

North Carolina Task Force

for Racial Equity in Criminal Justice

USE OF FORCE

Governor Cooper established the **Task Force for Racial Equity in Criminal Justice** (TREC) through Executive Order 145 in June 2020 to help identify solutions to make North Carolina’s criminal justice system fairer. The five recommendations below (from TREC’s [December 2020 report](#)) outline solutions that you can implement immediately. The recommendation number corresponds to the full report. Each section includes examples of policies in place throughout the state and across the country, as of April 2022, which govern how and why officers deploy force.

As the North Carolina Association of Chiefs of Police wrote in their [Recommendations on the Evolution of 21st Century Policing](#), “Preservation of life must be at the heart of everything a law enforcement agency does. Law enforcement must reinforce this principle in everything we do including training philosophies, policies, and application of policing.” This document helps law enforcement leaders implement TREC recommendations aimed at preserving the lives of civilians and officers during interactions with law enforcement. This document focuses on sample policy language, however, if your agency chooses to adopt any of these policies, training to these standards is critical to ensure these policies become practice.

ENACT AGENCY POLICIES REQUIRING A DUTY TO INTERVENE AND REPORT EXCESSIVE USE OF FORCE OR OTHER ABUSE (REC 33)

Effective December 1, 2021, G.S. 15A-401(d) provides that a “law enforcement officer, while in the line of duty, who observes another law enforcement officer use force against another person that the observing officer reasonably believes exceeds the amount of force authorized . . . and who possesses a reasonable opportunity to intervene, shall, if it is safe to do so, attempt to intervene to prevent the use of excessive force.” The statute also requires such an officer to report the unauthorized use of force within 72 hours. This requirement is generally consistent with the constitutional duty to intervene recognized in the seminal case of *Byrd v. Brishke*, 466 F.2d 6 (7th Cir. 1972), and by other cases including *Stevenson v. City of Seat Pleasant, Md.*, 743 F.3d 411 (4th Cir. 2014). The statutory language does not specify the form intervention must take, including whether verbal intervention is sufficient or whether physical intervention is required. Some agencies have adopted duty to intervene policies that provide additional detail or go beyond what current law requires. Further, the North Carolina Law Enforcement Accreditation (“NCLEA”) [Standards](#) require accredited agencies to have “a policy articulating a duty to intervene and report to the appropriate supervisor any case where a law enforcement officer may be a witness to what they believe to be an excessive use of force, or other inappropriate behavior, activity, or abuse of a suspect or arrestee.”

Asheville Police Department Policy Manual [Here](#)

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- “Officers in the line of duty who observe another law enforcement officer use force against another person clearly beyond that which is objectively reasonable under the circumstances, and who possesses a reasonable opportunity to intervene, will, if it is safe to do so, attempt to intervene to prevent the use of excessive force. [1.2.10].
 - The observing officer will report these observations as soon as feasible, but no later than seventy-two (72) hours of the observation, even if the officer did not have a reasonable opportunity to intervene. Any observation of an incident in which the Chief of Police was involved or present should be reported to the next highest-ranking officer who was not present or involved in the use of force (N.C. Gen. Stat. § 15A-401).” (Policy 402 pp. 3, effective 03/03/2022)

Gastonia Police Department: 800.08.05 Use Of Deadly Force Policy [Here](#)

- “At any time if an officer witnesses another officer use force in a manner in which that observing officer reasonably believes violates the law, policy and/or training of this Department, the observing officer, if he or she possesses a reasonable and safe opportunity to do so, shall intervene verbally and, if necessary, physically to stop the force. Regardless as to whether the observing officer actually intervened, notification shall then be made by the observing officer to a superior law enforcement officer within the agency as soon as possible but no later than 72 hours so that an appropriate investigation can begin. If the head of the law enforcement agency of the observing officer was involved or present during what the observing officer reasonably believes to be unauthorized use of force, the observing officer shall make the report to the highest ranking law enforcement officer of the agency who was not involved in or present during the use of force.” (pp. 4, effective 10/19/2021)

Raleigh Police Department Written Directives [Here](#)

- “The duty to intervene includes, but is not limited to, the duty of every officer of this agency to attempt to prevent any other officer from using unwarranted, reckless, or excessive force. Additionally, any officer who witnesses or has knowledge of unwarranted, reckless, or excessive force by another officer shall immediately report the incident to a supervisor or the Internal Affairs Unit.” (pp. 567, effective 06/08/2021)

Chapel Hill Police Department Policy Manual: Use of Force Policy [Here](#)

- “Consistent with policy 3-1 Rules and Regulations and Policy 4-10 Internal Affairs and Complaints, it shall be the duty of every officer in this agency to attempt to intervene and prevent any other officer from using unjustified or excessive force. Any officer who witnesses or otherwise has information related to such use of force shall immediately report this information to their supervisor or the Office of Professional Standards.” (pp. 1-2, effective 09/16/2020)

Greensboro Police Department: Directives [Here](#)

- “At any time if an officer witnesses another officer use force in a manner which violates policy and training of the Department, the officer shall intervene both verbally and physically if necessary to stop the force. Supervisory notification shall then be made by the officer as soon as possible so that appropriate investigations can begin.” (pp. 25, effective 6/8/2020)

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Kinston Police Department Use of Force Policy [Here](#)

- “1. Any officer present and observing another officer using force that is beyond that which is objectively reasonable under the circumstances shall safely intercede to prevent the use of such excessive force. Officers shall promptly report these observations to a supervisor.” (pp. 10, effective 6/11/2020)

New Bern Police Department Policies: Chapter 1 [Here](#)

- “Duty to Intervene: Officers shall take appropriate and immediate action in any situation in which they know or should have known their failure to act would result in an excessive response to resistance or egregious behavior which shocks the conscience.” (pp. 16, revised 4/8/2022)

New Hanover County Sheriff’s Office: Use of Force Policy [Here](#)

- “If NHCSO personnel encounter unreasonable actions of other employees or public safety/criminal justice associates that could result in injury, death, or violations of constitutional rights or civil rights, then intervention must be immediate. NHCSO personnel are required to intervene within their scope of authority and training and notify appropriate supervisory authority if they observe another agency employee or public safety associate engage in any unreasonable use of force or if they become aware of any violation of departmental policy, state/provincial or federal law, or local ordinance. (SOP 226 Code of Conduct)” (pp. 5, effective 8/5/2021)

Buncombe County Sheriff’s Office

- “Duty to Intervene - Deputies will take appropriate and immediate action in any situation in which they know or should have known their failure to act would result in an excessive response to resistance or egregious behavior which shocks the conscience.”

