

# **JAMAICA CONSTABULARY FORCE**

## **HUMAN RIGHTS AND POLICE USE OF FORCE AND FIREARMS POLICY**

### **Introduction**

- 1.** This document represents the Commissioner's policy in respect of the use of force by members of the Jamaica Constabulary Force (JCF). These instructions replace all previous instructions on the Use of Force and Firearms.
- 2.** The instructions contained in this document incorporate the fundamental rights and obligations enshrined in the Jamaican Constitution and international human rights instruments. In particular it reflects the principles set out in:
  - a.** United Nations Code of Conduct for Law Enforcement Officials, 9G.A. res. 34/1 69, annex, 34 U.N. GAOR Supp. (No.46) at 186, U.N. Doc.A/34146 -I 979); and
  - b.** UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, (Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, - Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112-1990)
- 3.** The principles of 'Public Safety' and 'Police Officer Safety' are of equal and paramount importance and inform the concepts set out in this policy document.
- 4.** This document for ease of reading is divided into two parts, the first applies generally to all use of force; the second part deals specifically with the use of firearms. The Force Order should, however, be read as a whole.
- 5.** All references to members of the JCF shall also include auxiliary members of the JCF.

### **HUMAN RIGHTS AND THE USE OF FORCE**

- 6.** It is the aim of the JCF to uphold and protect the human rights of all the people in Jamaica by providing a high quality, effective policing service in partnership with the community and in co-operation with other agencies. In carrying out our duties, members of the JCF shall, as far as possible, apply non-violent means before resorting to the use of force. Members of the JCF will

only resort to the use of force if other means remain ineffective and there is no realistic promise of achieving the lawful objective without exposing police officers, or anyone whom it is their duty to protect, to a real risk of harm or injury.

7. This policy recognizes that the use of force by JCF members requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide members of the JCF with guidelines on the appropriate use of force. While there is no way to specify the exact amount or type of force to be applied in any given situation, each member is expected to make such decisions in a professional, impartial and safe manner.

## **Philosophy**

8. The use of force by police personnel is a matter of critical concern both to the public and to the JCF. Members of the JCF are involved on a daily basis in numerous and varied human encounters and, when warranted, may use force in carrying out their duties.

9. Members of the JCF must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to officers overcoming resistance while engaged in the performance of their duties.

10. The JCF recognizes and respects the value of all human life and dignity.

## **Policy**

11. It is the policy of the JCF that its members shall use only that amount of force that is strictly necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control.

12. Any consideration of the appropriateness of a given action must allow for the fact that members of the police service are often required to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving.

13. Whenever members of the JCF resort to the lawful use of force they shall:

- Minimize any interference with human rights;

- Exercise restraint in such use and act in proportion to the seriousness of the offence and the lawful objective to be achieved;
- Minimize damage and injury;
- Ensure that medical aid is secured for any person requiring it at the earliest opportunity.

**14.** The use of force by members of the JCF must accord with the principles of proportionality (i.e. the anticipated injury or harm to be prevented is equal to or greater than the harm which is likely to be caused by the use of force and that that the objective cannot be achieved by a lesser degree of force). In no case should the use of force, which is disproportionate to the legitimate objective to be achieved, be used or authorised.

**15.** The arbitrary or abusive use of force by members of the JCF will result in both criminal and disciplinary investigation.

**16.** In accordance with Article 3 of The United Nations Code of Conduct for Law Enforcement, members of the JCF will apply the test using force only ‘when strictly necessary and to the extent required for the performance of their duty’.

The commentary to article 3 states:

*i. This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that maybe used.*

*ii. National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force that is disproportionate to the legitimate objective to be achieved.*

**17.** When police are required to use force to achieve a lawful objective (such as making a lawful arrest, acting in self-defense or protecting others) the method of applying force should be in accordance with force instructions and training.

**18.** When determining whether or not to apply any level of force and in evaluating whether an officer has used appropriate force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
- Influence of drugs/ alcohol (mental capacity).
- Proximity of weapons.
- Availability of other options (What resources are reasonably available to the officer under the circumstances).
- Seriousness of the suspected offence or reason for contact with the individual. Training and experience of the officer.
- Potential for injury to citizens, officers and suspects.
- Risk of escape.
- Other exigent circumstance.

**19.** Each member of the JCF is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of colleagues and the public.

**20.** Individual members of the JCF are required to use well-reasoned discretion in determining the appropriate use of force in every incident. It is not possible to predict every possible operational situation that members of the JCF may encounter.

### **Right to Self Defence**

**21.** While it is the ultimate objective to minimize injury to everyone involved, nothing in this policy requires officers to actually sustain physical injury before using appropriate force, or to expose themselves to unnecessary violence.

**22.** Members of the JCF have the right to defend themselves from unlawful physical violence and, where appropriate, to take pre-emptive action to diffuse or avert violence.

### **Obligation to Protect Others**

**23.** If members of the JCF do not take appropriate and proportionate action to protect others from harm they may be violating human rights and be in breach of their duty as a police officer.

**24.** In making these important and often timely decisions members of the JCF are reminded that they are accountable through the law for their actions. Apart from the criminal law, there may follow a civil suit, complaints may be made against individual officers and, in cases where death has resulted, a public inquest or other inquiry will be held by the Coroner.

### **Obedience to the Orders**

**25.** Obedience to the orders of a supervisor shall be no defense if a police officer knew that the order to use force was unlawful and had a reasonable opportunity to refuse to obey it.

