFFENSE CODE	F/M & DEGREE	WARRANT #	*ARREST LARCENY TYPE
1.	1.	1	1	23A POCKET PICKING
2.	2.	2.	2.	23B PURSE SNATCHING
3.	3.	3.	3.	23C SHOPLIFTING
4.	4.	4.	4.	23D THEFT FROM BUILDING
5.	5.	5.	5.	23E THEFT FROM COIN-OP MACH.
				23F THEFT FROM MOTOR VEHICLE
				23G MOTOR VEH. PARTS/ACCESS.
				240 THEFT OF MOTOR VEHICLE
				23H OTHER: _____

*ARREST DATE: _____ TIME: _____ ARREST LOCATION (Street, Apt., City, State, Zip): _____

*INCIDENT TRACKING NUMBER: _____ ARREST DISPOSITION: _____ BAIL: \$0.00

MIRANDA WITNESSED BY: _____ TIME READ: _____

FINGERPRINTED Y N FINGERPRINT CARD NO.: _____ PHOTOS TAKEN Y N NO. TAKEN: _____ PHOTO ID NO.: _____ FBI/BCI#: _____

*MULTIPLE ARRESTEE SEGMENTS INDICATOR: COUNT ARRESTEE MULTIPLE ARRESTEE INDICATOR N/A *ARREST TYPE: 1 COMPLAINT 3 WARRANT 5 ORDER OF PROTECTION 2 IN-PROGRESS 4 SUMMONS 9 OTHER

JUV. PARENT/ GDN. NOTIFIED Y N DATE/TIME NOTIFIED: _____ NOTIFIED BY: _____ *JUVENILE DISPOSITION: HANDLED WITHIN THE DEPARTMENT REFERRED TO OTHER AUTHORITIES

PARENT/GUARDIAN NAME AND ADDRESS (Street, Apt., City, State, Zip): _____ RELATIONSHIP: _____ PHONE: _____

PARENT/GUARDIAN NAME AND ADDRESS (Street, Apt., City, State, Zip): _____ RELATIONSHIP: _____ PHONE: _____

PREVIOUS RUN/MISS. Y N DATE OF LAST CONTACT: _____ DATE OF EMANCIPATION: _____ NCIC #: _____ DATE/TIME ENTERED: _____

LAST SEEN WEARING: _____

REPORTING OFFICER: Evan Mosley BADGE NO.: 587 DATE: 02/27/2023

APPROVING OFFICER: Malcolm Tipton BADGE NO.: 538 DATE: 02/28/2023

COURT: _____ DATE: _____

NAME/DESCRIPTIVES

ASSOC. PERSONS

ARREST INFORMATION

JUVENILE

RUNAWAYS /MISSING

NARRATIVE SUPPLEMENT

INCIDENT NUMBER 23-009399

VICTIM
MIDDLETOWN DIVISION OF POLICE

OFFENSE
Felony Assault

INCIDENT DATE AND TIME
02/25/2023 17:19

OFFICERS conducted a traffic stop at 2900 Towne Blvd. being Walmart. After OFFICERS had observed a vehicle make a traffic infraction. Upon making contact with the vehicle the driver of the vehicle was identified as ROBERT LYKINS. The front passenger was later identified as VICTOR LYKINS. Upon running ROBERT'S information through LEADS it was discovered that he did not have a valid driver's license. OFFICERS removed ROBERT from the vehicle and advised him that his license was under a suspended license. He was placed in the back of a patrol vehicle.

Through the OFFICERS investigation they were able to determine that the front passenger originally provided false information. After they had positively identified him as VICTOR LYKINS they found that he did have an active warrant through the Middletown Division of Police for Tampering with Evidence. OFFICERS attempted to have LYKINS step out of the passenger side of the vehicle, however at this time LYKINS brandished a handgun.

During the course of the struggle over the firearm MIDDLETOWN DIVISION OF POLICE OFFICERS did discharge their firearms striking LYKINS. The investigation was then turned over to BCI.

OFFICERS cleared.

MOSLEY-584/R5

Cah/2

REASON CLEARED	<input type="checkbox"/> A DEATH OF OFFENDER <input type="checkbox"/> B PROSECUTION DECLINED <input type="checkbox"/> C EXTRADITION DENIED	<input type="checkbox"/> D VICTIM REFUSED TO COOP. <input type="checkbox"/> E JUVENILE/NO CUSTODY <input type="checkbox"/> F ARREST - ADULT	<input type="checkbox"/> G ARREST - JUVENILE <input type="checkbox"/> H WARRANT ISSUED <input type="checkbox"/> I INVEST. PENDING	<input type="checkbox"/> J CLOSED <input type="checkbox"/> K UNFOUNDED <input type="checkbox"/> U UNKNOWN	DATE CLEARED
REPORTING OFFICER	Evan Mosley			BADGE NO. 587	DATE 02/27/2023
APPROVING OFFICER	Malcolm Tipton			BADGE NO. 538	DATE 02/28/2023



MIDDLETOWN PD
AUTO TOW RECORD

INCIDENT #
23-009399
CRASH #
23-009399

OFFICER
Mary Miller-340
DATE
02/25/2023
TIME
17:19

TOWED FROM LOCATION
2900 TOWNE MIDDLETOWN, OH 45044
TOWED TO LOCATION
POLICE IMPOUND

TOW COMPANY
MARKS TOWING
TOW DRIVER'S SIGNATURE

OWNER'S NAME
BARKER, KELSEY

OWNER'S ADDRESS
1404 PENFIELD AVE MIDDLETOWN, OH 45044

VEH YEAR 2008
VEH MAKE Cherokee Manufactu
VEH MODEL
VEH STYLE
VEH COLOR SILVER/AL

LIC. PLATE JVA2156
STATE OH
VIN 1J8HG48K68C240930

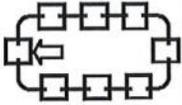
REASON TOWED (√ APPLICABLE BOX) Crash Arrest DUS - DUI - BMV Required
 Stolen Abandoned Disabled Other:

HOLD? Yes No
REASON:
RELEASED AT SCENE? Yes No
DRIVABLE? Yes No

LOCATION: P1 - Front Pass P2 - Rear Pass G - Glove Box T - Trunk/Cargo E - Engine
INVENTORY **LOC**

AM/FM AM/FM/CASS AM/FM/CD Radar/Laser Detector Cell Phone CB
 CD's # Cassettes # Other:

CONDITION:
Check Damaged Area
Damage Description:



INTERIOR good fair poor
GLASS good fair poor
BODY good fair poor
WHEELS good fair poor