Orange County Sheriff’s Office

- “Duty to Intercede and Report: Any deputy present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. Any deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.”

ESTABLISH EARLY INTERVENTION SYSTEMS (REC 34)

Effective December 1, 2021, G.S. 17A-10 requires every agency that employs certified officers to “develop and implement an early warning system to document and track the actions and behaviors of law enforcement officers for the purpose of intervening and improving performance.”¹ The statute requires early warning systems to track at least the following:

¹ PART VIII. DEVELOPMENT OF EARLY WARNING SYSTEMS SECTION 8.(a) Chapter 17A of the General Statutes is amended by adding a new section to read: “§ 17A-10. Development of law enforcement early warning system. (a) Every agency in the State that employs personnel certified by the North Carolina Criminal Justice Education and Training Standards Commission or the North

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- (1) Instances of the discharge of a firearm.
- (2) Instances of use of force.
- (3) Vehicle collisions.
- (4) Citizen complaints.

The statute does not provide further direction about how an agency's system must work or what thresholds an agency must adopt for the types of incidents tracked in the system.

Although not required by law, TREC recommended that this system:

- Identify officers who receive two or more citizen complaints of any kind in a single month.
- Identify officers who report two or more use of force incidents or who receive two or more citizen complaints regarding uses of force in a single quarter.
- Require identified officers to attend appropriate training and to be monitored by an immediate supervisor. Consider termination of an officer following multiple reports if multiple instances of misconduct are found.

Some agencies have detailed aspects of their early warning systems in their policies, as shown below. Early Intervention Systems can take a variety of different forms, and often take time to research, develop, and fund. The North Carolina Department of Justice has created a reference document ([Here](#)) that provides agencies with specific steps to achieve compliance with G.S. 17A-10, in addition to illustrating a variety of avenues to create more robust programs in the future.

Asheville Police Department Policy Manual [Here](#)

Early Intervention System (Policy 2302, revised 01/05/2022)

- “Definitions - Risk Rank: a software-based, weighted scoring model generated using the Professional Standards records database. At a minimum, this model will rank sworn employees’ potential need for positive intervention based on their involvement in the following types of incidents: firearm discharges, uses of force, vehicle collisions, and citizen complaints. [35.1.9 a]
- The Early Intervention System (EIS) system will run automatically. Upon logging on to the EIS, the Administrator will be provided the most current information on all employees based on overall risk rank as derived by the computer model. 1. The EIS Administrator will review the top 5% of officers at least quarterly. The EIS Administrator will evaluate each officer and dismiss the risk rank or create an alert for the employee’s chain of command. Reviews and alert dismissals will be documented. [35.1.9 b,c] 2. The

Carolina Sheriffs' Education and Training Standards Commission shall develop and implement an early warning system to document and track the actions and behaviors of law enforcement officers for the purpose of intervening and improving performance. The early warning system required by this section shall include information, at a minimum, regarding the following: (1) Instances of the discharge of a firearm. (2) Instances of use of force. (3) Vehicle collisions. (4) Citizen complaints. (b) Information collected under this section that is confidential under State or federal law shall remain confidential. (c) For purposes of this section, "law enforcement officer" means any sworn law enforcement officers with the power of arrest, both State and local."

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EIS Administrator has the discretion to issue alerts beyond the scope of the 5% threshold. [35.1.9 b] 3. When an alert is created, it will be assigned to the employee's first-line supervisor according to the APD Organizational Chart.

- B. Supervisors may submit a request for an early intervention review through the chain of command to the Professional Standards Commander. Examples of events that may be used to identify circumstances warranting a review may include: [35.1.9 a,d] 1. Involvement in multiple uses of force; 2. Multiple citizen complaints/concerns or administrative investigations, or a pattern of unusual conduct; 3. Multiple employee-involved traffic accidents; and/or 4. Deterioration in quality or quantity of work performed.”

Concord Police Department Policies and Procedures [Here](#)

General Order 03.02: Early Intervention Program (effective 11/4/2021)

- “A comprehensive EIP is an essential component of a well-managed and wellperforming law enforcement agency. The early identification of potential at-risk conduct and performance along with options for remedial action increases department accountability and provides coworkers with a better opportunity to meet the department's expectations and advance in one's career.”
- “Conduct or Performance Indicators: A. The following are considered at-risk indicators and shall be reviewed by the PSD commanding officer on at least a quarterly basis in order to identify whether a coworker is in need of an intervention meeting. Data collection and analysis shall focus on these indicators: 1. Attendance / Tardiness; 2. Civil Law Suits; 3. Departmental Motor Vehicle Crashes; 4. Disciplinary action; 5. Needs improvement or fails to meet expectations in performance evaluation; 6. Personnel Investigations (sustained and not sustained dispositions only); 7. Uses of Force; and/or 8. Vehicle Pursuits”
- “Identification and Selection: A. The benchmark threshold for an EIP alert is three (3) or more incidents of the same performance indicator within a three-month period; or, five (5) or more incidents of any combination of different performance indicators within a three-month period.”

Raleigh Police Department Written Directives [Here](#)

Personnel Early Warning System (pp. 385-388, effective 6/8/2021)

- “The Department's early warning system is a management tool designed to identify officers with potential performance deficiencies. The system is designed to alert the department when employees exceed established thresholds for identified criteria. Employee performance issues identified by the system will be evaluated by the employee's chain of command and a police attorney. This system is designed to provide non-punitive remedies such as training or counseling to help officers improve their performance.
- The Department will evaluate any collected material, which may include but is not necessarily limited to agency performance evaluations, resident complaints, disciplinary actions, use of force incidents, Internal Affairs investigations, administrative reviews as

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completed by the Office of Professional Standards, and supervisory reports as early performance/problem indicators.”

Fayetteville Police Department Policy Manual [Here](#)

Employee Early Warning System Policy (pp. 95-97, effective 10/27/2021)

- 3.7.1 EARLY WARNING SYSTEM
 - “A. The EWS is monitored by the FPD Internal Affairs Unit (IAU) using administrative investigation management software (IA Pro) and distributed and reported electronically via IA Pro’s input component, “Blue Team.”
 - B. The FPD’s early warning system is a police management tool used to alert for specific patterns and trends with respect to employee behavior and actions and provides an opportunity for early intervention to correct poor performance prior to it becoming problematic.
 - C. As an early response, the FPD will attempt to intervene before the employee is in a situation that warrants formal disciplinary action.
 - D. The EWS will alert the FPD to these individuals and provide opportunities for counseling or training to modify employee performance and to prevent unsatisfactory performance from escalating to a career impairing level.”