**26.** Responsibility will also rest with the supervisor who gave the unlawful order.

### **Personal Responsibility**

**27.** The primary responsibility for using force rests with the individual officer, who is accountable ultimately to the law and also to the Commissioner of Police.

**28.** Individual officers are accountable and responsible for whatever force they use and must be in a position to justify their actions in the light of their legal responsibilities and powers.

**29.** Any police officer who has reason to believe that improper force has been used or is about to be used by another police officer, shall, to the best of his/her ability, prevent and rigorously oppose any such use of force. This officer shall, at the earliest opportunity, report the matter to

his/her supervisor and, where necessary, to other appropriate authorities vested with responsibility for investigating such matters.

**30.** Supervisory members will be held responsible if they know, or should have known, through the proper discharge of their duties, that officers under their command are resorting, or have resorted, to the unlawful use of force, and they did not take all measures in their power to prevent, suppress or report such use.

### **Medical Assistance**

**31.** Medical assistance will be obtained for any person(s) who has sustained visible injury, expressed a complaint of pain, or who has been rendered unconscious.

### **Records and Reports**

**32.** Members of the JCF will verbally report any use of force to their immediate supervisor as soon as practicable. Any use of physical force by a member must be documented completely and accurately in an appropriate report, depending on the nature of the incident.

**33.** Notification to a supervisor will be made as soon as is practicable following the application of physical force, under any of the following circumstances:

- Where the application of force appears to have caused physical injury.
- The individual has expressed a complaint of pain.
- Any application of a less lethal control device.
- Where the individual has been rendered unconscious

**34.** Supervisors will check that a pocket book entry has been completed by the officer(s) involved and that each pocket book entry is inspected and signed by that supervisory officer.

**35.** Members of the JCF must fully document the circumstances in which they found themselves, the reasons for their actions and the details of the supervisor to whom they subsequently reported.

### **Role of the Police Public Complaints Authority and the Office of Professional Responsibility.**

**36.** Where a complaint is made by a member of the public against a police officer regarding that officer's use of force, this will be investigated by the Police Public Complaints Authority and the Office of Professional Responsibility.

**37.** The Police Public Complaints Authority and the Office of Professional Responsibility also have the authority to investigate a wide range of matters surrounding the conduct of police officers. This may include situations in which a police officer has used force, regardless of whether or not a complaint has been made. It is therefore important that officers can show that non-violent methods have been considered before resorting to force and that their actions were proportionate.

## **Managing Conflict**

**38.** It is intended that this instruction will be the principal reference document on which all applications of force are based. It will become an integral part of police response to situations of conflict and will provide a standard to be attained by all police officers.

**39.** Members of the JCF are frequently required to deal with situations of conflict. The careful use of well-chosen and appropriate words and the management of human interaction will resolve many situations. Other situations will necessarily involve the application of varying degrees of physical force.

**40.** The use of an appropriate and 'graduated response' to conflict, including disorder and violence will help to ensure a balanced and proportionate use of force.

**41.** The primary responsibility of the police officer is the protection of life. Members of the JCF are not required to wait until they have been assaulted before they take action and there are occasions when preemptive action will be appropriate to defuse a situation which may otherwise escalate and result in greater violence.

**42.** Every effort should be made to resolve conflict without resorting to the use of force. Members of the JCF who are able to resolve conflict through effective use of interpersonal skills are to be commended.

## **Policing Unlawful Assemblies and Serious Public Disorder**

**43.** Policing unlawful assemblies and serious public disorder raises specific issue of command and control, and requires all members to act in a disciplined and effective manner.

**44.** Everyone is entitled under the Constitution of Jamaica to participate in lawful and peaceful assemblies. Force and firearms may be used only in accordance with principles 13 and 14 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which states:

13. *In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.*

14. *In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary*

**45.** Members of the JCF shall not use firearms in such cases, except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, the use of a conventional firearm may only be made when strictly necessary in order to protect life.

## **Less Lethal Options**

**46.** The term ‘less lethal options’ is employed to indicate weapons, devices and tactics, the design and intention of which, is to induce compliance in pursuit of a legitimate aim by the police without a substantial risk of serious or permanent injury or death to the subject on whom they are applied. In other words, the desired effect is to control and then neutralise a threat without recourse to lethal use of force. Whilst the actual outcome may, on occasions, be lethal, this is less likely than as the result of the use of firearms.

**47.** It is necessary to ensure that any force used is proportionate to the seriousness of the apparent threat, and appropriate options in this area assist adherence to that principle.

**48.** Members of the JCF are equipped with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These include less lethal weapons for use in appropriate situations.

**49.** In addition to firearms, officers are issued with batons and incapacitate chemical sprays.



**50.** A range of less lethal weapons are also available for use, by trained personnel in dealing with violent individuals in situations that would otherwise require the use of conventional firearms. These weapons include:

- 12 gauge, non penetrating rounds (bean bags).
- 37 mm baton rounds and
- CS/CN devices.

**51.** The JCF will continually monitor international developments in respect of 'less lethal options' and, wherever possible, ensure that appropriate technologies are issued to officers trained in their use.

## **HUMAN RIGHTS AND POLICE USE OF FIREARMS**

**52.** Any use of firearms must be in accordance with force instructions and training. Only in the most extreme circumstances, where life is endangered or there is risk of serious injury, may the use of lethal force be justifiable.

