

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Ocean View Police Department

Legal and Risk Analysis

December 2025



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Acronyms

BBPD	Bethany Beach Police Department
CAD	Computer-Aided Dispatch
CEO	Chief Executive Officer
CFS	Call(s) for Service
DSP	Delaware State Police
IACP	International Association of Chiefs of Police
OOJ	Out-of-Jurisdiction
OVPD	Ocean View Police Department
PMAA	Police Mutual Assistance Act
SBPD	South Bethany Police Department
SUSCOM	Sussex County Communications

Introduction

In the summer of 2025, the Town of Ocean View, Delaware contracted with the International Association of Chiefs of Police (IACP) to conduct a legal and risk analysis for the Ocean View Police Department (OVPD). This project assessed potential legal, financial, and operational risks associated with OVPD officers responding to calls for service outside the jurisdictional boundaries of the Town of Ocean View.

The analysis focuses on the following areas:

- Assessment of the policing environment, including service population, staffing, crime data, workload and potential operational impacts of out-of-jurisdiction response
- Legal and risk analysis, focusing on out-of-jurisdictional responses, and liability considerations.
- Risk mitigation strategies to lessen liability exposures resulting from out-of-jurisdictional responses.

The risk assessment employed a multi-faceted analytical approach that integrated both quantitative and qualitative data. To complete this assessment, the methodology included:

- Interviews with 21 officials to include police chiefs, town managers, mayors, and county and state officials to gain a broad perspective on the issues.
- Reviewing calls for service data to identify where and when the Ocean View Police Department were responding to out-of-jurisdiction calls and the possible impact to their workload.
- Analysis of statutory and case law to fully identify the impact of out-of-jurisdiction response.
- Research into how surrounding states address similar issues of dispatching locals to assist their state police departments.

Key Findings

- **Legal Authority:** OVPD officers are legally authorized to respond outside town limits under Delaware statutes, including mutual aid provisions and dispatch protocols.
- **Liability Exposure:** While state law provides immunity and caps damages for most claims, federal lawsuits under 42 U.S.C. §1983 pose significant financial risk due to unlimited damages and attorney's fees. Unless the Town could deflect liability toward other actors (e.g. through a successful crossclaim against DSP), the Town would likely be liable for an award of damages and attorney's fees for the conduct of its officers.

- **Operational Impact:** Out-of-jurisdictional (OOJ) responses represent a modest portion of OVPD’s workload, but a disproportionate share of high-risk incidents—such as pursuits, domestic violence, and mental health calls—occur outside the Town.
- **Risk Management:** The Town can mitigate liability through policy revisions, considering additional enhanced training and supervision, increased insurance coverage, and seeking long-term legislative advocacy for indemnification of local police departments when dispatched to assist DSP.

The Policing Environment

Examining the policing environment is an essential prerequisite to informed judgment regarding the legal, financial, and operational risk the Ocean View Police Department may incur when responding to out-of-jurisdiction calls. The geography, service population, economic conditions, levels and composition of crime and disorder, workload, and resources in Ocean View are salient factors that define and condition the policing requirements and response capacity and should be considered when evaluating the course forward. These factors are examined in this section.

Town of Ocean View Overview

Ocean View is located two miles inland from the Atlantic Ocean in close proximity to the Delaware beaches and as such is both a desirable place to live, to own a second home or offer as a short-term rental, and is impacted by the tourism industries of the neighboring beachside communities. Route 26 (Atlantic Avenue) is the Town's primary commercial corridor. There is a small, secondary commercial corridor along Central Avenue consisting of primarily older structures that have been converted into small retail shops and businesses. Figure 1 is a map of the Delaware beach communities showing Ocean View's close proximity.