Charlotte-Mecklenburg Police Department Directives [Here](#)

Early Intervention Program (pp. 613-618, effective 4/16/2020)

- “(A) The Charlotte-Mecklenburg Police Department’s Early Intervention System shall provide predictive analytics on all sworn employees, allowing supervisory staff the ability to provide appropriate non-disciplinary assistance as needed.
- (B) EIS alerts are not intended to be punitive or synonymous with negative discipline.
- (C) All Early Intervention alert records are considered a personnel record of an employee and shall be provided all confidentiality associated with personnel records under NCGS 160A-168.
- (D) EIS alerts shall be completed within 30 days, unless a follow up is required.”

Orange County Sheriff’s Office

- “The Orange County Sheriff’s Office is implementing Benchmark Analytics software, which is a systematic, evidence-based, early warning, and intervention solution. It allows the Office to track and proactively identify problematic officer behavior.”

STRENGTHEN USE OF FORCE PRACTICES (Rec 31)

There are many standards that can and should be set at the state level regarding officer use of force. However, there are also a variety of ways that local agencies can set their own standards regarding acceptable use of force techniques and how and when they are used. Examples of those standards in policies across the state are listed below.

Require the use of the minimum amount of force necessary to apprehend a suspect

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Under state statutory law, an officer making an arrest may use force only “when and to the extent that he reasonably believes it necessary.” G.S. 15A-401(d). As a matter of federal constitutional law, an officer’s use of force in making an arrest must be objectively reasonable. See *Graham v. Connor*, 490 U.S. 386 (1989). Although not required by law, TREC recommended requiring the use of the minimum amount of force necessary to apprehend a suspect. Some agencies have chosen to limit officers’ use of force as a matter of policy, beyond what the law requires. Further, the NCLEA Standards require accredited agencies to have “a written directive that authorizes designated employees to use only the physical force that is reasonable to achieve the desired legal objective,” and clarifies that “this requirement is to ensure agencies only allow officers to use the minimum force necessary to achieve a legal objective.”

Gastonia Police Department: 800.09.04 Use of Force Continuum Policy [Here](#)

- “In deciding which level of control an officer should use, the officer should reasonably believe that a lower level of control is not sufficient and a higher level of control is not reasonably necessary. The Use of Force Continuum is not designed to be a rigid step-by-step progression; therefore, the escalation and de-escalation by the officer or the individual may not be sequential.” (pp. 1, effective 03/09/2022)

Raleigh Police Department Written Directives [Here](#)

- “Force should be used only when all other means of resolving a situation have been exhausted or are clearly inapplicable. Officers should take all reasonable steps to avoid having to use physical force. Force will be used only to the degree reasonably necessary to control the situation. The extent of force in terms of degree and level will vary according to the situation ... Officers will assess the totality of the circumstances to determine the level of force that is reasonable in each case. Officers may consider the following use of force continuum as a guide when deciding when to use force and how much force to use. A continuum of force is a tool to assist an officer in understanding force options.” (pp. 566-568, effective 06/08/2021)

Greensboro Police Department: See Directives [Here](#)

- “Officers will utilize the minimal amount of force necessary to overcome resistance and affect an arrest. “Minimal” is defined as no more force than necessary to overcome resistance and effect an arrest.” (pp. 35, effect 7/13/2020)

Albemarle Police Department: Use of Force Policy [Here](#)

- “Officers should consider the situation and the alternatives when deciding to use force. Officers should use the least amount of force necessary to effect the arrest of a suspect. Officers should consider the age, size and or disability, if any, before using force. Officers should also consider giving verbal warnings before any force is used if the situation allows.” (pp.1, effective 6/18/2020)

Buncombe County Sheriff’s Office

- “A deputy will use control options only when it is reasonably necessary. In making the decision to use a control option, deputies must decide what degree of control is appropriate based on the facts and circumstances with which they are confronted. To determine what degree of control is appropriate, the deputy must reasonably believe that

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a lower degree of control is not sufficient and that a higher degree of control is not reasonably necessary.”

Prohibit neck holds unless the life of the officer is in danger

The Supreme Court recognized in *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983), that multiple common terms – such as “chokehold,” “stranglehold,” and “neck restraint,” among others – are used to refer to two basic techniques involving the neck. One restricts air flow to the lungs and the other restricts blood flow to the brain. Some courts have indicated that one or both types of restraint may be per se deadly force. See, e.g., *King v. United States*, 917 F.3d 409 (6th Cir. 2019) (“The use of a chokehold constitutes deadly force.”), rev’d on other grounds sub nom. *Brownback v. King*, ___ U.S. ___, 141 S.Ct. 740 (2021). However, the issue is not settled and no authority binding in North Carolina categorically classifies neck restraints as deadly force. There is some evidence that vascular restraints are safer than respiratory restraints, though there is always a risk that “training on the difference between the two may not be sufficient and officers may not apply vascular holds effectively in the heat of the moment.” Council on Criminal Justice, Task Force on Policing, Policy Assessment: Chokeholds and Other Neck Restraints (Jan. 2021). TREC recommended the prohibition of chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, or any other tactics that restrict oxygen or blood flow to the head or neck unless necessary to protect the life of the officer or another. In light of the foregoing, some agencies have chosen to regulate the use of neck restraints by agency policy. Further, the NCLEA Standards require accredited agencies to have “a policy prohibiting neck holds, chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, chest compressions, or any other tactics that restrict oxygen or blood flow to the head or neck unless necessary to protect the life of the officer or another.”

US Department of Justice: Memorandum on Chokeholds and Carotid Restraints [Here](#)

- “Given the inherent dangerousness of chokeholds and carotid restraints, and based on feedback from our law enforcement components on these techniques, Department law enforcement agents and correctional officers are hereby prohibited from using a chokehold or a carotid restraint unless that standard of necessity for use of deadly force is satisfied.” (pp. 2)

Gastonia Police Department: 800.08.05 Use Of Deadly Force Policy [Here](#)

- “Law enforcement officers shall not use chokeholds or strangleholds or any other trained technique that restricts oxygen or blood flow to the head or neck unless necessary to protect the life of the officer.” (pp. 3, effective 10/19/2021)

Chapel Hill Police Department Policy Manual: Use of Force Policy [Here](#)

- “We recognize that there are certain circumstances where the risk to the public and the preservation of life is paramount and must be taken into consideration. The use of neck, carotid restraints, and chokeholds restrict the blood flow to the brain and are likely to cause unconsciousness or death. Therefore, they are specifically prohibited.” (pp. 1, effective 9/16/2020)