OWNER NOTIFIED? Yes No
HOW:
OWNER NOTIFIED BY

RELEASED TO:
RELEASED TO SIGNATURE:

ADDRESS (Number, Street, City, State, Zip)
PHONE#

RELEASED BY:
DATE
TIME

Exhibit 4



MIDDLETOWN DIVISION OF POLICE

One Donham Plaza, Middletown, Ohio 45042

(513)425-7700 Main (513)425-7756 Administration (513)425-7755 Fax

GENERAL ORDER 4 USE OF FORCE

(Effective Date: 10/10/2022 by Order of the Chief of Police)

USE OF FORCE

- 4.1.1 Use of Reasonable Force
- 4.1.2 Use of Deadly Force
- 4.1.3 Warning Shots Prohibited
- 4.1.4 Use of Authorized Less Lethal Weapons
- 4.1.5 Rendering Medical Aid
- 4.1.6 Vascular Neck Restrictions
- 4.1.7 Choke Holds

USE OF FORCE REPORTING AND REVIEW

- 4.2.1 Reporting Use of Force
- 4.2.2 Written Use of Force Reports and Administrative Review
- 4.2.3 Removal from Line of Duty Assignment for Use of Force
- 4.2.4 Annual Use of Force Analysis

WEAPONS AND TRAINING

- 4.3.1 Authorized Weapons and Ammunition
- 4.3.2 Demonstrating Proficiency with Weapons
- 4.3.3 Firearms Qualifications/Weapons Proficiency Training
- 4.3.4 Prerequisite to Carrying Deadly/Less-Lethal Weapons

4.1 USE OF FORCE

4.1.1 Use of Reasonable Force (CALEA LE-1)

A. Definitions

1. Non-Compliance – non-violent actions by a subject that present no threat of physical harm to the officer, but prevent or hinder an officer from carrying out his/her lawful duties.
2. Active Resistance – verbal or physical actions by a subject that indicate an unwillingness to comply with an officer's lawful authority and prevent or hinder an officer from carrying out his/her lawful duties.
3. Violent Assault – aggressive actions by a subject, with or without a weapon, directed at an officer with the intention of causing physical harm or death to the officer(s) or others.
4. De-Escalation – reducing the intensity of a conflict or potentially violent situation.
5. Force – the actions taken by an officer, with or without a weapon that significantly restrict or alter the actions of another person and/or compels compliance with the requests/instructions of the officer.
4. Less-Lethal – the use of force against a subject that does **not** create a significant risk of death. This includes, but is not limited to, options such as chemical spray, electronic control devices, and impact weapons. It also includes, but is not limited to, weaponless subject control techniques such as takedowns, forced handcuffing, hand strikes, knee strikes, and foot strikes.
6. Deadly Force – means any force which carries a substantial risk that it will proximately result in the death of any person.
7. Reasonable Belief – are facts and circumstances that the officer knows, or should know, would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
8. Serious Physical Harm – means any physical harm which creates a substantial risk of death; permanent incapacity or permanent disfigurement; or results in long-term loss or impairment of the functioning of any part of the body.

B. Authorization

1. Sworn Police Officers are authorized to use force in the following instances:
 - a. To stop potentially dangerous and/or unlawful behavior;
 - b. To protect the officer or another person from assault, injury, or death;
 - c. To protect a person from injuring themselves; and
 - d. In the process of conducting an arrest when the person offers resistance.

2. Corrections Officers are authorized to use force in the following instances:
 - a. Self-defense from physical attack or threat of physical harm;
 - b. Defense of another from physical attack or threat of physical harm;
 - c. When necessary to control or subdue an inmate who refuses to obey a command or staff order;
 - d. When necessary to stop an inmate from destroying property or engaging in a riot or other disturbance;
 - e. Prevention of an escape, or other crime; and
 - f. Controlling or subduing an inmate in order to stop or prevent self-inflicted harm.

3. The Animal Control Officer is only authorized to use force in the performance of their duties to defend themselves from violent assault by another person.

4. Officers should attempt to resolve confrontational situations using de-escalation tactics and techniques in order to reduce the need for use of force, as long as it does not compromise officer safety.

5. In situations where use of force is utilized, officers must weigh the facts and circumstances of each situation and employ the level(s) of force perceived necessary and reasonable to accomplish lawful objectives.

6. Use of force **will stop** when the person stops resisting or assaulting.

7. Reference: US Supreme Court Case – **GRAHAM v. CONNOR, 490 U.S. 386 (1989)**

D. "Last Resort" Situations

Situations may occur wherein certain immediate and drastic measures must be undertaken by an officer in order to protect themselves or another utilizing techniques or weapons not covered in this General Order or agency written directives. Force used in these situations will be judged by reasonable and necessary use of force standards.

4.1.2 Use of Deadly Force (CALEA LE-1)

A. Sworn Police officers may use deadly force in the following circumstances:

1. By any means, when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury.
2. To arrest or prevent the escape of a suspect who the officer reasonably believes has committed, or attempted to commit, a felony involving the use or threatened use of deadly force, when a high probability exists that the suspect, if not immediately apprehended, may cause death or serious physical injury to any person.
3. To protect themselves or others from an animal which the officer reasonably believes may cause serious physical injury if not immediately controlled, or to end the suffering of an animal gravely injured or diseased after considering public view, safety, and other reasonable dispositions.
4. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

B. Corrections Officers may only use deadly force when the officer reasonably believes that the action is in defense of human life, including the officer's own life.

C. The Animal Control Officer may only use deadly force when the officer reasonably believes that the action is in defense of the officer's own life.

D. When feasible, a verbal warning should be given prior to engaging in the use of deadly force against another person.

E. Reference: US Supreme Court Case - **TENNESSEE v. GARNER, 471 U.S.1 (1985)**

4.1.3 Warning Shots Prohibited (CALEA LE-1)

The use of warning shots is **prohibited**.

4.1.4 Use of Authorized Less-Lethal Weapons (CALEA LE-1)

A. Authorized Less-Lethal Weapons

1. Sworn Police Officers are authorized to carry and/or utilize the following less-lethal weapons in the performance of their duties and/or as dictated by assignment:

- a. OC Chemical Spray;
- b. ASP Expandable Baton or Straight Baton (Wood or polycarbonate in construction, 16-24" in length, maximum 2" diameter);
- c. TASER;
- d. Specialty Impact Munitions (12-gauge shotgun and 40 MM Launcher);
- e. Gas Agents (OC and CS);
- f. Pepper Ball Launcher;
- g. Diversionary Devices; and
- h. Police Canine.