**53.** The circumstances in which lethal force can be used within the terms of Jamaican law are limited, being restricted to situations involving self- defence or defence of others and then only where strictly necessary.

**54.** The purpose of these instructions is: -

- a. To highlight the principles and provisions of the Jamaican Constitution.
- b. To promote an understanding and to provide practical guidance concerning the legal implications surrounding the use of firearms.
- c. To set out Force Policy concerning the issue, deployment and training of members of the JCF issued with firearms.
- d. Provide for a system of reporting whenever JCF members use firearms.

**55.** The 'right to life' as set out in Chapter 3, Section 14 of the Jamaican Constitution may be violated if a person dies as a result of the force used against them. Section 14 states:-

the 1. *No person shall intentionally be deprived of his protection to life save in execution of sentence of a court in respect of a criminal offence of which he has been convicted.*

2. *Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case-*

effect a. *for the defence of any person from violence or the defence of property; in order to a lawful arrest or to prevent escape of a person lawfully detained;*  
he b. *for the purpose of suppressing a riot, insurrection or mutiny; or*  
c. *in order to lawfully prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war.*

**56.** JCF members carrying out their duty, shall, as far as possible, apply non- violent means before resorting to the use of force or firearms.

**57.** Whenever the lawful use of force and firearms is unavoidable, JCF members will:

- i. Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- ii. Minimize damage and injury, and respect and preserve human life;
- iii. Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- iv. Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
- v. Where injury or death is caused by the use of force and firearms by any member of the JCF, they shall report the incident promptly to their superiors.

**58.** In determining whether the use of firearms is strictly necessary the following questions should be asked:

- Is the use of firearms proportionate, in the given circumstances, bearing in mind the dangers to the lives of all persons involved?
- Is the degree of force used strictly necessary in order to achieve a lawful objective?
- Have other options been considered before resorting to the use of a firearm?
- Why were these options discounted?

**59.** Firearms are only to be fired by members of the JCF when their use is strictly necessary, after conventional methods have been tried and failed, or must from the nature of the circumstances be unlikely to succeed if tried.

**60.** Public confidence in the police is of the utmost importance. It is' essential that in their approach and conduct members of the JCF are seen to be well trained and disciplined in handling firearms.

### **Training and Qualification in Firearms**

**61.** Firearms' training is obligatory for all members of the JCF who are to be issued with or carry firearms operationally as part of their duties.

**62.** A system has been established to ensure that all members are allocated annual firearms training and they will be informed of their allotted refresher training dates. A database of attendance and qualification scores will be maintained centrally, providing a record of all firearms training provided. This will provide a reference point in any post-shooting investigation, providing evidence of the member's competence and qualification to carry a specific firearm.

**63.** A record will also be maintained in the Division to which the member is assigned, showing details of which weapons the member is authorised to carry and of required re-qualification dates.

**64.** All members of the JCF are reminded of their personal responsibility to identify their training needs and to bring these to the attention of their immediate supervisor. Members of the JCF are also required to maintain a high level of competence in the use weapons and knowledge in relation to Force Policy and current legislation in respect of firearms.

**65.** Firearms may only be issued to and carried for operational duties by members of the JCF who have successfully completed an initial firearms training course in the particular weapon and who have; successfully re- qualified in its use during the last 12 months.

**66.** Divisional Commanders/Heads of Department will ensure that all officers, for whom they have responsibility, attend firearms re-qualification training at least once per year, in respect of all weapons that they are to carry.

**67.** Where a member fails to re-qualify in a particular weapon, the Senior Firearms Instructor on duty will inform that member's Divisional Commander. The Divisional Commander will then make an assessment as to the duties that that officer will be required to perform pending further training.

**68.** Where a member does not successfully complete refresher training, he/she will attend a remedial training course as devised by the Firearms Training Unit, in order to achieve the required standard. Where necessary, a member will be provided with 'one-to-one' tuition at the earliest possible opportunity. If a member continues to be unable to achieve the required standard, the matter will be referred to the Senior Director of Human Resources for direction as to the future role and deployment of that member.

**69.** Supervisory officers will, in accordance with Force and Divisional Policy, decide which firearms members will carry on duty, ensuring that appropriate training has been afforded and qualification attained. Firearms carried on duty must always be loaded with live rounds in accordance with Force Instructions.

### **Firearms and Ancillary Equipment**

**70.** The Commissioner has approved a range of weapons, munitions and associated equipment for issue to JCF members.

**71.** The weapon types approved for issue are as follows:

- Revolvers: capable of firing .38 Special ammunition or 357 magnum. Trigger pressures (measured by the suspended weight method) should be as follows: -Single action between 1.5kg (31b 6oz) and 2.2kg (41b 15oz) Double action between 4.1 kg (9lb 0 oz) and 5.9kg (13lb 6oz).
- Self-Loading Pistols: capable of firing 9mm calibre ammunition. Trigger pressures recommended are as follows: Single action between 1.3 kg (31b) and 3.7 kg (8lb) Double action should not exceed 8.15kg (18lb).
- Shotgun: 12 gauge shotguns (pump action or self-loading) with appropriate sighting system and bored true cylinder to enable specialist munitions to be used (e.g. Bean bags, CS & breaching rounds).