Albemarle Police Department: Use of Force Policy [Here](#)

- “The department does not authorize neck restraints or choke holds.” (pp. 13, effective 6/18/2020)

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Greensboro Police Department: See Directives [Here](#)

- “Officers are prohibited from using choke holds or any technique intended to restrict an individual’s airway, breathing or blood flow unless the officer reasonably believes a situation exists in which deadly force would be appropriate to protect himself, or a third party.” (pp. 36, effective 7/13/2020)

Fayetteville Police Department Policy Manual [Here](#)

- “The use of the following techniques/equipment to subdue or detain a combative or aggressive individual will be considered deadly force and used as a last resort: 1) Choke holds (a physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation). 2) Brachial stun pressure point technique to the head and neck area” (pp. 143, effective 4/27/2021)

New Bern Police Department Policies: Chapter 1 [Here](#)

- “Choke holds are prohibited unless deadly force is authorized. To control or subdue suspects or prisoners using the Carotid Restraint Technique, Brachial Plexus Compression Technique or any other technique that would continuously restrict blood flow or oxygen to the brain is prohibited unless deadly force is justified.” (pp. 17, revised 4/8/2022)

Wilmington Police Department Policy 05.01: Use of Force [Here](#)

- “The use of any technique (chokehold or vascular neck restriction) restricting the intake of oxygen for the purpose of gaining control of a subject is not authorized unless deadly force would be considered reasonable. This technique shall not be utilized for the purpose of preventing the destruction of evidence.” (pp. 3)

Kinston Police Department Use of Force Policy [Here](#)

- “Strangle and choke holds and other similar holds that choke or restrict a person’s ability to breathe or the flow of blood to the brain are prohibited except when the officer reasonably believes there is an imminent threat of serious physical injury or death to himself/herself or a third person and that he/she has no other reasonable alternative for defending himself/herself or another person.” (pp. 5, effective 6/11/2020)

Buncombe County Sheriff’s Office

- “Deputies will not use the following tactics unless deadly force is reasonably necessary: 1. Any hold with or without a device that restricts a person’s airway. (Ex. Chokeholds, Sleeper holds, etc.) 2. Any hold with or without a device that restricts blood flow to a person’s brain. (Ex. Chokeholds, Sleeper holds, etc.)”

Orange County Sheriff’s Office

- “A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following: (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary. (b) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other

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qualified medical personnel and should be monitored until such examination occurs. (c) The deputy shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result. (d) Any deputy attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold. (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the deputy in any related reports.”

Require officers to use de-escalation tactics when reasonably possible instead of using force. De-escalation tactics include, but are not limited to, verbal persuasion, redirection, creating time/space/distance, and tactical repositioning/shielding.

An officer’s use of force must be objectively reasonable to be constitutional. See *Graham v. Connor*, 490 U.S. 386 (1989). The state and federal courts have not exhaustively analyzed how or whether an officer’s failure to pursue de-escalation prior to using force informs the reasonableness determination. Some courts have indicated that it may be a pertinent consideration under at least some circumstances. See, e.g., *Estate of Armstrong ex rel. Armstrong v. Village of Pinehurst*, 810 F.3d 892 (4th Cir. 2016) (stating that “officers who encounter an unarmed and minimally threatening individual” who appears mentally ill “must de-escalate the situation” and “adjust the application of force downward”); *Nance v. Sammis*, 586 F.3d 604 (8th Cir. 2009) (affirming district court’s denial of qualified immunity to officers who shot a young suspect carrying a toy gun while walking through a parking lot, and stating that an officer’s “failure to take action to deescalate the situation if he had an opportunity and means to do so could establish liability”). Some agencies have policies prescribing the role of de-escalation in an officer’s use of force decision-making.

Greenville Police Department: Use of Force Policy [Here](#)

- “When time and circumstances reasonably permit, officers shall use de-escalation tactics in order to reduce the need for force. De-escalation tactics and techniques are actions used by officers that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance.” (pp. 3, effective 12/9/2021)

Concord Police Department Use of Force: General Order 05.04 [Here](#)

- “Prior to using force, when safe and practical to do so and without compromising law enforcement objectives, officers shall use de-escalation techniques to attempt to slow down and/or stabilize a situation to allow for more time, options, and resources for incident resolution. De-escalation techniques may include, but are not limited to: 1. Mitigating the immediacy of the threat by containing or reducing exposure by moving to a safer position; 2. Establishing communication from a safe position; 3. Use of verbal techniques to promote rational decision making; 4. And/or avoidance of physical confrontation, unless immediately necessary.” (pp. 3, effective 12/13/2021)

Charlotte-Mecklenburg Police Department Directives [Here](#)

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- “Where time, distance, communication and circumstance permit, and considering the safety of officers and the public, officers shall attempt to de-escalate situations through verbal dialogue and other de-escalation techniques. The goal of de-escalation techniques is to slow down or stabilize the situation so that additional time and resources can be used to resolve the situation with a minimal amount of control, when possible.” (pp. 497. effective 9/11/2020)

Raleigh Police Department Written Directives [Here](#)

- “De-escalation is defined as taking action or communicating verbally or non-verbally prior to or during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include, but is not limited to, the use of such techniques as presence, verbal commands, warnings, verbal persuasion, and tactical repositioning. Whenever feasible, prior to using physical force, officers must use de-escalation techniques in an attempt to gain voluntary compliance and reduce or avoid the need for force.” (pp. 566, effective 6/8/2021)

Orange County Sheriff’s Office

- “Alternative Tactics – De-escalation: When circumstances reasonably permit, deputies should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).”

Explicitly prohibit the use of deadly force when a reasonable officer would conclude that a person presents an imminent threat of death or serious physical injury only to themselves

The seminal Supreme Court case on the use of deadly force is *Tennessee v. Garner*, 471 U.S. 1 (1985). In that case, the Court ruled that deadly force may be used only when a person poses an immediate threat of serious injury or death “either to the officer or to others.” Although *Garner* did not involve a person threatening self-harm, the plain language of *Garner* indicates, and many subsequent cases hold, is that “officers may not use deadly force against suicidal people unless they threaten harm to others, including the officers.” *Weinmann v. McClone*, 787 F.3d 444 (7th Cir. 2015). Some jurisdictions reinforce this constitutional rule by statute or by agency policy, and the Task Force suggests that approach.