2. Corrections Officers are authorized to carry and utilize the following less-lethal weapons in the performance of their duties:

- a. OC Chemical Spray; and
- b. TASER.

3. Animal Control Officers are authorized to carry and utilize the following less-lethal weapons in the performance of their duties:

- a. TASER;
- b. OC Chemical Spray; and
- c. ASP Expandable Baton.

4. Only those employees who have completed the prescribed course of instruction for the weapon are authorized to carry the weapon in an official capacity.

B. ASP/Straight Baton Guidelines

1. When carrying an ASP/Straight Baton, uniformed personnel shall carry the weapon in a holder on the equipment belt.

2. Plainclothes personnel may carry the ASP/Straight Baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

3. Use of the weapon is limited to those situations in which the subject is actively resisting or violently assaulting an officer.

4. Strikes to the body of a resistant person shall be limited to the muscle areas of the arms, legs, and torso. Bony areas should be avoided as much as possible.
5. Strikes to the head, neck, and spinal areas are restricted to those situations where the use of deadly force is authorized.
6. Use of ASP or baton strikes against a person who is non-compliant is specifically forbidden.

C. Oleoresin Capsicum Spray Guidelines

1. Oleoresin Capsicum is an organically based aerosol spray designed to impair a subject's ability to cause harm with no lasting effects.
2. OC is bio-degradable and classified as an inflammatory agent causing swelling of the mucous membranes.
3. When carrying OC, uniformed personnel shall carry the canister in a holder on the equipment belt.
4. Plainclothes personnel may carry OC as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.
5. Chemical spray may be used when an officer reasonably believes a subject has indicated the intention to actively resist or violently attack the officer(s).
6. When deploying chemical spray, officers should use short bursts targeting the subject's face and upper torso.
7. Chemical spray should **not** be applied at a distance of less than 36 inches. This distance provides the greatest safety in order to avoid eye damage.
8. Whenever possible, officers should be upwind from the subject before deploying chemical spray and avoid entering the spray area.
9. The use of OC chemical spray should be limited, if possible, under conditions where it is likely to affect other officers or innocent bystanders.
10. Unless there are compelling reasons to do so which can be clearly articulated, officers should avoid deploying OC Spray on unarmed persons who reasonably appear to be, or are known to be:
 - a. In frail health;
 - b. Young children
 - c. Elderly;

- d. Pregnant;
- e. Persons with known respiratory conditions.

11. Unless a substantial risk of injury and/or property damage exists, officers are not to use OC spray on a handcuffed person.

D. TASER X26P Guidelines

1. The TASER is an electronic control device designed to disrupt the sensory and motor nervous system of the body.
2. Its use is intended to incapacitate a subject with a minimal potential for causing death or serious physical injury when compared to conventional projectiles.
3. Sworn Uniformed Police Officers issued the TASER will wear the weapon in a division issued holster in a cross-draw fashion on their duty belt.
4. The TASER may be deployed in one of the following modes when an officer reasonably believes that a subject has indicated the intention to actively resist or violently assault the officer(s):
 - a. Show of Force Mode – deploying the TASER without firing the weapon.
 - b. Standoff Mode – deploying the TASER and firing the darts into the body, cycling the weapon until compliance is obtained.
 - c. Contact Mode – deploying the TASER and utilizing a drive stun technique until compliance is obtained.
5. When feasible, officers deploying the TASER in the contact or standoff mode shall announce their intention to do so when other officers are present.
6. The preferred targeting location is center mass to the subjects back, however, it is recognized that it is not always possible to get behind a subject.
7. Frontal targeting should be to the subject's lower center mass. Targeting of the upper torso/chest area shall be avoided where possible.
8. When deploying the TASER reasonable efforts shall be made to avoid striking the subjects head, neck, eyes or genitals.
9. Officers should transition to a different force option if more than 3 cycles of the Taser fail to gain compliance.

10. Unless there are compelling reasons to do so which can be clearly articulated, officers should avoid deploying the TASER on unarmed persons who reasonably appear to be, or are known to be:

- a. Pregnant;
- b. Elderly;
- c. Physically disabled, or medically infirm; or
- d. Young children.

11. Unless a substantial risk of injury and/or property damage exists, officers are not to use the TASER on a handcuffed person.

12. Officers should not deploy the TASER on a fleeing subject where it is highly likely that a fall may cause serious physical injury or death.

13. Officers will not deploy the TASER on a subject operating and attempting to flee in a motor vehicle.

E. Specialty Impact Munitions Guidelines

1. Specialty Impact Weapons are capable of deploying less-lethal direct impact munitions in an attempt to resolve violent or life-threatening situations.

2. Specialty Impact Munitions are available for use in the 12-gauge less-lethal shotgun (Orange Stock) or the 40MM Launcher.

3. Specialty Impact Munitions should only be deployed by sworn officers when they have armed cover.

4. Whenever possible under the conditions present, officers shall announce their intention to deploy Specialty Impact Munitions by clearly stating the type of round to be deployed prior to firing.

5. Officers utilizing Specialty Impact Munitions shall target those areas specific to the type of munition used and the officers' training on the weapon to achieve the desired effects.

6. When using Specialty Impact Munitions on a subject, an officer should deploy at a distance within the acceptable range specified by the manufacturer and in the officers' training.

7. Unless there are compelling reasons to do so which can be clearly articulated, officers should avoid deploying munitions on unarmed persons who reasonably appear to be, or are known to be:

- a. Pregnant;
- b. Elderly;
- c. Physically disabled, or medically infirm; or
- d. Young children.

8. While multiple rounds may be expended on a person as necessary, no more than two Specialty Impact Munitions weapons will be simultaneously deployed on a person.

F. Gas Agents and Pepper Ball Guidelines

1. The Special Weapons and Tactics team is authorized to use CS/OC gas agents that may be delivered by hand, pole, 40MM Launcher or 12-gauge shotgun, and Pepper Ball projectiles delivered by an air-powered launching device.

2. Pepper ball projectiles are plastic spheres that are filled with powdered or liquid Oleoresin Capsicum (OC). CS deployed by hand, pole or 40MM Launcher may be in powder or liquid form.

3. The chemical in CS and OC re-acts with a subject's skin and eyes causing a burning sensation, tearing and uncontrollable shutting of the eyes.

4. The use of these agents is at the discretion of the SWAT Commander. Situations for use include but are not limited to:

- a. Barricaded subjects to provoke a surrender and gain compliance;
- b. To temporarily impair a subject's ability to cause harm; and
- c. Crowd control and dispersal.