- Submachine guns: capable of firing up to 9mm calibre ammunition.
- Rifles/Carbines: capable of firing 5.56 calibre ammunition.
- Specialist sniper rifles up to 7.62/.308 ammunition
- Baton Guns: Baton Round Launchers as approved for use by the JCF, which may be considered for use as a less lethal option
- Grenade Launcher: for CS/CN munitions
- Smooth bore signal pistol: for CS/CN munitions.

**72.** Members will ensure that firearms carried by them are clean and functioning properly.

### **Privately Owned Firearms**

**73.** These instructions, including the re-qualification criteria, will also apply to any member of the JCF, who has been authorised in writing to purchase a personally owned firearm.

**74.** Members authorised to carry privately owned firearms will comply with these instructions both on and off duty. They will, prior to carrying the weapon on duty, complete a JCF firearms course where they will demonstrate awareness of the characteristics of the weapon, safe and proper handling techniques, and competency in the firing of the weapon to the standard required of officers equipped with operational weapons.

**75.** The individual officer will be responsible to ensure that the weapon is properly maintained, submitted for inspection to a competent JCF armourer and will use the weapon when completing range qualification courses.

**76.** Members who carry privately owned firearms on duty must be authorised by the Divisional Commander in writing. The authorisation must be carried on his person until the end of the assigned duty.

### **Holster and Accoutrements**

**77.** Approved holsters and ancillary equipment, including ammunition, magazines, holsters and pouches, are issued to the Force for both overt and covert carriage of handguns. This equipment is provided on the basis of detailed and agreed specification standards. Only holster designed for

the model of weapon carried should be used. For safety reasons holsters should cover the trigger guard

**78.** These detailed specifications include issues of suitability of purpose, security of the weapon/ammunition, and the ability to draw and replace the weapon, magazine or ammunition with safety and in accordance with training instructions.

a. Members are reminded that use of ‘unofficial’ holsters and equipment could leave them personally liable in the event of loss or damage to weapons.

## **Ammunition**

**79.** The use of ‘hollow point’ or ammunition designed to expand on impact so as to cause greater wound capacity are specifically prohibited.

**80.** Only ammunition subject to strict factory quality control should be issued for operational purposes

**81.** The type of ammunition issued must be appropriate for the particular weapon type.

**82.** A proof house pressure certificate, giving details of the ‘mean service pressure’ of each ammunition batch, should accompany all ammunition purchased.

**83.** Suitable provision should be made to facilitate the safe carriage of personal issue ammunition. This includes the use of magazines, magazine pouches and similar devices for other ammunition types.

## **Weapons Maintenance**

**84.** An effective maintenance programme has been established to ensure that weapons and ammunition used by JCF officers are in a serviceable condition.

**85.** The primary responsibility for inspection servicing and repair regime of firearms lies with the Chief Armourer of the JCF.

**86.** A nominated officer within each division/station/department will be responsible for checking firearms and ammunition held and ensuring routine cleaning and inspection of firearms.

### **Issues and Carriage of Firearms**

**87.** Members of the JCF will only be issued with and carry weapons for which they are currently qualified, and in accordance with force policy.

**88.** The regulation, control, storage and procedures for issuing of firearms, ammunition and specialist munitions is paramount in ensuring that officers are accountable for the firearms and ammunition issued.

**89.** All weapons and ammunition will be issued and returned against signature. The procedures to be followed in relation to all issues and return of weapons and ammunition are set out at annex A.

### **Policy/Management Issue**

**90.** Divisional Commanders will ensure that an appropriate number of officers are trained in order to meet locally identified needs, based upon an evaluation of the prevailing security situation and risk assessment. Commanders will be required to maintain a minimum level of XXX percent of all uniform, beat and patrol personnel trained in M16 rifles, carbines and shotguns appropriate to the local and Force needs.

### **Firearms and Specialist Munitions**

**91.** The selection of weapons to be used is a tactical decision, which is made taking various factors into consideration. These factors are listed below:

- a.** The level of force required to meet the threat
- b.** The type of situation to be dealt with
- c.** The likely distance between the armed members of the JCF and the threat
- d.** Information received as to the weapon(s) used by the subject
  
- e.** The operational environment, including the range and penetration capabilities of the weapon/ammunition
- f.** The training & experience of the officers involved.

**92.** Specialist units also have a range of munitions, which can be used when carrying out specific tasks. It is important to realise that Specialist Munitions have the potential to cause injury even when used correctly. In some cases the danger is minimal but in others the injury could prove fatal. Members handling or using these devices must therefore be trained in their characteristics and proper use. In particular, they should be aware of the danger from secondary fragments that may be potentially injurious.

### **Temporary Unfitness to Carry Firearms**

**93.** The consumption of alcohol or the use of drugs in medical treatment or otherwise may reduce the alertness and performance of a member. Members of the JCF carrying firearms should not consume or be under the influence of alcohol. Any member who is receiving a course of drug treatment should seek the advice of their doctor concerning the possible side effects. Any concerns or medical advice given to a member should be brought to the attention of his/her immediate supervisor who should take appropriate action.

### **The Use of Firearms**

**94.** When it is considered absolutely necessary to open fire on a subject, members of the JCF will only 'shoot to stop' and thereby neutralise the immediate threat.

**95.** Research has indicated that only shots hitting the central nervous system (which is largely located in the central body mass) are likely to be effective in achieving rapid incapacitation. Shots, which strike other parts of the body, cannot be depended upon to achieve this.

**96.** The accuracy of shots fired under training conditions is generally greater than in operational circumstances. Members of the JCF are therefore normally trained to fire at the largest part of the target they can see which in most cases will be the central body mass.

