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Department of Police  
Detroit, Michigan 48226

Coleman A. Young, Mayor  
City of Detroit

June 12, 1979

Board of Police Commissioners

Subject: Detroit Police Department Firearms Policy

On June 1, 1979, Chairperson Susan Mills-Peek and Vice Chairperson Avern Cohn of the Board of Police Commissioners appeared before the City Council in response to a Council request for a discussion on the Detroit Police Department's policy on firearms. I wholeheartedly agree with the Commission that it is proper for me to address the Board on this matter prior to responding to or appearing before City Council. I further agree with the Board that it is improper for me to be involved in a discussion forum with members of the collective bargaining unit concerning this issue.

I have received an inter-office memorandum from your office, dated June 1, 1979, which presented six questions for which the Board staff indicated Council had requested answers. I have also received, on June 4, 1979, a communication from the office of the City Clerk with approximately 11 specific questions, all designed to explain or expand upon the Police Department's firearms policy.

Before attempting to answer these questions, I feel it is appropriate that the Board of Police Commissioners understands clearly my position in relation to policy and policy setting in the Detroit Police Department. I personally feel that City Council should have requested that the Board of Police Commissioners, as the policy making body for the Detroit Police Department, review and respond to questions on the Department's firearms policy. As we have discussed in the past, I clearly

understand that the setting of policy is a prerogative and a responsibility of the Board of Police Commissioners, as mandated by the City Charter.

It is also extremely difficult to prepare a response for the City Council when there appears to be an across the board question on all aspects of the firearms policy. Many of the questions which Council asked require a complete and thorough analysis that time constraints do not permit. I have presented here for the Board an attempt to answer all of the questions that City Council raised and would be pleased to provide any additional material that the Board deems necessary.

In response to the Council's request for an explanation of the current policy regarding police officers who are armed while off duty, I have attached a copy of General Order 77-16, Firearms, Regulations and Procedures (Attachment A). Section 10.6, Off Duty, clearly explains that police officers (except when on furlough, sick leave, disability leave, participating in sporting events or leaving the state) shall carry their sidearm in a convenient, safe and accessible position. In addition, it states that off duty members will not carry firearms when engaged in public demonstrations or rallies, including marching and/or picketing.

Section 8 of this General Order, Revolvers, goes into great length in discussing the type of weapon and the qualifications necessary to carry that weapon for both on and off duty officers. I feel content these two sections clearly explain the Department's current policy regarding police officers who are armed while off duty.

The question arises, however, if this question is designed to ascertain the mechanical aspects, or is a more intangible question concerning the responsibilities of an officer to take action while armed and off duty. The Council also asked whether the Detroit policy regarding the wearing of off duty weapons is a "wise" one, considering the number of lawsuits emanating from off duty police action involving firearms.

Detroit police personnel are among the highest paid in the nation. One reason for this compensation level is the fact that

Detroit police officers are required, by General Order and union contracts, to take police action while off duty, when necessary. This in effect would indicate that a police officer would be considered on duty and available for action 24 hours a day.

This question has been raised countless times in the past, and I am sure will be raised in the future. It is my opinion that the City of Detroit benefits greatly from this provision in our orders and in our contracts. In response to the number of lawsuits emanating from off duty police action, I would like to indicate to the Board that the mere filing of a lawsuit against a police officer or the Department is by no means itself an indictment of that officer's or the Department's action. Prior to drawing this type of conclusion, an in-depth study should be conducted to ascertain if, in fact, there is a high percentage of lawsuits in which the plaintiff is successful against officers using their firearms while off duty.

I have attached for the Board's information copies of Personnel Orders 79-173 and 79-175 (Attachment B). These Personnel Orders awarded highly regarded distinguished service medals to two officers who, while off duty, took police action and were required to use their firearms. The citizens of the City of Detroit deserve the best possible protection this Department can afford. Obviously, no agency is perfect; there will be mistakes made. However, the overall record of this agency is outstanding and our officers have acted conscientiously for years, even to the point of losing their lives while attempting to assist citizens while the officers were off duty. I recommend no change in the current Department policy in this area.