G. Diversionary Devices (Flash-Bang)

1. Diversionary devices are non-lethal explosive munitions used to temporarily disorient a subject by a bright flash of light and sound.

2. The SWAT team is authorized to use diversionary devices that may be delivered by hand, pole or command detonation.

3. The devices are designed to distract a subject during high risk entry into a structure or hazardous area and reduce the potential for using other forms of force.

4. The use of diversionary devices is at the discretion of the SWAT Commander.

H. Police Canines

1. Apprehension - A canine may be used to locate and apprehend a suspect in compliance with *G.O. 41.1.4*, by way of displaying force or the threat of force to counter an officer's lawful objective, or authority.
2. Display of Canine - The display of a canine may be used to gain compliance from a subject that is displaying non-violent opposition to an officer's lawful objective or authority, such as a refusal to cooperate with legal requirements
3. Non-Apprehension - Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine.

I. Other Restrictions

1. The use of hand strikes, elbow strikes, foot strikes, and knee strikes to the upper torso and lower extremities will be used in accordance with the reasonableness standard as authorized in General Order 4.1.1, Use of Reasonable Force, Section D, Authorization, only during encounters of active resistance and violent assault.
2. The use of hand strikes, elbow strikes, foot strikes, or knee strikes to the neck, head or facial area will only be used when an officer is under violent assault, or the imminent threat of violent assault.

4.1.5 Rendering Medical Aid (CALEA LE-1)

A. Appropriate medical aid, consistent with any injury sustained by an individual during apprehension, will be immediately provided in the form of minor first aid and/or request for paramedics as soon as possible after control of the incident has been established.

B. Officers must be aware that use of force, or any injury incurred during apprehension, may result in the person sustaining injuries that are not immediately apparent. Therefore, when a person complains of an injury, or appears to be in some form of physical distress, officers **will** summon medical assistance.

C. TASER probes may generally be removed by an officer on scene who has been properly trained on their safe removal. If the probes have struck any of the following areas they will be removed by qualified medical personnel:

- a. The eyes or close to the eyes;
- b. The trachea, carotid artery, or jugular area of the neck;

- c. Facial area on the cheeks or around the mouth and nose;
- d. Groin or genital areas.

D. Persons sprayed or exposed to CS or OC agents should be moved to fresh air, faced into the wind, and allowed to flush their face whenever possible.

E. Officers must have any individual who has been subject to use of force medically treated/cleared by qualified medical personnel at Kettering Hospital or Atrium Medical Center prior to transport and booking into the Middletown City Jail.

F. Officers shall ensure that medical personnel providing medical care or receiving custody of an individual are informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks (e.g., prolonged struggle, extreme agitation, impaired respiration).

G. If any such individual refuses medical attention, the refusal shall be documented in the officers related reports and, whenever practical, in any reports by medical personnel.

4.1.6 Vascular Neck Restraints (CALEA LE-1)

Use of Vascular Neck Restraints, or any technique that restricts blood flow to the brain is prohibited unless the officer is involved in a situation where all other reasonable means of force have been exhausted and deadly force is necessary for the defense of the officer's life, or the life of another.

4.1.7 Choke Holds (CALEA LE-1)

Use of Choke Holds, or any technique that restricts the intake of oxygen for the purpose of gaining control of a subject, is prohibited unless the officer is involved in a situation where all other reasonable means of force have been exhausted and deadly force is necessary for the defense of the officer's life, or the life of another.

4.2 USE OF FORCE REPORTING AND REVIEW

4.2.1 Reporting Use of Force (CALEA LE-1)

A. Assault and Use of Force Reporting

1. A written Use of Force report will be submitted whenever an employee:
 - a. Discharges a firearm, for other than training or recreational purposes;
 - b. They take any action that results in or is alleged to have resulted in injury or death to another person;
 - c. Applies force through the use of lethal or non-lethal weapons; or
 - d. Applies weaponless physical force at a level as defined by policy.
2. The employee(s) involved in the Use of Force incident will immediately notify the on-duty supervisor of the incident and the severity of any injuries sustained.
3. The employee(s) involved will complete a Use of Force report immediately following the incident unless directed to do otherwise by their supervisor.
4. The on-duty supervisor will respond to the scene whenever possible to investigate the use of force. The investigation will include observation of the subject of the force, interviews with the officers involved, photographs, and interviews with other witnesses.
5. If the on-duty supervisor is involved in a use of force, they are prohibited from performing the supervisory review of the incident they were involved in. If another supervisor is on duty and available, that Use of Force will be reviewed by the supervisor not involved in the incident. If no other on duty supervisor is available, the supervisor involved will complete the appropriate Use of Force report, and the supervisor's review report will be completed by the Patrol Commander or their designee.

B. Discharge of Weapons Reporting

1. Officers will immediately notify the on-duty supervisor of any incident in which they deliberately or accidentally discharge a firearm or TASER.
2. The officer(s) involved will complete a Discharge of Weapons report immediately following the incident unless directed to do otherwise by a supervisor.

3. If the discharge of a firearm by an officer is for any reason other than killing an animal, the ranking on-duty supervisor shall notify the Chief of Police and the officer's Division Commander.

4. This general order does not apply to rounds/cartridges fired at the range during regular practice and/or qualification, unless an injury results from such discharge.

4.2.2 Written Use of Force Reports and Administrative Review (CALEA LE-1)

A. Submitting Reports

1. Use of Force and Discharge of Weapons reports will be submitted to the on-duty supervisor by the officer(s) involved immediately following their completion.

2. Officers must be specific as to the amount and type of force utilized along with any verbal warning and/or de-escalation techniques utilized during the incident.

3. The on-duty supervisor will review the reports and complete the Supervisory Review of Use of Force. The completed reports along with the following documentation will be saved in the Use of Force folder:

- a. Taser download (if applicable);
- b. Color photos of subject;
- c. Color photos of officer if injured or assaulted; and
- d. Copy of cruiser video (if applicable).

4. Printed copies of all reports and supporting documentation listed above will be forwarded to the officer's Division Commander or Section Supervisor, along with the following supplemental documentation:

- a. Copy of call for service screen that initiated contact;
- b. Duplicate copy of arrest sheet;
- c. Any witness statements or additional video of incident; and
- d. Use of Force cover sheet.

5. If the officer(s) involved are injured/unable to complete the report, the officer's supervisor will submit a written report prior to the end of the shift.