Raleigh Police Department Written Directives [Here](#)

- “Deadly force should not be used to prevent an individual from self-harm where the individual does not pose an imminent threat of death or serious bodily injury to officers or other third parties.” (pp. 568, effective 6/8/2021)

National Consensus Policy and Discussion Paper on Use of Force [Here](#)

- “Deadly Force Restrictions: Deadly force is prohibited when the threat is only to property. In addition, officers should avoid using deadly force to stop individuals who

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are only a threat to themselves, unless the individual is using a deadly weapon such as a firearm or explosive device that may pose an imminent risk to the officer or others in close proximity. If the individual is attempting to inflict self-harm with means other than a deadly weapon, the officer should consider less-lethal options and de-escalation techniques, if practical.” (pp. 14)

Require an officer to alert his or her supervisor any time the officer points a gun at someone

Although this is not required by law, some agencies have policies prescribing the responsibilities of an officer when a gun is drawn, pointed at someone, or used.

Raleigh Police Department Written Directives [Here](#)

- “Generally, Use of Force/Complaint of Injury Reports should be completed whenever there is a greater than normal amount of force required in subduing a subject. Use of Force/Complaint of Injury Reports should be completed for, but not limited to, the following occurrences: Whenever an officer discharges a firearm or points their weapon at a subject. Officers who unholster their firearm and maintain it in a low ready position or at their side, in a non-threatening manner, are not required to complete a Use of Force/Complaint of Injury Report.” (pp. 576, effective 06/08/2021)

Charlotte-Mecklenburg Police Department Directives [Here](#)

- “When an officer removes their service weapon from the holster and/or points it at a person, deploys their department issued shotgun, rifle, or approved backup weapon, or activates any weapon mounted light they will document this by categorizing their BWC video as they normally would for the type of incident. In addition, employees will tag the video with a secondary appropriate category of “weapon drawn” or “Pointing of Firearm”. Officers will document in the text box the justification or factors leading to drawing and/or pointing their weapon at a person. If no BWC was activated or required at the time of the incident the officer will document the incident in a KBCOPS report or in a CAD MI notes” (pp. 262, effective 9/11/2020)

Fayetteville Police Department Policy Manual [Here](#)

- “Officers will report the pointing of a firearm to their immediate supervisor and complete the Blue Team Entry in accordance with Operating Procedure 1.01, Internal Investigative Procedure. If their immediate supervisor is unavailable, the officer will contact another on-duty supervisor, Watch Commander or Patrol Lieutenant. d) Due to the nature and frequency of pointing firearms during Emergency Response Team operations officers assigned to conduct ERT operations such as search warrants, barricaded subject and hostage situations will be exempt from completing a Blue Team entry. However, such use of a weapon will be documented and reviewed through the after action report process that is completed for each incident.” (pp. 143, effective 4/27/2021)

Wilmington Police Department Policy 05.01: Use of Force [Here](#)

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- “Use of Force Form (WPD-151) This form will only be used to report the force used against person(s). Other uses of force (i.e. forced entry into a vehicle, forced entry into a residence/business, etc.) shall be documented in an Incident Report, After Action Report, or other similarly required departmental report.
 - e) Officers will report ALL “direct pointing” at persons of Firearms.” (pp. 3)

Kinston Police Department Use of Force Policy [Here](#)

- “The pointing of a firearm toward another person constitutes a use of force but does not constitute the use of deadly force. After such an incident occurs, the officer will verbally notify his/her supervisor as soon as possible, complete an Incident Report, if appropriate, or written memorandum detailing the circumstances of the incident and forward through his/her supervisor to the Shift Captain.” (pp. 5, effective 6/11/2020)

Ban hog-tying subjects (defined as connecting a subject’s hand and foot restraints behind the subject’s back)

Although this is not required by law, some agencies have policies regarding this type of restraint.

Chapel Hill Police Department Policy Manual: Transportation and Custody Procedures [Here](#)

- “E. Handcuffing of Subjects
 - (7) Officers will not “hogtie” (tie a person’s hands to the feet in front or back) anyone in police custody under any circumstances.” (pp. 3, effective 9/16/2020)

Greensboro Police Department: See Directives [Here](#)

- “Sometimes it is necessary to use a higher level of restraint than handcuffing. In those cases, there are alternative restraint techniques which may be used. Connecting a detainee’s hands to their feet, regardless of the restraint device used, is strictly prohibited.” (pp. 263, effective 11/3/2020)

Fayetteville Police Department Policy Manual [Here](#)

- “Officers will not “hogtie” (tie a person’s hands to the feet in front or back) anyone in police custody under any circumstances” (pp. 300, effective 3/5/2020)

Greenville Police Department: Detainee Transportation Policy [Here](#)

- “Detainees should not be bound and prone or “hogtied”, and transporting personnel should be aware of positional and mechanical asphyxia. Detainees may become in need of medical attention and should be closely observed after restraining if the following signs are evident: Violent or combative nature, Agitated behavior, Abnormal strength, Hallucinations, Obvious alcohol or drug use, Profuse sweating in the absence of physical exertion.” (pp. 2, effective 5/4/2020)

New Bern Police Department Policies: Chapter 1 [Here](#)

- “Positional Asphyxia: Because of the danger of suffocation, officers shall not allow a suspect to remain on the suspect’s stomach while the suspect is in a restraint device.” (pp. 18, revised 4/8/2022)

Matthews Police Department General Order: Searching and Transporting Persons in Custody [Here](#)

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- “As an attempt to protect against ramifications of unknown respiratory conditions of the suspect, officers should refrain, once gaining control of the suspect, from placing the suspect on his/her stomach/chest in the rear seat of the patrol vehicle for transport. A request for medical assistance should be made at any time when a suspect complains of or exhibits signs of respiratory difficulty or any other medical distress.” (pp. 2, effective 1/31/2022)

Wilmington Police Department Policy 05.07: Prisoner Control and Transportation [Here](#)

- “Officers will not transport prisoners, whether handcuffed or not, in a manner (face-down prone) which will cause or contribute to serious physical injury or death. Transporting in a manner which could cause “positional asphyxia” is prohibited.” (pp. 2)

Buncombe County Sheriff’s Office

- “Avoid using maximal, prone restraint techniques (hog-tying); restraint devices that are pulled up and secured to the handcuffs so that the suspect is immobilized on his stomach; and/or pressure on the back of the subject).”