**97.** Members should constantly reassess the need for any further action, using no more force than is absolutely necessary and relative to the threat posed.

**98.** The ultimate responsibility for firing a weapon rests with the individual member, who is answerable ultimately to the law in the courts. Individual members are accountable and responsible for all rounds they fire and must be in a position to justify them in the light of their legal responsibilities and powers.

**99.** Any discharge of a firearm, other than in training, whether intentional or otherwise, must be reported by the member concerned.



## **Definition of ‘Use’**

**100.** The issuing of a firearm to a police officer does not, of itself, constitute a use of force. A police officer is deemed to have used a firearm when the weapon is:

Pointed at another person, or

- Fired at another person in self-defence or in defence of another, whether or not injury or death results.
- Discharged in any other operational circumstances, including unintentional discharge.

## **Oral Warning**

**101.** Members of the JCF shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the member at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

## **Firing at or From Moving Vehicles**

**102.** Members of the JCF will not, in normal circumstances, fire at or from moving vehicle. However, there may be circumstances where the life of an officer or member of the public is at risk and the only course of action available is to engage a subject in, or from, a moving vehicle. If such a course of action is deemed absolutely necessary, the following matters must be borne in mind and officers must be aware of the potential consequences and their responsibilities to protect the right to life of innocent bystanders:

- a.** Due to the construction of modern vehicles, shots are likely to be ineffective in immobilising the vehicle and cause a very real danger of ricochet. Rounds may also over-penetrate the vehicle to the danger of innocent persons.
- b.** If the driver is killed or injured, there is a high risk of the vehicle going out of control.
- c.** Shot fired from a moving vehicle are unlikely to be accurate because of the movement of the shooter or subject.
- d.** Research has established that when bullets, especially those from high velocity weapons, strike the windows or bodywork of a motor vehicle, a flash is produced which may resemble the muzzle flash of some weapons. The same effect could be produced when a high velocity bullet strikes the windowpane of a building. These findings are of real significance and must be borne in mind by officers engaged in operational firearms

duties.

**103.** Firearms will NOT be discharged at a vehicle: simply because it has failed to stop for a signal at a road check, or to immobilise the vehicle.

### **Warning Shots**

**104.** Police should not fire warning shots. There are serious risks associated with the firing of such shots, which have the potential to cause unintentional death or injury. They may also lead a subject or other officer to believe that they are under fire.

**105.** An officer will only be justified in resorting to the discharge of a warning shot(s) in the most serious and exceptional of circumstances, where failure to do so would result in the loss of life or serious injury. Members of the JCF who discharge a firearm under any circumstances must give full consideration to public safety.

### **Planned Operations**

**106.** The principle of upholding the ‘right to life’ should be central to all armed operations, hence proper planning is essential.

**107.** The European Court of Human Rights ruling, against the Government of the United Kingdom, in the case of McCann -v- UK (1995) considered whether or not the actions of a public authority were appropriate, and applied the principle that the force used on behalf of the State should be “no more than absolutely necessary”. They determined that force is absolutely necessary if it is strictly proportionate to the achievement of the permitted purpose.

**108.** The European Court of Human Rights asserted that the State must provide appropriate training, instructions and briefing to those who are placed in situations where lethal force may be used. The court ruled that where a particular operation/incident was planned and controlled by the authorities, it must be done so as “to minimise, to the greatest extent possible, recourse to lethal force”. (McCann -v -UK, 1995 -21).

### **Planning**

**109.** The planning of armed operations requires attention to detail to ensure that the operations

are undertaken safely and appropriately. In spontaneous incidents the amount of planning undertaken will be commensurate with the level of threat and the time available.

**110.** In order to discharge this duty of care and to comply with human rights principles the operation must:

- a.** have a legitimate aim
- b.** be lawful
- c.** be proportionate
- d.** be justified
- e.** be the least intrusive or damaging to the rights of individuals.

**111.** Firearms operations must be planned and controlled so as to minimise, to the greatest extent possible, the need to resort to potentially lethal force (i.e. it must be strictly necessary).

**112.** Plans should be the subject of constant review. Intelligence updates may lead to variations in the assessed level of threat which will, in turn, require the modification of the plan (and a further corresponding briefing of operational officers).

**113.** All plans should be recorded, this will include the consideration of options rejected or progressed together with the reasons why such conclusions were drawn and by whom.

**114.** A full assessment of all available information, intelligence and the setting of an appropriate strategy and tactical plan are essential. The Commander should ensure that officers are briefed by available means of communication.

## **Briefings**

**115.** The briefings given by officers are of great significance in ensuring effective command of an operation. In operations conducted jointly with other agencies, the joint briefing should cover the aims and objectives of the operation and, where appropriate, the nature of the anticipated threat.

**116.** Commanders should be mindful that the content of the briefing may directly affect the 117. Officers providing briefings should stress the aim of any operation including specifically the individual responsibility of officers and the legal powers anticipated to be used in all aspects of

the operation.

**118.** Commanders should confirm their lines of communication to officers, once they have been deployed. It is imperative that, as the circumstances and the intelligence change, they are updated and further briefed where necessary.

## **Command and Control**

**119.** Command is an integral and immediate consideration within any police response. The possibility of firearms being used by the police service, places an obligation on them to ensure that an operation is controlled through effective command.