In regards to the second area of general questions concerning what type of weapons are permissible (regardless of duty status) and what the standards are for approving firearms, let me once again refer to General Order 77-16, Section 8, Revolvers; Section 9, Semi-Automatic Pistols; and Section 19, Department Approval for Carrying Privately Owned Sidearms.

The Detroit Police Department issues all new officers either a Smith & Wesson or a Colt, .38 caliber, 6 shot revolver, with a minimum barrel length of five inches. Officers are trained in

the handling and firing of this weapon while attending the Police Academy. Upon leaving the Academy, a police officer may, at his own discretion, purchase a weapon of higher caliber to be carried either on or off duty. General Order 77-16, Section 8.7, clearly indicates that each member electing to carry a revolver larger than a .38 caliber Special must attend a special qualification session at the Rouge Park Pistol Range.

Officers may only carry weapons with which they qualify. The mere purchase of a higher caliber weapon does not allow the individual to carry that weapon either on or off duty. These restrictions also hold true for officers who carry the 9mm Smith & Wesson Model 39 or Model 59 semi-automatic pistol. Any officer desiring to carry a privately owned weapon must, as per General Order 77-16, Section 19.1, present that weapon for inspection to the Firearms Repair Unit. To ensure without any doubt that these weapons are approved, the actual weapon itself will be stamped and officers are required to carry a copy of the approved inspection report with them at all times.

In regards to the question as to how the decision was reached to allow these various weapons to be carried, I must admit I cannot fully explain the rationale that my predecessors used when making their decisions. Since I have been Chief of Police, no new weapons have been approved, nor have any weapons been deleted from our authorized firearms list.

The Department has consistently recommended either the Smith & Wesson or the Colt revolver for not only their dependability, but also to ensure uniformity in repairs and officer familiarization. I have not directed that an in-depth study be conducted in this area because I personally believe that the decision to select a .38 caliber or higher weapon was based on unscientific data well over 30 years ago. I see no value in examining that rationale at this point in time.

City Council also asked whether or not an analysis was made to determine effects of different types of weapons and an evaluation of the stopping power of the non-standard issued firearm. This entire area has been a major concern to police departments



across the country since the early 1960's. As police officers became involved in more shootings, the question arose as to whether or not police were "overarmed" or were they actually at the mercy of criminals who were not required to follow any fire-arms code. The result of this controversy has been, in some departments, the issuance of more powerful weapons (such as the .357 magnum with a more powerful load) or the return to the .38 caliber revolver with a smaller load. There is no consensus.

In 1973, however, the National Institute of Law Enforcement and Criminal Justice of the LEAA approved and funded a project, submitted by the Law Enforcement Standards Laboratory, National Bureau of Standards, to conduct a study of the terminal effects of police handgun ammunition. LESL contracted with the U.S. Army Ballistic Research Laboratories, Aberdeen, Maryland proving ground, in September, 1973, to conduct this study to prepare a report of their findings and to draft guidelines for the selection of law enforcement service handgun ammunition.

The tendency to change has been prompted by law enforcement's widespread impression that the traditional police service round, the .38 caliber Special round nose lead bullet, is relatively ineffective. This has often been dramatically demonstrated by the wounding or killing of a police officer who was able to shoot his assailant, but was unable to incapacitate him. The change from one service load or weapon to another is a very complex problem for the department and the local government involved, who must consider every effect that change may have on the community.

State and local governments should be able to make their decisions on the basis of solid fact. Bullet selections should be made with due regard to their effectiveness against the criminal, as defined by their incapacitation potential (not lethality) and with maximum safety to the general public.