B. Administrative Review

1. All reports regarding use of force and discharge of weapons will be reviewed by the officer's immediate supervisor and forwarded to the officer's Division or Section Commander to determine whether:

- a. Division of Police rules, policy, or procedures were violated;
- b. Relevant policy was clearly understandable and effective for the situation; and
- c. Division of Police training is currently adequate.

2. All completed use of force reports and/or findings of policy violations or training inadequacies shall be forwarded to the Chief of Police for final review and disposition.

3. If the force used by the officer(s) involves the discharge of a firearm and/or results in death or serious physical injury, an internal investigation will be conducted at the direction of the Chief of Police.

4.2.3 Removal from Line of Duty Assignment for Use of Force (CALEA LE-1)

A. Any employee, whose actions or use of force in an official capacity result in death or serious injury, will be relieved from duty pending an administrative investigation. **The employee(s) involved will suffer no loss of pay or benefits during said leave.**

B. The employee(s) involved may be placed on administrative leave or inside assignment as determined by the Chief of Police until such time as a finding on the incident is made. **The assignment of administrative leave or inside assignment shall not be interpreted to imply wrongdoing on the part of the employee(s) involved.**

C. While on administrative leave, employee(s) shall remain available to the assigned investigator or the Chief of Police pending completion of the investigation and review of the incident. The employee may be subject to return to duty at any time.

D. Employee(s) who are involved in an incident where use of force results in death or serious physical injury will have psychological counseling and evaluation made available to them prior to returning to regular duty.

4.2.4 Annual Use of Force Analysis (CALEA LE-1)

The Chief of Police or designee will conduct a documented annual analysis of those reports required in *General Order 4, section 4.2.1*. The analysis shall be used to identify patterns or trends that may indicate training needs, equipment upgrades, and/or policy modifications.

4.3 WEAPONS AND TRAINING

4.3.1 Authorized Weapons and Ammunition (CALEA LE-1)

A. Policy Statement

Only weapons and ammunition that are authorized for use by the Chief of Police will be used by agency personnel in the performance of their duties. This includes weapons and ammunition carried both on and off-duty. Sworn Police Officers having Ohio Peace Officer Training Academy (OPOTA) certification are the only personnel authorized to use and carry firearms.

B. Duty Firearm

1. Uniformed sworn officers and plain clothes sworn officers may carry either the Glock Model 17 or Model 45 Modular Optic System pistol chambered in 9mm.
2. The Chief of Police and Deputy Chiefs may carry the Glock Model 17, Model 45, or Model 43/43X chambered in 9mm.
3. Sworn plain clothes officers assigned to the Special Operations Unit may carry any Glock model chambered in 9mm. Officers utilizing this option are responsible for the purchase of the firearm and must demonstrate proficiency with the weapon as dictated by policy prior to carrying the weapon in any official capacity.
4. The firearm will be secured and carried on the person of the officer in a Division issued or approved holster and carried **loaded and chambered** with a full magazine.

C. Patrol Carbine

Sworn Police Officers are authorized to carry and use a patrol carbine (AR platform) that is departmentally issued or personally owned while on-duty. The weapon will be of .223/5.56 caliber and semi-automatic only.

D. Shotgun

Sworn Police Officers are authorized to carry and use a shotgun that is departmentally issued or personally owned while on-duty. The weapon will be of 12-gauge caliber and pump action only.

E. TASER

Officers are authorized to carry the TASER X26P Conducted Energy Weapon (CEW), as one of several non-deadly use of force options.

F. Oleoresin Capsicum (OC Spray)

Officers are authorized to carry Oleoresin Capsicum (OC) spray in an approved pouch to be carried on the duty belt.

G. ASP & Straight Baton

Officers are authorized to carry a Straight Baton (Wood or polycarbonate in construction, 16-24" in length, maximum 2" diameter) that is not leaded or otherwise weight enhanced, and/or the ASP expandable baton.

H. Specialty Impact Munitions (Beanbag)

Sworn Police Officers are authorized to carry and use a departmental Specialty Impact Munitions 12-gauge pump action shotgun while on-duty. The weapon will have a special orange stock set to differentiate it from a standard pump action shotgun.

I. Police Canine

Use of a trained police canine is authorized under the supervision of a trained, certified handler in accordance with General Order 41, section 41.1.5 - Police Canines

J. Special Purpose Weapons

1. Sworn Police Officers assigned to the SWAT team are authorized to utilize the following special purpose weapons:
 - a. 40mm Launcher;
 - b. Gas Agents (OC and CS);
 - c. Air Powered Pepper Ball Launcher;
 - d. Diversionary Devices; and
 - e. Sniper Rifles chambered in .308 caliber with approved scopes and accessories.
2. The weapons are only to be used by officers that have been trained, and have demonstrated proficiency in the use and deployment of the weapon.
3. Special Purpose Weapons shall only be used when authorized by the SWAT Commander or the Chief of Police.
4. The Chief of Police may authorize the use of additional special purpose weapons based on the needs of the SWAT team and the department.

K. Optics & Lights for Patrol Carbine Rifle

1. Officers may elect to purchase and mount, at their own expense, a rifle optic for their patrol carbine.
2. Optics must be mounted on the rifle in a secure manner that is sufficient for duty use. The optic must be of the following approved manufacturers:
 - a. Trijicon;
 - b. Eotech;
 - c. Aimpoint;
 - d. Vortex; or
 - e. Holosun
3. Any patrol carbine equipped with an optical sight must have back-up iron sights that can be used to attain accurate hits if the optic is non-functioning.
4. Officers are authorized to purchase and mount, at their own expense, a tactical light for their personally owned patrol carbine.
5. The rifle must reliably fire approved ammunition with the optic and any other accessories mounted and must be reviewed and approved by the range officer.

L. Optics & Lights for Duty Pistols (Glock 17 & 45)

1. Officers electing to carry an optic on their duty pistol must purchase it at their own expense, along with a duty holster that protects the optic and is designed by the manufacturer of the holster for the Glock 17 or 45 MOS Optic Ready Pistol.
2. Optics must be mounted on the pistol slide in a secure manner that is sufficient for duty use and must be of the following approved manufacturers/types:
 - a. Trijicon RMR;
 - b. Leupold Deltapoint;
 - c. Holosun 508 or 509T.
3. Any duty handgun equipped with an optical sight must have back-up iron sights that can be used to attain accurate hits if the optic is non-functioning.
4. All officers will be issued a tactical light for their issued duty weapon. The light is required to be affixed to the pistol per the manufacturer's instructions.
5. Handgun must reliably fire approved ammunition with the optic and any other accessories mounted and must be reviewed and approved by the range officer.