**120.** The rank of the person exercising command will depend on the seriousness of the incident, the training received and the time available for structures to be put into place. A gazetted officer will at the earliest opportunity take command of serious and protracted incidents.

**121.** A co-ordinated, controlled and proportionate response, using established tactics, will ensure that unnecessary risks are avoided and successful outcomes are obtained. Success will be measured not only in upholding the criminal law, but also in the maximising of public safety by the managing of conflict and the balancing of rights of all those involved.

**122.** The use of Community Impact Assessments and pro-active engagement, where appropriate, with community representatives will assist in minimising community tensions.

**123.** It is the responsibility of the officer authorising an armed operation to ensure that an appropriate command structure is instigated.

## **Command Structure**

**124.** In normal circumstances an effective command structure has three levels; Strategic, Tactical and Operational

- a.** Strategy-The overall intention to combine resources towards managing and resolving an event or incident.
- b.** Tactics-The way that resources are used *to* achieve the strategic intentions within the range *of* approved tactical options.
- c.** Operational-Action designed *to* implement the tactical plan and the direction of resources.

**125.** This approach can be used for both pre-planned events and spontaneous incidents and can offer the degree of flexibility required to cope with a varied and developing range of circumstances. It relies on the paramount principle of flexibility.

**126.** Command protocols reduce risk and inform and direct decision making by allowing commanders to know what they are expected to achieve and how they will combine with others to achieve these objectives.

**127.** A command protocol will identify:

- a.** The desired outcome of the operation
- b.** Who is responsible to achieving each of the aims
- c.** Who is responsible for minimising each risk identified
- d.** Who controls each of the resources
- e.** Who commands each separate geographic or functional area (if appropriate)
- f.** How the individual aims are dependent on each other
- g.** What instigates the transfer of command from one commander to another. This should include how this is defined, communicated and recorded.

**128.** All tactical options for resolving the situation require to be considered. Documentation of tactical options should include those options that were discounted, as well as the approach to be adopted, the reason for selecting and discounting the various tactical options. All such records should be dated and timed.

**129.** As well as assisting decision-making, this process will enable commanders to demonstrate the rationale for their decisions, relevant to information available at the particular time.

**130.** All decisions and policy considerations should be recorded in a Command Log/Incident Record. The records will assist in any subsequent enquiries.

**131.** The recording of key actions should continue throughout the lifetime of the incident, including the initial and post incident phase.

## **Medical Assistance**

**132.** In pre-planned operations or in protracted incidents such as a siege situation where it is considered that there is a significant risk of casualties, contingency plans should ensure that early medical attention be provided for any casualties, whether they be police officers, the subject or any other members of the public.

**133.** The duty to protect life includes those who have been injured as a result of positive police action. Medical assistance should always be rendered at the earliest possible opportunity.

**134.** The provision of appropriate facilities should always be considered at the earliest possible stage. This might involve the availability of officers trained in relevant First Aid measures and/or the placing of an ambulance on standby.

**135.** Supervisors should ensure that relatives or close friends of the injured or affected person, subject to their agreement, are notified at the earliest opportunity.

## **Debriefing**

**136.** All armed operations should be the subject of a report and analysis of events.

**137.** The planning of operations should include arrangements for a debriefing session, which should include any outstanding or follow up actions required in relation to the incident.

**138.** The aim is to identify any aspect of the planning, command, tactics or equipment used which demonstrated good practice or requires attention.

**139.** Where as a result of an armed confrontation police have killed or injured a suspect or other person, it is essential that integrity of purpose can be demonstrated in respect of any debrief which is held. This may be accomplished by ensuring an independent record of the debrief.

**140.** Unless there is an operational imperative which requires an immediate debrief session to elicit vital information relevant to an ongoing incident, a debrief should not occur without the agreement of the investigating authority (the SIO/OPR/PPCAIBSI).

## **Records and Reports**

**141.** Members of the JCF will verbally report when a firearm is operationally drawn from the holster and any use of firearms (including where a shoulder-controlled weapon is made ready for firing) to their immediate supervisor as soon as practicable. Immediately following the discharge of any firearms (other than in training or as part of a research programme) an initial report will be faxed to the Office of Professional Responsibility, copied to the Divisional Commander and the Commissioner's Office.

**142.** Supervisors will ensure that a pocket book entry has been completed by the officer(s) involved and that each pocket book entry is inspected and signed by that supervisory officer. Initial notes should be made as soon as practicable, subject to any individual legal advice received to the contrary. The entry should be timed, dated and signed.

**143.** Members of the JCF must fully document the circumstances in which they found themselves, the reasons for their actions and the details of the supervisor to whom they subsequently reported.

**144.** In the event of a police officer discharging a firearm, the Police Public Complaints Authority, the Office of Professional Responsibility, and the Bureau of Special Investigations are required to be informed immediately (this is a statutory obligation).

## **Post-incident Procedures**

**145.** It is essential that the procedures evoked immediately following the operational discharge of firearms enable:

- a.** Immediate follow up to the incident to be pursued
- b.** An immediate post-shooting investigation commenced
- c.** Officers to be provided with appropriate support

**146.** In implementing these procedures it is essential that the evidential trail is not jeopardised or officer safety compromised.

**147.** Incidents involving the discharge of a firearm by a police officer are, by their very nature, highly emotive and stressful for all involved. As a consequence, both investigative and welfare considerations are to be afforded a high priority.

**148.** The professional standing of the JCF will be strongly influenced by the way in which it responds to such incidents.