Prohibit officers from using projectiles against a subject’s head, neck, face, and spine unless deadly force is justified

There are many projectiles or “less-lethal projectile weapons,” including rubber bullets, wooden “baton rounds,” beanbag rounds, “pepper balls,” gas canisters, smoke canisters, and more. Courts have addressed on a case-by-case basis whether the use of such weapons constitutes deadly force, or is excessive in a given situation. *See, e.g., Phillips v. Community Ins. Corp.*, 678 F.3d 513 (7th Cir. 2012) (collecting cases and stating that “impact weapon technology varies from case to case, as do the manner and circumstances when officers deployed impact rounds,” before holding that officers used excessive force by shooting a suspect repeatedly with a baton launcher when she refused to exit her vehicle); *Fogarty v. Gallegos*, 523 F.3d 1147 (10th Cir. 2008) (ruling that the use of “pepper balls” and other tactics against a peaceful but noncompliant antiwar protestor was excessive force). Some agencies require, and some courts have ordered, that officers avoid directing projectiles at especially vulnerable areas of the body. *See, e.g., Abay v. City of Denver*, 445 F.Supp.3d 1286 (D. Colo. 2020) (ordering that “non- or less-lethal projectiles may never be discharged to target the head, pelvis, or back”).

The Task Force has recommended prohibiting using these weapons unless deadly force is justified. Note that projectiles are also referred to as “impact weapons” in the below policies.

Concord Police Department Use of Force: General Order 05.04 [Here](#)

- “Impact weapons may be used only when an officer is confronted with active aggression that is occurring or is imminent, against himself/herself or another person. The use by an officer of a flashlight, baton, or similar object used as a club to strike a blow to the muscle groups of a person’s arms or legs, shall be considered use of non-deadly force. A flashlight, baton, or similar object used as a club to intentionally strike a blow to a person’s head/neck is prohibited, except where deadly force is otherwise necessary.” (pp. 6, effective 12/13/2021)

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Durham Police Department General Orders: Use of Force Policy [Here](#)

- “Note: intentionally striking another person on the head, genitals, solar plexus, kidneys, or the spinal column when utilizing an impact weapon constitutes use of deadly force and must be justified as such.” (pp. 345, effective Jan. 2021)

Charlotte-Mecklenburg Police Department Directives [Here](#)

- “Officers will not use the following tactics unless deadly force is reasonably necessary: 3. Any strike with an impact weapon or object to a person's head or neck. 4. Any other tactic that is reasonably likely to result in death or serious injury unless deadly force was reasonably necessary.” (pp. 502, effective 9/11/2020)

Chapel Hill Police Department Policy Manual: Use of Force Policy [Here](#)

- “Baton: Strikes to the head, neck, groin, and spine may only be used if deadly force is authorized.” (pp. 4)
- “The officer deploying the specialty impact munitions is responsible for ensuring that the munitions are less-than-lethal and used according to this Use of Force policy. Specialty impact weapons have the potential to cause serious injury or death. The head, neck, spine, and groin will not be targeted unless deadly force is justified.” (pp. 8, effective 9/16/2020)

Greensboro Police Department: See Directives [Here](#)

- “Although classified as a less-lethal device, the potential exists for the PepperBall projectiles to inflict injury when they strike the face, eyes, neck, and groin. Therefore, officers deploying the PepperBall system shall avoid intentionally striking those body areas unless a life-threatening situation exists.” (pp. 40, effective 7/13/2020)

Buncombe County Sheriff's Office

- “Bola Wrap Policy: E. The device should not be aimed above the chest. Deputies will use all necessary precautions to avoid striking the neck, head, or face”
- “Deputies will not use the following tactics unless deadly force is reasonably necessary: 3. Any strike with an impact weapon or object to a person's head or neck”

Orange County Sheriff's Office

- “Pepper Projectile Systems: Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Due to the projectiles being delivered by a compressed gas launcher to cause them to burst and release OC powder on impact, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine, or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the deputy reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the deputy or others.”

Prohibit officers from using force to retaliate against subjects for talking back or running away

Under [NC G.S. 15A-401\(d\)](#), an officer may use force when he or she reasonably believes it necessary to prevent escape, effect an arrest, or to defend the officer or a third person, thus, retaliation is not a proper use of force. Some jurisdictions reinforce this rule by statute or by agency policy, and the Task Force suggests that approach.

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Raleigh Police Department Written Directives [Here](#)

- “Pepper Spray should NOT be used: • As punishment • In defense of verbal threats alone” (pp. 570)
- “Conducted energy devices should NOT be used: • As punishment, • In defense of “verbal” threats alone, • Simply because a suspect is running away from an officer. However, a conducted energy device may be used if a subject is escaping by means of active resistance or the officer has probable cause to believe the subject is wanted for a violent felony.” (pp. 572, effective 06/08/2021)

Albemarle Police Department: Use of Force Policy [Here](#)

- “A fleeing felon does not necessary pose an immediate threat to life. Deadly force is prohibited against a fleeing felon unless the elements or actions in section B (Lethal Force) are present” (pp. 2)
- “Officers will NOT use an Electronic Control Device in the following circumstances: (h) Punitively, as a means of coercion or in any other unjustified manner. (i) The ECD or TASER shall not be used against a non-violent misdemeanor. The ECD or TASER shall not be used against a suspect just because he is fleeing, there must be some level of violent behavior before use of the ECD.” (pp. 5, effective 6/18/2020)

REQUIRE OFFICERS TO HAVE FIRST AID KITS AND RENDER AID (Rec 32)

Although not required by law, TREC recommended law enforcement agencies should adopt policies requiring all officers to carry first aid kits and render immediate reasonable medical assistance, when safe to do so, to anyone in law enforcement custody and to call EMS, where appropriate, when a person in law enforcement custody is injured or complains of an injury.

Albemarle Police Department: Use of Force Policy [Here](#)

- “Anytime an officer uses any form of force, lethal or non-lethal, the officer shall ensure medical attention to the subject, including contacting Medical Personnel and rendering basic first aid or CPR if the officer is properly trained until medical personnel arrive.” (pp. 10, effective 6/18/2020)

Wilmington Police Department Policy 05.01: Use of Force [Here](#)

- “When any level of force has been used upon a person, Officers shall immediately render appropriate medical aid once the situation is under control. Appropriate medical aid may be: basic first aid by the officer, summoning paramedics, or transportation to an emergency medical facility. The level of aid required will be determined by the nature of the injury.” (pp. 2)

New Bern Police Department Policies: Chapter 1 [Here](#)

- “Any officer who is involved in a use of force incident that results in the death or injury will ensure that the suspect is no longer a threat to the officer or others, determine the

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extent of any injuries, and summon the appropriate emergency medical aid. Officers will summon appropriate emergency medical aid as quickly as reasonably possible following any law enforcement action in which injuries have been sustained.”