M. Back-Up Firearms

1. Sworn officers are permitted to carry a back-up firearm while on-duty. The firearm carried must be a semi-automatic handgun in .380 or 9mm caliber.
2. Officers are responsible for the costs associated with the purchase and maintenance of the firearm and any retention device utilized to carry it on-duty.

N. Off-Duty Carrying of Firearms

1. Sworn officers are authorized, not mandated, to carry a firearm off-duty subject to the guidelines and limitations imposed by law, policy, and training.
2. Officers may carry their agency issued firearm, approved back-up firearm, or may elect to carry a personally owned firearm.
3. Officers that choose to carry a firearm off-duty must have on their person their badge and agency issued identification.
4. While carrying off-duty, officers shall comply with all requests or demands from law enforcement personnel to show their badge and identification.
5. When carrying a firearm off-duty, officers are reminded that they have no arrest or enforcement powers outside the State of Ohio.
6. When carrying a firearm outside the State of Ohio, officers must comply with applicable federal law and the laws of the particular state they are in.
7. No officer shall carry a firearm while under the influence of alcohol and/or medication that would impair the officer's ability and performance.
8. No officer will carry their agency issued duty weapon off-duty while suspended, or when specifically ordered not to by a supervisory officer.

M. Authorized Ammunition and Less-Lethal Munitions

1. Approved ammunition for the 9mm duty handgun will be Federal HST 147 grain, AR15 pattern rifle will be Federal 55 grain FMJ, standard shotgun rounds will be Federal Tactical 00 Buck 12-gauge, less-lethal shotgun bean bag rounds will be 12 gauge Combined Tactical Systems Super-Sock.
2. Annually, the SWAT Commander or their designee, shall submit a written report of all ammunition and less-lethal munitions to be utilized by the team to the Chief of Police for approval. The report shall also include a current count of the amount of ammunition and munitions in inventory.

3. Ammunition used in any personally owned back-up or off-duty firearms shall be provided by the individual officer. It must be jacketed hollow-point ammunition and not be “re-loaded” or “remanufactured”.
4. While on-duty, uniformed officers shall carry the minimum number of rounds of ammunition needed to fully load their issued sidearm and two extra magazines.
5. Officers assigned to non-uniform positions are required to carry, at a minimum, their fully loaded department issued sidearm and one additional magazine.
6. New duty ammunition will be issued by the range officers for the duty sidearm annually or as needed.

O. Knives

1. Officers are authorized to possess and use a knife while on-duty. The knife may have a folding or fixed blade, with a blade length not to exceed 4 inches. A Leatherman tool is considered a knife for the purpose of this policy.
2. It is recognized that an officer may have the need for such a tool for general work duties. While not considered to be a weapon of choice in a deadly force situation, officers may use a knife as a defensive weapon during a situation where there is a risk of serious injury or death to the officer(s) or another person.
3. Knives may be carried by uniformed and non-uniformed personnel in an unobtrusive manner and shall be secured in a way that prevents them from falling off the officer’s body during normal activities to include running.

P. Firearms Records

Records will be maintained on all agency issued firearms and approved officer owned back-up and off-duty firearms. Recorded information will include the weapons manufacturer, serial number, model, caliber of the weapon, and to whom the weapon has been issued to, or approved for.

Q. Weapons Inspection and Maintenance (Officer Responsibilities)

1. Officers will regularly inspect all issued weapons for residue, corrosion, and functionality. Officers are responsible for cleaning all issued firearms as needed, including after any use or prolonged exposure to weather.
2. If a weapon is found to be defective, inoperable or malfunctioning upon inspection, officers shall contact their immediate supervisor or a certified weapons instructor for the weapon in question.

R. Weapons Inspection and Maintenance (Supervisors and Instructors)

1. A certified weapons instructor will inspect all weapons intended for use by any employee prior to the weapon being issued and/or authorized. No weapon will be issued unless it is deemed functional and safe for use.
2. Weapons found to be defective, inoperable, or malfunctioning will be immediately taken out of service by the supervisor or certified weapons instructor and the officer will be provided a replacement weapon.
 - a. The supervisor or certified weapons instructor taking custody of the weapon will be responsible for ensuring that the weapon is repaired or, if necessary, is replaced.
 - b. If the weapon is repaired, a certified weapons instructor will ensure the weapon is functional prior to returning it for duty use.
3. OPOTA certified firearms instructors will perform an annual inspection for each issued/authorized firearm. All firearms inspected and approved for use will be documented on the officer's annual Firearm's Qualification Record.
4. Supervisors shall periodically conduct weapons inspections of officers under their command to verify compliance with the requirements listed herein.

S. Weapons Security and Responsibility

1. When not in use, agency owned Remington 870 series shotguns, AR-15/M-16 rifles, will be securely stored in the weapons locker located in the squad room armory and issued to officers by a supervisor for on-duty use.
2. Specialty Impact Munitions shotguns will be secured in the weapons rack of an assigned patrol vehicle, or in the weapons locker located in the squad room armory for issuance to officers for on-duty use.
3. Officers carrying a personally owned and approved patrol carbine or shotgun are responsible for securely storing their weapon when not in use. If stored at the police building, it will be secured in their assigned locker, or one of the departmental armories.
4. When carried in the passenger compartment of a police vehicle the patrol carbine or shotgun shall be secured in the locking weapons rack if so equipped, or secured in the trunk of the vehicle in a zippered nylon or hard-shell case.

5. Patrol carbines and shotguns carried in police vehicles will be loaded with ammunition in the magazine, or magazine tube, no round in the chamber, and the safety on.
6. When carried into the police building, patrol carbines and shotguns **must be secured** in a zippered nylon or hard-shell case, unloaded, with the magazine removed, no round in the chamber or tube, and the safety on.
7. All loading or unloading of a weapon will be performed by pointing the weapon in a safe direction and ensuring that the safety is on. A weapons loading/clearing device is located in the police garage for this purpose.
8. Officers who are permitted to drive their police vehicle to their residence and who park the vehicle in a private garage/driveway must secure all firearms by:
 - a. Placing them in a secure location inside their residence, or
 - b. Locking them in the trunk/rear area of the police vehicle, or locked/secured in a gun rack or weapon vault if so equipped.
9. Officers who are permitted to drive their police vehicle home and who do not park the vehicle in a private garage/driveway must secure all firearms inside their residence.
10. Officers will remove and secure all weapons from marked patrol vehicles at the end of their shift. The only exception is a Specialty Impact Munitions Shotgun assigned to the vehicle and secured in the weapons rack.
11. Officers will remove all weapons (lethal and less lethal) from a police vehicle when leaving it for maintenance or repair and place them in a secure location.
12. Special Response Team (SRT) weapons and ammunition not issued for use to team members will be stored in the secure SRT weapons room.
13. All other Department-owned weapons and ammunition not issued to officers will be secured in the Property Room.
14. Officers shall exercise all normal safety precautions and obey all written directives when handling weapons. Failure to do so is a violation of this policy and subject to disciplinary action.