The goal of the NILECJ study of police handgun ammunition was to provide state and local law enforcement agencies with at least some of the basic factual information which they needed. Three basic terminal effects of handgun bullets have been studied: their relative incapacitation potential for human targets, their ricochet behavior and their material penetration characteristics. The focus has been on commercially available handgun ammunition in the 9mm to .45 caliber range.

Medical experts were asked to assign relative values to those parts of the body whose wounding would produce this instantaneous incapacitation. Their judgements were further constrained by a definition of instantaneous incapacitation.

Instantaneous incapacitation is that which will render the assailant incapable of posing a continued threat to the safety of the officer by use of a hand held weapon. Such injury may include clinical death, unconsciousness, biomedical dysfunction, etc., but pain may not be considered a contributing factor.

This data has been encoded for use in conjunction with an elaborate three-dimensional computerized model of the human anatomy, known as the computer man.

The feature of a bullet's interaction with soft tissue that has been identified as contributing most to instantaneous incapacitation is the temporary cavity which the bullet generates as it penetrates. For a given impact point, the bullet producing the longest temporary cavity at the proper depth of penetration, defined by the location of vital organs, will have the greatest chance for success in producing instantaneous incapacitation. In other words, such a round will possess the greatest stopping power.

The relative incapacitation index (RII) given in the attached tables (Attachment C) is primarily determined by the size and shape of the temporary cavity, produced in a block of ordnance gelatin when the bullet strikes the block with the measured velocity. The distribution of impact points, the aiming error and the point of aim, all of which are used to compute the average vulnerability of the human target and which enter into the computation of RII, were assumed to be the same for all cartridges listed.

At the present time, an RII of approximately 10 appears to be the lowest index which should be considered for incapacitation. Probably, the selection of a cartridge whose RII is between 20 and 25 represents the upper limit required for reasonable reliability. This statement should not be construed to indicate, on an absolute basis, that an RII either higher than 25 or lower than 10 is unsuitable, undesirable or unnecessary.

A total of 142 bullets were tested using police type revolvers with barrel lengths of two and four inches. An RII was given each bullet as it was fired from a different revolver. The bullet a

Detroit police officer is required to carry had an RII of 4.4 out of a four-inch revolver, and a 3.5 out of a two-inch revolver. The two bullets placed 126 and 135 respectively. With an RII of 10 considered the lowest rating given a bullet for incapacitation, we can safely say the bullet required by our Department falls far short of that standard. I have attached copies of this entire report and additional research (Attachment D) conducted on evaluating police handgun ammunition for your information.

This report prompted change in several departments across the country. New York, for example, is one department that has recently changed from the traditional LRN bullet to a semi-wadcutter design with more velocity and increased stopping power. There is no one bullet currently made that could fulfill all the variables that an officer may encounter when using his firearm.

Also, as I indicated earlier, the change from one service load or weapon to another involves not only scientific data, but also a response to the public that we serve. The public impression of a police officer and the type of ammunition and/or weapon we carry is most important to the operational aspects of this Department. To change the policy of this Department and indicate that we were going to begin issuing new ammunition that possessed a higher RI level would be viewed as controversial, to say the least. If this type of action is to be recommended by the Board of Police Commissioners, proper preparation by way of community meetings and public hearings would be necessary.

I should also like to point out that since 1974, there has not been a police officer killed in the line of duty in the City of Detroit. To complement this statistic, in 1975, 33 citizens were killed by police officers; in 1976, 25 citizens were killed by officers; and in 1977, 20 citizens were killed by police officers in the performance of their duty. The reduction continued in 1978, when 18 citizens were killed by police officers. We are hopeful that this trend will continue.

Police officers and citizens, for some reason, are not shooting at each other as they did in the past. I firmly believe that our drop in the crime rate and new found faith by citizens of Detroit in their Police Department have contributed to the important drop in violence. It is my opinion that it would be improper at this time to generate a policy change in the ammunition or the weapons that members of the Department are authorized to carry.