Raleigh Police Department Written Directives [Here](#)

- “When the initial incident is stabilized and the scene is safe, the officer(s) involved in the discharge of their firearm will do the following: The involved officer(s) will request EMS for any injured person, render aid when feasible and notify a police supervisor” (pp. 359, effective 06/08/2021)
- “If injury to a subject occurs from the use of lethal or non-lethal force, the officer is responsible for seeing that medical attention is made available to the arrestee prior to their incarceration. When obvious severe injuries have occurred, medical distress is apparent, or the individual is unconscious, or at the request from the injured subject, the officer will activate the emergency medical system by requesting EMS. Bleeding, vomiting, unconsciousness, complaints of dizziness or blurred vision are some of the apparent signs of injury that should prompt an officer to seek medical assistance. Officers should be attentive to signs of excited delirium and, if observed, seek immediate medical attention.” (pp. 577, effective 06/08/2021)

Chapel Hill Police Department Policy Manual: Use of Force Policy [Here](#)

- “If an individual is injured, or complains of injuries, subsequent to a use of force, officers will immediately render aid as soon as it is safe to do so. Rendering aid includes, but is not limited to, calling for EMS, performing CPR or treating injuries with a tourniquet or direct pressure.” (pp. 4, effective 9/16/2020)

Buncombe County Sheriff’s Office

- “A. Medical Aid: Whenever deadly force is used against a subject and the subject is injured or the subject requests medical aid, the deputy will immediately request medical assistance. After requesting the appropriate medical aid, the deputy will take appropriate measures to protect the integrity of the crime scene and will render medical aid he or she is trained and certified to provide. Those actions may include: 1. Secure the scene to protect the subject from any further injury. 2. Apply any first aid they are trained and certified to apply. 3. Provide increased observation of the subject to detect obvious changes in condition”

Orange County Sheriff’s Office

- “Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individual should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.”

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CHANGE ENTRY BY FORCE STATUTE (Rec 26)

Require officers to list the probable cause in an affidavit before executing a no-knock search warrant.

Although not required by law, TREC recommended law enforcement officers should state probable cause for no-knock entry in a search warrant application in order for a judge to fully review and approve the action. Officers should still be able to enter without knocking and announcing in a hostage situation.

In general, an officer must knock and announce his or her presence before entering a premises to execute a search warrant. This is required by the Fourth Amendment, see *Wilson v. Arkansas*, 514 U.S. 927 (1995), and by state statute, see G.S. 15A-249. This requirement is rooted in reasonableness, however, and there are circumstances in which an officer is not required to knock and announce – for example, when doing so would endanger the officer or other people. See generally *Richards v. Wisconsin*, 520 U.S. 385 (1997) (noting that the knock and announce requirement may be excused when there is reasonable suspicion that knocking and announcing would create a risk of physical violence or destruction of evidence). North Carolina statutory law assigns the decision whether to knock and announce primarily to the officer executing the warrant, as G.S. 15A-251(2) allows for an officer to execute a warrant without knocking and announcing if “[t]he officer has probable cause to believe that the giving of notice would endanger the life or safety of any person.” Some states require that no knock authority be obtained in advance from a judicial official, and TREC’s recommendation 26 is in that vein. Some agencies also limit no knock entry authority by agency policy.

Fayetteville Police Department Policy Manual [Here](#)

- “1. An officer must knock and give notice of his identity and purpose before entering. Notice must be given in a manner likely to be heard by anyone who is present. If admittance is being denied, or unreasonably delayed, or the premises are unoccupied, the premises may be forcibly entered.
- 2. If there is probable cause to believe that giving notice would endanger the life or safety of any person, then forcible entry may be made without notice. Facts supporting this belief should be included in the search warrant affidavit if available at the time the affidavit is drafted.” (pp. 411, effective 6/17/2020)

Charlotte -Mecklenburg Police Department Directives [Here](#)

- “a. CMPD will not seek or serve ‘No-Knock’ search warrants.
- b. An officer engaged in the execution of a search warrant must give notice to those within the premises of the officer’s presence by knocking and announcing his/her authority and the purpose of his/her presence before making entry.
- c. If the officer executing a search warrant believes that he/she is being denied entry after giving due notice of his/her authority and purpose, the officer may use reasonable force to gain entry.
- d. Nothing in this subsection prohibits officers from entering under the exigency exception to the search warrant requirement if officers observe an intervening exigent

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circumstance that would endanger the life or safety of any person.” (pp. 368, effective 9/30/2020)

Burlington Police Department

- “No officer should apply for or execute a “No Knock” search warrant, without the permission of the Chief of Police or his designee.” (pp. 10, effective 2/19/2021)

Buncombe County Sheriff’s Office

- “4. Probable cause exception If consent is withdrawn, the search will cease immediately, unless probable cause to arrest or continue the search has been established prior to consent being withdrawn. If probable cause to arrest has been established the rules related to search incident to arrest should be followed. If probable cause is established to continue searching in a dwelling, a search warrant should be obtained unless there are exigent circumstances.”
- “B. Deputies may make a non-consensual entry into a third party's premises to arrest the subject of an arrest warrant only if a search warrant has been obtained for the premises, it is at the scene, and there is probable cause to believe that the suspect is on the premises, unless exigent circumstances justify an entry without a search warrant.”
- “1. A search warrant must be based upon a duly sworn to and subscribed to affidavit which sets forth facts to establish probable cause to believe that the property sought to be seized is upon the premises, person, or vehicle to be searched.”

ADDITIONAL SUGGESTIONS

Although the following recommendations were not included in the 2020 TREC report, they have been listed below to provide examples of additional measures that could be taken to ensure the safety of both law enforcement officers and members of the public.

Prohibit shooting at moving vehicles unless deadly force is justified

Concord Police Department Use of Force: General Order 05.04 [Here](#)

- “An officer shall not discharge a firearm at the driver or occupant(s) of a moving vehicle, or the vehicle itself, unless deadly physical force is being used against the officer or another person by means other than a moving vehicle, or, the moving vehicle poses an imminent and ongoing threat of substantial physical harm to the officer or another person from which there is no reasonable means to escape, and the risks are outweighed by the need to use deadly physical force. Once the threat of the moving vehicle ceases, an officer shall not discharge his or her firearm at the vehicle.” (pp. 7, effective 12/13/2021)
- “Officers shall not intentionally place themselves to either the front or the rear of a moving vehicle’s path. If they find themselves in danger from a moving vehicle, they shall attempt to move out of the way, if possible, rather than discharge their firearm. Firing at a moving vehicle shall not, in most circumstances, stop the vehicle. Further, should the driver be wounded or killed, the vehicle may still continue in motion.” (pp. 8, effective 12/13/2021)

Raleigh Police Department Written Directives [Here](#)