4.3.2 Demonstrating Proficiency with Weapons (CALEA LE-1)

Only those employees who have demonstrated proficiency in the use of an agency-approved weapon are authorized to carry or utilize such weapons. Demonstrating proficiency may include achieving qualifying scores on a prescribed course, demonstrating knowledge of laws concerning the use of authorized weapons and of agency written directives on the Use of Force, and being familiar with safe-handling procedures for the use of weapons.

4.3.3 Firearms Qualifications/Weapons Proficiency Training (CALEA LE-1)

A. Use of Force Policy Training

All personnel authorized to carry deadly and non-deadly weapons will receive training and instruction on the Use of Force policy annually, and upon any revision to the policy after its initial release.

B. Firearms Qualifications for Sworn Police Officers

1. All sworn officers must demonstrate proficiency with the duty firearm, any back-up firearm(s) and off-duty firearms on an annual basis.
2. Sworn officers electing to carry a patrol carbine or shotgun while on-duty, must demonstrate proficiency with the weapon on an annual basis.
3. Sworn officers assigned to the SWAT team must demonstrate proficiency with any specialized firearms on an annual basis.
4. Proficiency is demonstrated when an officer completes a qualifying course of fire approved by the Ohio Peace Officer Training Commission (OPOTC).
5. Schedules for firearms training will be established by the range officers and made available to all affected employees.
6. Firearms training will be monitored by Firearms Instructors certified by the Ohio Peace Officer Training Academy (OPOTA).

C. Less-Lethal Weapons Training

1. Personnel authorized to carry the X26P TASER will be required to demonstrate proficiency with the weapon on an annual basis.
2. Training for all other less-lethal weapons, defensive tactics and handcuffing techniques shall occur at least biennially.

3. Training will be monitored by a certified weapons instructor and be commensurate with the limits and scope of the employee's job responsibilities.

D. Safety Requirements

1. Instructors are responsible to ensure that the necessary safety equipment for weapons proficiency training is available to all personnel.

2. All personnel are responsible for wearing the appropriate safety equipment required by the instructor(s) in all weapons training.

3. Firearms qualifications will be conducted at the Firearms Range unless dictated otherwise. The safety rules issued by the Firearms Instructor(s) **will be strictly enforced** for the safety of all.

4. The firearms range will be under the exclusive control of the assigned Firearms Instructor(s). Any law enforcement personnel attending training will follow the directions of the Firearms Instructors.

5. Any law enforcement personnel failing to comply with the rules set forth by the Firearms Instructor(s) may be requested to leave the range and be subject to disciplinary action by their agency.

6. All personnel on the firing line conducting live training shall be equipped with hearing and eye protection. Other specific dress and/or equipment requirements may be required by the Firearms Instructor(s).

7. All personnel working in the capacity of Firearms Instructor shall be certified by the Ohio Peace Officer Training Academy (OPOTA) for the weapons system they are providing training on.

8. Any injuries sustained during training on the firearms range shall be immediately reported to the Firearms Instructor(s) or range staff.

E. Remedial Training

1. Any sworn officer who fails the training requirements for their duty firearm will not be permitted to carry the weapon and will be assigned to remedial training. Officers failing to fulfill remedial training requirements for the duty firearm will be reassigned and have their sworn status reviewed by the Chief of Police.

2. Any employee who fails the training requirements for an approved firearm or less-lethal weapon shall be assigned to remedial training. The employee will not be returned to duty with that weapon until remedial training has been completed and proficiency is demonstrated and documented.

F. Special Circumstances

Any employee who is injured or has mitigating circumstances (military service, pregnancy, etc.) that prohibit them from participation may be allowed to waive or delay weapons training requirements at the discretion of the Chief of Police. Training will be accomplished at the earliest time following their clearance and/or return to work.

G. Law Enforcement Safety Act of 2004 (HB 218)

1. The Law Enforcement Safety Act of 2004 (HB 218), permits current and retired law enforcement officers to carry concealed firearms (other than machine guns, silencers or other destructive devices) throughout the United States.
2. Officers who have retired in good standing from the Middletown Division of Police, and who are not disqualified from carrying a firearm, shall be permitted to re-qualify annually with a certified firearms instructor.
3. Schedules for firearms training will be established by the range officers and made available to the retirees who wish to qualify at least annually.

H. Qualification and Training Documentation

Firearms and less-lethal weapons training and proficiency will be documented by the certified training instructors. All completed documentation shall be forwarded to the Administrative Operations Commander to be stored and maintained in Police Administration with the employee training records.

4.3.4 Prerequisite to Carrying Deadly/Less-Lethal Weapons (CALEA LE-1)

- A.** All agency personnel authorized to carry weapons will be issued all use of force policies and related instruction before being authorized to carry a weapon.
- B.** Instruction shall include testing to confirm employee understanding of legal implications and requirements, weapon specific operating and care procedures, documentation and reporting procedures, obligations following the use of force and other subject matter within this section.
- C.** Policy issuance and instruction will be documented. Issuance and testing will be documented via a read and sign in PowerDMS or by other documented means.

4.3.5 Firearms Range

A. Use of Range

1. The use of firearms at the Police Range may occur when:
 - a. A range officer or firearms instructor is present and in charge of the range.
 - b. By a sworn officer or reserve officer for practice or recreational shooting.
2. Other persons or law enforcement agencies may use the range when approved by the Chief of Police or their designee, and after having signed a waiver of responsibility.
3. Friends and family members of sworn officers may fire at the range under the supervision of the officer and after signing a waiver. The officer must be present during such firing.

B. Care of Range and Facilities

1. Whenever the range facility is used for any purpose, the person in charge who has requested use of the range will be held responsible for cleanup and security of the facility after use to include:
 - a. Buildings are to be locked and secured;
 - b. Grounds and buildings policed and trash placed in proper receptacles;
 - c. All fires completely extinguished;
 - d. Gates secured and locked upon leaving; and
 - e. If tables/benches are moved from under the shelter, they are to be returned prior to leaving.
2. Violation of these rules and conditions for use are a basis for denial of subsequent use.