Several questions were asked by Council members relative to the actual interpretation of Department policies in this area, and whether or not the Department encourages the use of non-Department weapons. In response, let me indicate that General Order 77-16 is a clear and precise statement of the Department's policy in the area of firearms. There is no "unofficial" understanding in this area. Any officer who violates this General Order is subject to Department discipline and, if the case is severe enough, dismissal. To my knowledge, there has not been any difficulty in the area of firearms in that all officers are carrying Department approved firearms and ammunition. If, in fact, the City Council has specific instances or knows of specific officers who are violating this policy, I would move immediately to correct the situation and to discipline those individuals.

I personally do not feel that the Department policy encourages the use of non-issued weapons. In fact, the policy itself puts greater constraint on an individual who desires to carry a privately owned weapon. For example, the individuals who carry higher caliber weapons than a .38 must provide, at their own expense, ammunition needed for qualifications. On the other hand, officers using Department issued weapons are provided as many rounds as necessary to both practice and to qualify. Officers who carry the 9mm weapon must be qualified every 90 days, as compared to an annual qualification for other officers.

The City Council also asked several questions in regard to the Department policy in the area of shoulder weapons. Please refer to General Order 77-16, Section 11, Shoulder Weapons - General. This section clearly discusses the Department policy in this area.

Section 11.3 indicates that a privately owned weapon must be approved and must be the same make and model as a Department issued weapon. Furthermore, it indicates that when a privately owned shoulder arm is carried by an officer, it must be kept in the trunk of a police vehicle and removed only upon order by a supervisor. This would prohibit a police officer from responding to a scene and using his own shotgun or carbine. If, however, a Department issued long gun was available, the officer would be clearly allowed to take the weapon and use it as necessary. As a result, very few officers carry with them in their vehicles their own privately owned 12-gauge shotgun or .30 caliber M-1 carbine. No other long weapons may be carried in a Department vehicle.



I have attempted in this report to respond to as many questions as possible in the area of the Detroit Police Department firearms policy. Obviously, I cannot answer all of the concerns that Council has in this area. It is my impression that much of this controversy was generated by the Department's denial of legal representation for an officer who was involved in an off duty incident with a firearm. I personally do not view these two areas as connected.

It is my responsibility as Chief of Police to review the actions of my officers in the most critical sense. Each officer's action, whether on or off duty, is subjected to the highest scrutiny. I will, in the future, continue to deny legal representation to those officers who I feel have abused or have disregarded their responsibilities as sworn members of this Department. For the Board's information, on Monday, June 11, 1979, I denied representation for another officer who was involved in a firearms incident while off duty. No shots were fired and no injuries occurred in this case. However, it was my opinion, and that of the Executive Deputy Chief, that there was no need for the weapon to be drawn in this instance, and the officer did not act in the good faith performance of his duty.

The entire idea that one member of a society may take the life of another under certain circumstances is an affront to all people everywhere. Police officers have life and death authority by law, more so even than the courts of the State of Michigan. I recognize, as the officers of this Department do, that to draw a weapon with the intent to fire is the most important and critical act that an officer could ever be involved in. Furthermore, while it may not be popular, policy dictates that the only reason a police officer will draw his weapon is that he intends to shoot and to kill the individual who is his target.

The statistics speak for themselves. Officers are doing a better job; citizens are cooperating more than ever before. I recommend that no additional policy changes be made in the area of Department firearms.

In response to the Council's request that either I or Executive Deputy Chief James Bannon be present at the June 20 hearing, please be advised that I will be in Washington, D.C. on that date and the Executive Deputy Chief will be acting in my stead. I have directed that Executive Deputy Chief Bannon report to Council only if directed by the Board of Police Commissioners.

I have also attached for your information copies of Special Order 78-42 (1978 Department Firearms Qualification Program) and an inter-office memorandum, dated October 14, 1977, which compares the Detroit Police Department's firearms policy with a Police Foundation report entitled "Use of Deadly Force" (Attachment E). If the Board requires any additional information, please feel free to contact me.