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- “Discharging a firearm at a moving vehicle involves a possible risk of death or serious injury to innocent persons. The safety of innocent people is jeopardized when a suspect is disabled and loses control of their vehicle. There may be a risk of harm to occupants of the suspect vehicle who may not be involved, or involved to a lesser extent, with the actions of the suspect creating the threat. Due to the risks and considering that firearms are not generally effective in bringing a moving vehicle to a rapid halt, officers shall not fire at a moving vehicle. This restriction shall not apply when the use or imminent use of deadly force other than the vehicle itself is being used against the officer or another person by the driver or occupant of a vehicle. An officer should not intentionally position himself or herself in the path of an oncoming vehicle. Officers should take all reasonable steps to get out of harm’s way if a vehicle is moving towards them.” (pp. 574-575, effective 6/8/2021)

Gastonia Police Department: 800.08.05 Use Of Deadly Force Policy [Here](#)

- “An Officer Will Not Discharge His or Her Firearm under the Following Circumstances
 - 2. At or from a moving vehicle, unless deadly force is being used against the officer or another person and the officer reasonably believes that no other option is reasonably available. Discharging a firearm in this circumstance is never authorized when it is reasonable to believe that the vehicle may contain an innocent passenger or it is reasonably apparent that the vehicle may careen out of control and injure an innocent bystander. When confronted with an oncoming vehicle, an officer will not position him or herself in the path of the vehicle, but will take all reasonable steps to move out of the way.
 - 3. To disable a motor vehicle, unless approved by a commander.” (pp. 2-3, effective 10/19/2021)

Greensboro Police Department: See Directives [Here](#)

- “B. Officers will not fire any weapon from or at a moving vehicle except to counter an imminent threat of death or serious physical injury to the officer or another person and no other means are reasonably available at that time to avoid or eliminate the danger. Officers will consider the following factors in determining whether shooting at a moving vehicle is justified:
 - An occupant of the vehicle is using or threatening to use lethal force by means other than the vehicle.
 - The vehicle is being operated in a manner deliberately intended to strike a person.
 - All other reasonable means of defense or escape (including taking cover or moving out of the path of the vehicle or other evasive action) have been exhausted, are not practical, or are not present.
 - Use of deadly force must cease after the vehicle no longer presents an immediate threat.” (pp. 37-38, effective 7/13/2020)

Buncombe County Sheriff’s Office

- “1. When confronted with an oncoming vehicle, a deputy will not position him or herself into the path of the vehicle but will take all reasonable steps to move out of the way. 2. A deputy will not discharge his or her firearm at a moving vehicle for the sole purpose of disabling the vehicle except pursuant to written protocol adopted by SRT and approved by the Deputy Chief, or designee. 3. A deputy may discharge his or her firearm at or from

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a moving vehicle if the deputy reasonably believes that no other option is reasonably available if:

- a. Deadly force is being used against the deputy or another person by an occupant of the vehicle by use of a weapon other than the vehicle itself.
- b. The vehicle is being used as a weapon against the deputy or another person or group, such as in an act of terrorism.
- ****Discharging a firearm is never authorized when it is reasonable to believe that the vehicle may contain an innocent passenger or it is reasonably apparent that the vehicle may careen out of control and injure an innocent bystander.****

Orange County Sheriff's Office

- “When feasible, deputies should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others. Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.”

Limit the deployment of SWAT teams to circumstances that call for them.

Fayetteville Police Department Policy Manual [Here](#)

- “The ERT will respond to any incident where normally equipped and trained personnel would not be able to effectively and safely resolve the situation because of an excessive level of danger to life, health or property of the parties involved. The ERT operational priority for hostage incidents, armed barricaded persons, sniper incidents, aggravated suicide attempts and other related tactical events is containment and apprehension.” (pp. 405, effective 3/10/2021)
- “The Search Supervisor will complete the Threat Assessment for Warrant Service (POL-654). The Search Supervisor will inform their Division Commander or their designee if the threat assessment indicates high risk. It will be the Division Commander’s (or designee’s) decision to utilize ERT for the execution of the warrant. The Police Chief or his/her designee will be briefed on the plan prior to activating the ERT. If ERT is requested, the Division Commander or their designee will contact the ERT Commander or supervisor in charge and brief them on the plan and request the necessary resources.” (pp. 411, effective 6/17/2020)

Charlotte-Mecklenburg Police Department Directives [Here](#)

- “Although not all inclusive, the following situations may necessitate the deployment of the SWAT Team. 1. Hostage Incident: Any situation where a suspect is holding a person(s) against his or her will by bodily force or the threat of bodily injury or death. 2. Barricaded Suspect: An armed suspect is wanted on criminal charges or for mental commitment proceedings and has assumed a position that provides him/her with significant tactical advantage over officers attempting to make an apprehension. 3.

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Suicidal Suspect: An armed subject who appears to be an imminent threat to himself/herself or others and has assumed a position which provides him/her with a significant tactical advantage over officers attempting to make an apprehension. 4. Search Warrants/Arrest Warrants: Where armed resistance is likely during the service of such warrants or where the service of such warrants requires the use of specialized tactics and equipment not available to other officers. 5. Surveillance/Stake-Outs: Where the crime is a felony or a crime of violence and information exists that the suspect(s) may be armed and the use of specialized tactics or equipment is required. 6. Woodland Search: Where an armed suspect is wanted on criminal charges or for mental commitment proceedings and has taken refuge in a wooded or rural area and has been contained by police officers. 7. Civil Disorder/High Risk Demonstration: Any civil disorder where the skills or equipment of the SWAT Team can assist in maintaining peace and order and achieving department objectives, or any high risk demonstration or parade where violence is possible. 8. Dignitary Protection: Whenever a visiting dignitary may require specialized security while in our jurisdiction.” (pp. 647, effective 3/15/2020)

Orange County Sheriff’s Office

- “Incidents that may result in the activation of the SRT include: (a) Barricaded suspects who refuse an order to surrender. (b) Incidents where hostages are taken. (c) Individuals who are threatening suicide and have refused to surrender. (d) Arrests of potentially armed or dangerous persons. (e) Any situation that could threaten or undermine the ability of the Office to preserve life, maintain social order, and/or ensure the protection of persons or property.”

ABOUT THE TASK FORCE FOR RACIAL EQUITY IN CRIMINAL JUSTICE

The North Carolina Task Force for Racial Equity in Criminal Justice, which is co-chaired by Supreme Court Associate Justice Anita Earls and Attorney General Josh Stein, was established in June 2020. For more information about the Task Force, please visit <http://ncdoj.gov/trec> or email criminaljustice@ncdoj.gov.