USE OF FORCE CRITERIA REFERENCED U.S. SUPREME COURT CASES

These two U.S. Supreme Court cases are the basis of the current federal guidelines on using force. The information is provided to assist officers in understanding the relationship between our policy and the U.S. Supreme Court's requirement to adhere to the Fourth Amendment standards during their use-of-force decision making process.

TENNESSEE v. GARNER, 471 U.S.1 (1985)

The case:

In 1974 a Tennessee police officer shot and killed a suspect as, after being told to stop, the suspect fled over the fence in the backyard of a house he was suspected of burglarizing. The officer was "reasonably sure" the suspect was unarmed. The officer acted under the authority of a Tennessee statute providing that if after a police officer has given notice of an attempt to arrest a criminal suspect, and the suspect flees or forcibly resists, "the officer may use all the necessary means to effect the arrest." The suspect's father brought an action in Federal District Court seeking damages under 42 U.S.C. 1983 for asserted violations of his son's constitutional rights.

The U.S. Supreme Court majority opinion (excerpts):

This case requires us to determine the constitutionality of the use of deadly force to prevent the escape of an apparently unarmed suspected felon. We conclude that such force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

- Whenever an officer restrains the freedom of a person to walk away, he has seized that person. While it is not always clear just when minimal police interference becomes a seizure, there can be no question that apprehension by use of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment.
- To determine the constitutionality of a seizure" we must balance the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion. "We have described the balancing of competing interests" as "the key principle of the Fourth Amendment." Because one of the factors is the extent of the intrusion. It is

plain that reasonableness depends on not only when a seizure is made, but also how it is carried out.

- The same balancing process applied...demonstrates that, notwithstanding probable cause to seize a suspect, an officer may not always do so by killing him. The fact is a majority of police departments in this country have forbidden the use of deadly force against nonviolent suspects. Petitioners and appellant have not persuaded us that shooting non-dangerous fleeing suspects is so vital as to outweigh the suspect's interest in his own life.
- The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify killing the suspect. A police officer may not seize an unarmed, non-dangerous suspect by shooting him dead. The Tennessee statute is unconstitutional insofar as it authorizes the use of deadly force against such fleeing suspects.
- It is not, however, unconstitutional on its face. Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction of threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given. As applied in such circumstances, the Tennessee statute would pass constitutional muster.
- While we agree that burglary is a serious crime, we cannot agree that it is so dangerous as automatically to justify the use of deadly force.

The U. S. Supreme Court decision (excerpts):

- The Tennessee statute is unconstitutional insofar as it authorizes the use of deadly force against, as in this case, an apparently unarmed, non-dangerous fleeing suspect; such force may not be used unless necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.
- Apprehension by the use of deadly force is a seizure subject to the Fourth Amendment's reasonable requirement. To determine whether such a seizure is

reasonable, the extent of the intrusion on the suspect's rights under that Amendment must be balanced against the governmental interest in effective law enforcement. This balancing process demonstrates that, notwithstanding probable cause to seize a suspect, an officer may not always do so by killing him. The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable.

- The Fourth Amendment, for purposes of this case, should not be construed in light of the common-law rule allowing the use of whatever force is necessary to affect the arrest of a fleeing felon.

- While burglary is a serious crime, the officer in this case could not reasonably have believed that the suspect, young, slight, and unarmed - posed any threat. Nor does the fact that an unarmed suspect has broken into a dwelling at night automatically mean he is dangerous.

GRAHAM v. CONNOR, 490 U.S. 386 (1989)

The case:

In 1984, Officer Connor became suspicious after seeing suspect Graham (a diabetic) hastily enter and leave a store. An investigative stop was made of Graham and his driver. Back-up officers arrived, handcuffed Graham, and ignored or rebuffed attempts to explain and treat Graham's condition. Graham sustained multiple injuries. He was released when Officer Connor learned nothing had happened in the store. Graham filed suit in the District Court under 42 U.S.C. 1983 alleging excessive force in violation of "rights secured to him under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. 1983."

The U. S. Supreme Court majority opinion (excerpts):

This case requires us to decide what constitutional standard governs a free citizen's claims that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person. We hold that such claims are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard.

The four-part substantive due process test derived from *Johnson v. Glick* (1973) used by lower courts in this case looked at:

- The need for the application of force;
- The relationship between that need and the amount of force that was used;
- The extent of the injury inflicted; and
- Whether the force was applied in a good faith effort to maintain and restore discipline or maliciously and sadistically for the very purpose of causing harm.

- Today we make explicit what was implicit in *Garner's* analysis, and hold that all claims that law enforcement officers have used excessive force- deadly or not – in the course of an arrest, investigatory stop, or other "seizure" of a free citizen should be analyzed under the Fourth Amendment and its "reasonableness" standard, rather than a "substantive due process" approach.
- Determining whether the force used in a particular seizure is "reasonable" under the Fourth Amendment requires a careful balancing of "the nature and quality of the intrusion on the individual's Fourth Amendment interests" against the countervailing governmental interests at stake. Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to affect it. Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application,

however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.

- The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: “Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers, violates the Fourth Amendment. The calculus of reasonableness must embody 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.
- As in other Fourth Amendment contexts, however, the “reasonableness” inquiry in an excessive force case is an objective one: the question is whether the officer’s actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. (...”it is imperative that the facts be judged against an objective standard.”) An officer’s evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer’s good intentions make an objectively unreasonable use of force constitutional.

U.S. Supreme Court decision (excerpts):

All claims that law enforcement officials have used excessive force – deadly or not – in the course of an arrest, investigatory stop, or other “seizure” of a free citizen are properly analyzed under the Fourth Amendment’s “objective reasonableness” standard, rather than under a substantive due process standard.

- The notion that all excessive force claims brought under 1983 are governed by a single generic standard is rejected. Instead, courts must identify the specific constitutional right allegedly infringed by the challenged application of force and then judge the claim by reference to the specific constitutional standard, which governs that right.
- Claims that law enforcement officials have used excessive force in the course of an arrest, investigatory stop, or other “seizure” of a free citizen are most properly characterized as invoking the protections of the Fourth Amendment, which guarantees citizens the right “to be secure in their persons ... against unreasonable seizures,” and must be judged by reference to the Fourth Amendment’s “reasonableness” standard.

- The Fourth Amendment “reasonableness” inquiry is whether the officer’s actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.

The Johnson v. Glick test applied by the lower courts is incompatible with a proper Fourth Amendment analysis.