Sincerely yours,

*William L. Hart*  
WILLIAM L. HART  
Chief of Police

WLH:mk

Attachments

cc: Executive Deputy Chief James Bannon



## GENERAL ORDER

DATE OF ISSUE

1-31-77

EFFECTIVE DATE

2-7-77

NUMBER

77-16

SUBJECT

Firearms, Regulations and Procedures

FILE CODE

Firearms

REFERENCE

G.O. 75-23(P)

RESCINDS

See Below

AMENDS

EXPIRATION DATE

DISTRIBUTION

A #4

D.P.M. Ch. 4, Sec. 39; G.O. ~~75-56(F)~~, ~~72-50(F)~~, ~~2478~~, ~~2395~~; Not. ~~75-40~~, ~~74-70~~, ~~74-6~~, ~~73-69~~, ~~73-33~~, ~~72-311~~, ~~72-309~~, ~~72-292~~, ~~72-49~~, ~~71-95~~, ~~2198~~; T.B. ~~72-22~~, ~~72-10~~, ~~158~~, ~~153~~, ~~152~~, ~~36~~, ~~35~~, ~~34~~.

## 1. USE OF FIREARMS - GENERAL

1.1 Department and State of Michigan Procedures. Members must always bear in mind that the use of firearms shall be confined to situations of strong and compelling need. The laws of this state and the rules of the department demand that members use only the minimum degree of force necessary to effect an arrest.

1.2 Consideration Before Using Firearm. The law recognizes degrees of crime by providing degrees of penalty. The member about to shoot must consider the severity and the certain consequences of his action, particularly in those cases where the crime committed did not result in personal injury. Members must also consider that the maximum sentence imposed by our court system would result in neither death nor injury.

## 2. USE OF FIREARMS ON MERE SUSPICION

A member shall not discharge a firearm in an attempt to apprehend a person on mere suspicion that a crime, no matter how serious, was committed or on mere suspicion that the person being pursued committed the crime. A member shall either have witnessed the crime or must know, as a virtual certainty, that the person committed an offense for which the use of deadly force is permissible in accordance with department directives.

## 3. LIABILITY OF MEMBERS

Members should be aware of the following excerpts from the "Michigan Police Law Manual" regarding the taking of a life in the line of duty: "No one can be justified in threatening or taking life in attempting to arrest on suspicion only, without incurring serious responsibilities. Where the life of a felon is taken,

by one who does not know or believe in his guilt, such slaying involves a criminal liability." and "If crime can readily be prevented, without injuring the criminal, every wanton injury is a trespass, and may become a crime. Neither law nor morality can tolerate the use of needless violence, even upon the worst criminals."

4. USE OF FIREARMS IN DEFENSE

Members may use firearms to protect themselves and others from serious bodily harm or death.

5. USE OF FIREARMS TO EFFECT ARREST OR PREVENT ESCAPE - GENERAL

5.1 When Justified. Members may use firearms to effect the arrest of or to prevent the escape of persons known to have committed the crime of murder, rape, robbery, felonious breaking and entering, arson, and assaults which have resulted in serious bodily harm or death provided the member has exhausted all other reasonable means of effecting the arrest, except as prescribed in Sub-section 5.2 below.

5.2 When Not Justified. Members should not fire at the above mentioned persons in the following circumstances: When lesser force could be used to make the arrest; when the member believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force; or when there is any substantial danger to innocent bystanders.

6. WARNING SHOTS

The firing of warning shots is strictly prohibited. A member must give great consideration to the potential danger that a misdirected or ricocheting bullet presents to innocent persons.

7. FIRING FROM MOVING VEHICLE

Members should shoot from a moving vehicle only in cases of extreme necessity. It is a fact that such firing adversely affects accuracy and increases the ever present possibility of hitting an innocent bystander or destroying property.