**149.** The welfare needs of those involved must be attended to whilst maintaining the accuracy and integrity of the investigation.

**150.** It should be borne in mind officers may be affected whether or not they fired a weapon and indeed even in operations when shots are not fired.

**151.** The police service must address two distinct responsibilities when dealing with such cases. The first is a duty in law to ensure a full investigation into the shooting incident. The Bureau of Special Investigations, in conjunction with the Police Public Complaints Authority, will undertake this.

## **152. DETAILS OF THE STATUTORY REFERRAL REQUIREMENTS TO BE INCLUDED ON RECEIPT OF NOTIFICATION.**

**153.** The second duty is a legal responsibility of care towards staff. It is intended to ensure that these responsibilities are appropriately addressed and all involved, regardless of status (public or police) are afforded the same consideration.

**154.** Operational issues, which require to be addressed in the immediate stages following an incident where, as a result of police action, some one has been killed or seriously injured, include:

- a.** Management and preservation of the scene
- b.** Commencement of the investigative stage
- c.** Securing of weapons, ammunition and exhibits (including police weaponry)
- d.** Withdrawal from the scene of principle officers
- e.** Welfare considerations



- f.** Notification of the coroner and the pathologist
- g.** Appointment of an initial investigating officer
- h.** Transfer of command of the scene
- i.** Media strategy determined
- j.** Defusing of community tension
- k.** Appointment of Family Liaison Officers (where a fatality or potential fatality has occurred)
- L.** Liaison with the PPCA

**155.** The findings of the post-shooting investigations may be placed before a coroners court or, in the case of negligence or an unlawful act, before a civil or a criminal court (or the Public Service Commission).

### **Administrative Review and Investigation**

**156.** When death is occasioned by the use of force, an administrative and criminal investigation of the incident will immediately take place.

**157.** The scope of the investigation is likely to be wide-ranging. It will not only include the circumstances of any injury to, or death of any person who may have been shot, but also the circumstances leading up to a shooting and all the surrounding issues such as the management of the incident, personnel beyond the immediate scene, e.g. in the force control room. An incident involving the use of firearms by members of the JCF may affect those involved differently and it is not possible, nor should it be attempted to say who may be affected and to what extent. Both research and experience have shown that officers who have not discharged weapons or suffered injury may be traumatized. A guide to the issues to be considered during a post-shooting investigation is provided at Annex B.

**158.** Administrative Review and Investigation will determine whether,

- a.** Force rules, policy or procedure were breached
- b.** The force order/ policy was clear and effective to cover the situation
- c.** Force training is currently adequate
- d.** Supervision and direction have been applied properly.

**159.** The outcome of the Administrative Review should:

- a.** Determine policy violations and/or training inadequacies and will report to the appropriate authority recommending remedial and/or disciplinary action

- b.** Provide documentation for an annual review at assessment by the Commissioner of Police.

**160.** The Administrative Review is a separate and distinct enquiry from the criminal investigation of an incident.

**161.** Although the criminal investigation may require some time to reach a conclusion, the administrative investigation shall be of short duration, reaching a preliminary judgment within forty-eight hours of the incident. In each case when a member uses deadly force; the following procedure will be followed:

- a.** The Commanding Officer of the member involved shall relieve the member from duties in any operational assignment.
- b.** The Commanding Officer in charge may either assign the member to some administrative duty or relieve the member from all police duties, pending the outcome of the administrative review.
- c.** The Divisional Commander for the division in which the incident occurs or his designate and one member of the **Bureau of Special Investigation (BSI) and the Assistant Force Chaplain shall conduct** a preliminary investigation to determine:

- (i) If the shooting seem justified or not.
- (ii) Force Orders and procedures were followed or not and that the member's physical and emotional state is such that he/she is capable of resuming normal police duties.
- (iii) Submit a written report embodying all available facts through the Area/Branch Officer to reach the Commissioner of Police as early as possible and in any event, within 24 hours of the occurrence.
- (iv) Where the members Commanding Officer is not the Officer in charge of the Division in which the incident occurred it shall be the responsibility of the officer in command of the Division where the incident occurred to forward the report required by a (iii) above.
- (v) The Commissioner shall reserve the right in all case to determine the return of the member to operational duties within the 24 hours.

## **Criminal Investigation**

**162.** The procedures below apply to all situations in which a member discharges a firearm for the purpose of employing deadly force against a human being.

- a.** The Commanding Officer for the area where the shooting takes place shall promptly

notify the Deputy Commissioner of Police in charge Crime, the Bureau of Special Investigations and the Police Public Complaints Authority of the incident, as well as the Constabulary Communication Network.

**b.** The officer in charge of the Bureau of Special Investigations shall assign a competent investigator to take over and complete the investigation under his/her direction.

**c.** The detective assigned shall conduct the investigation as he/she would in any other serious investigation.

**d.** With the exception of the rare extenuating circumstances, all investigations shall be completed and the file submitted to the Deputy Commissioner of Police for Crime within 30 days of the incident.

**e.** After review the Deputy Commissioner of Police for Crime shall promptly submit the investigating report file to the Director of Public Prosecutions for his review and findings, and the administrative review file to the Commissioner.

## **Humane Destruction of Animals**

**163.** The humane destruction of animals is a duty which may fall to the police if the animal represents a danger to lives or property, or if the animal is in such a condition that it must be killed to avoid unnecessary suffering, and no veterinary surgeon or licensed surgeon is available to perform the task, or they are unable to do so. In carrying out this duty, the police should be cognisant of public safety, for some big game the use of special weapons and ammunition may be required.

## **ANNEX A**

### **Station Accounting Procedure for Weapons and Ammunition.**

All weapons and ammunition will be issued and returned against signature. The following procedures will be adopted in relation to all issue and return of weapons and ammunition:

**a)** No member of the Force while on duty shall carry weapon other than one, which has been issued and/or authorized by the Force.

**b)** Firearms and ammunition are kept at all Divisional Headquarters and Stations for issue in cases of necessity. They will only be issued to members of the Force who are currently

qualified in that weapon.

**c)** The Station Officer and the Sub-Officer in charge of each station is responsible under the directions of the Divisional Officer, for the safe custody and issue, when necessary, of firearms and ammunition.

**d)** When a firearm is issued to a member it shall be loaded by him/her and in the case of a revolver or pistol, placed in the holster in the presence of the Station Officer or Sub-Officer in charge of the Station.

**e)** An entry will be made in the Station Diary noting to whom it is issued and the firearm register signed by the officer receiving the weapon and ammunition.

**f)** Magazines for self-loading weapons will be 'charged' in accordance with firearms training instructions for that weapon. Rounds will not normally be placed in the breach unless action is imminent.

**g)** On completion of the duty, the member will return the firearm to the Station Officer or Sub-Officer in charge of the Station, and will account in his presence for all ammunition issued.

**h)** The latter will carefully examine both the weapon and ammunition and make an entry in the Station Diary of the condition in which they are returned to him. The relevant entry in the Firearm Register must be completed.

**i)** A member returning firearms must report any instance in which he/she has had occasion to draw it operationally from the holster, whether it was discharged during the period of duty. Such report will be dealt with as 'Urgent' and submitted to the Divisional Officer.

**j)** When a firearm has been discharged, other than in training, a report of the circumstances will be submitted by the member concerned to the sub-officer in charge of the station. All such reports will be marked "Urgent".

## **ANNEX B**

### **Issues to Consider When Investigating Shootings by the Police**

This list is not intended **to** be exhaustive, but represents an indication of many of the areas that will normally fall to be investigated following the discharge of a police firearm in operational circumstances.

1. **Intelligence**-what intelligence or evidence was available before the operation and who was in possession of it? What decisions were taken as a result and why? What steps were taken to verify the information?

2 **Briefing**-was the information available accurately relayed at the briefing or subsequently as events unfolded?

3. Who authorised the operation?

4. **Threat/Risk Assessment**. Details of any carried out.

5. Was this a joint JDF operation?

6. **Specialist Units**-what use was made of Specialist Units and what were their terms of reference in the operational plan?

7. **Specialist Munitions**-were any used -shotgun CS rounds, distractions devices, shotgun breaching rounds -and what internal Force instructions exist for their use?

8. **Command Structure**-who occupied which positions within the structure?

9. **Strategy**-what was the strategic intention of the Commander?

10. **Tactical Parameters**-were any set by the Commander, and what were they?

11. **Tactical Plan**-what tactical options did the Commander consider, and what was their reasoning for decisions made?

12. **Negotiator**-was one used and what was their input?

13. **Rendezvous Points**-where were they?

14. **Communications**-what arrangements were made?

**15. Records**-is there any video footage / photographs of the incident?

**16. Firearms Training**-were the officers authorized for the particular weapon(s) they were carrying/fired? What records relating to firearms training given to officer are available?

**17. What service records of police weapons used exist-trigger** pressures, zeroing etc?

**18. Medical**-what were the ambulance / first aid training arrangements? How was the police duty of care to the injured person met?

**19. Scene Management**-what steps were taken to preserve public safety /cordons?

**20. Tours of Duty**- What were their lengths?

**Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27<sup>th</sup> August to 7<sup>th</sup> September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990).**

Whereas the work of law enforcement officials is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Whereas the Standard minimum Rules for the Treatment of Prisoners provide for the circumstances in which prison officials may use force in the course of their duties,

Whereas Article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Vienna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials,

Whereas the Seventh Congress, in its Resolution 14, inter alia, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its Resolution 41/149 of 4 December 1986, inter alia, welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

The basic principles set forth below, which have been formulated to assist: Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

## **General Provisions**

**1.** Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical Issues Associated with the use of force and firearms constantly under review.

**2.** Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly

restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet proof vests and bullet proof means of transportation, in order to decrease the need to use weapons of any kind.

3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment
- (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

### **Special Provisions**

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person



presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

10. In the circumstances provided for under Principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

11. Rules and regulations on the use of firearms by Law enforcement officials should include guidelines that:

- (a) Specify the circumstances under which Law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;
- (b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
- (c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- (d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
- (e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;
- (f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

## **Policing Unlawful Assemblies**

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with Principles 13 and 14.

13. In the dispersal of assemblies that are unlawful but non-violent: law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when

less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in Principle 9.

### **Policing Persons in Custody or Detention**

15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of other against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in Principle 9.

17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly Rules 33, 34 and 54.

### **Qualifications, Training and Counselling**

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.

19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency responsibility in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.

20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion,

negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

21. Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

## **Reporting and Review Procedures**

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in Principles 6 and 11. For incidents reported pursuant to these Principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

**Footnotes.**

In accordance with the commentary to Article 1 of the Code of Conduct for Law Enforcement Officials, the term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.