Figure 1. Delaware Beach Communities

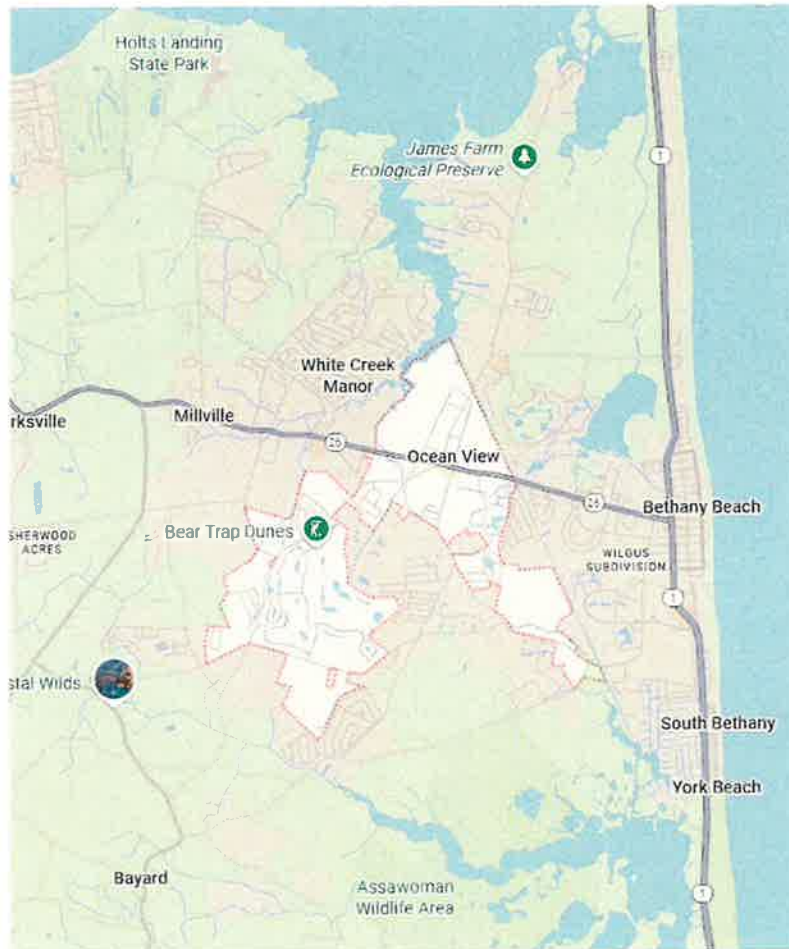


Image Source: Google Maps

Service Population Demographics

Estimates from the 2024 U.S. Census show the population in Ocean View is 2760 persons. Delaware Demographic's updating its population as of August 2025 to be 3,023 persons. These figures only represent Ocean View's full-time residents and don't include its part-time seasonal property owners.¹ Approximately 41% of Ocean View's population is aged 65 and older with a median age of 64.5. By comparison, the State of Delaware has 17% of its population 65 or over and Sussex County has 25% of its population 65 or older. It is expected that the growth in older population numbers for the state, county and Ocean View will continue in future years. In addition to an older "retirement aged" community, Ocean View is also a community with a large percentage of "seasonal homes" which includes houses being used as second or vacation homes that are not occupied year-round. This service population cohort (older residents and seasonal homes) can

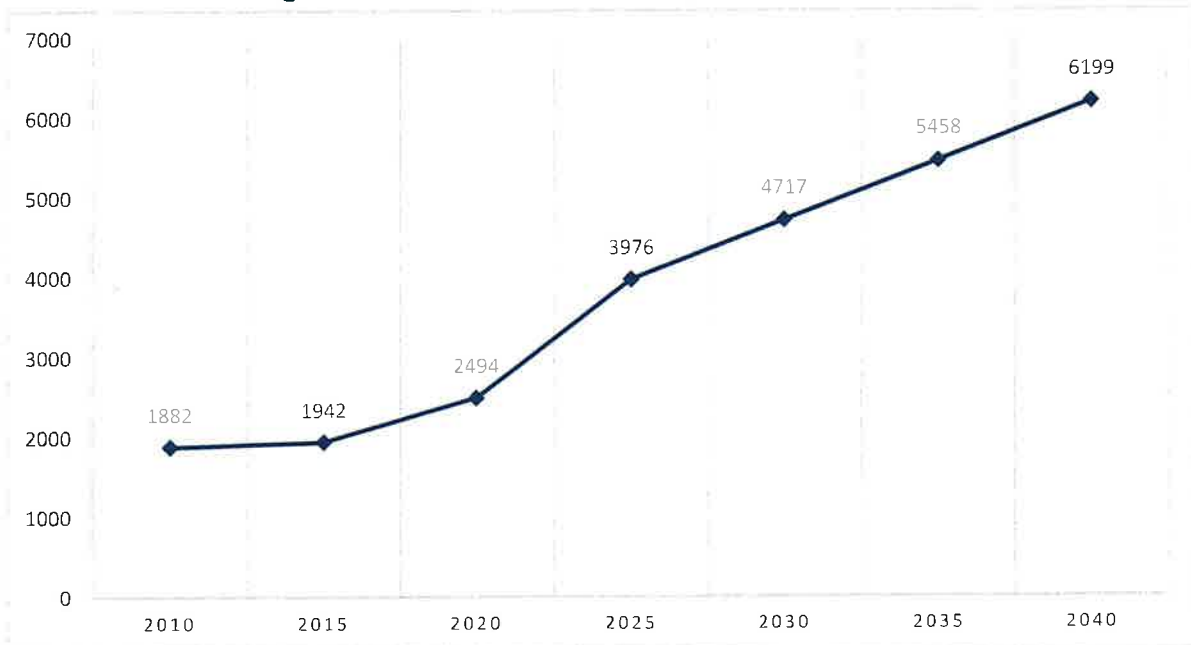
¹ Delaware Demographics data provided by the Town of Ocean View.

likely present a wide variety of potential targets for criminals. As the community continues to grow, it is important to monitor the population numbers in different age demographics as well as home occupancies as significant shifts (either upward or downward) can affect the OVPD's workload volumes.

While the staffing model does not rely on population as a variant for calculating staff demands, increases in population typically result in additional workload, and these shifts are often predictable and measurable.

As already noted, the State of Delaware, Sussex County, and Ocean View percentage of population older than 60 is larger than national averages and that trend is expected to continue. The Ocean View Comprehensive Land Use Plan has projected population growth as shown in Figure 2 below.²

Figure 2. Town of Ocean View's Population Projections



Source: Ocean View Comprehensive Land Use Plan, March 2020

The population of Ocean View is predominantly white (90.6%) with Asian (2.28%) and Other Mixed (2.32%) being the next largest segments of the population. Table 1 below shows the diversity of the population within Ocean View as reflected in the 2020 US Census. These factors are important as police agencies work toward hiring, recruiting, and staffing police departments that are representative of the communities they serve.

² Ibid.

Ocean View Police Department Overview

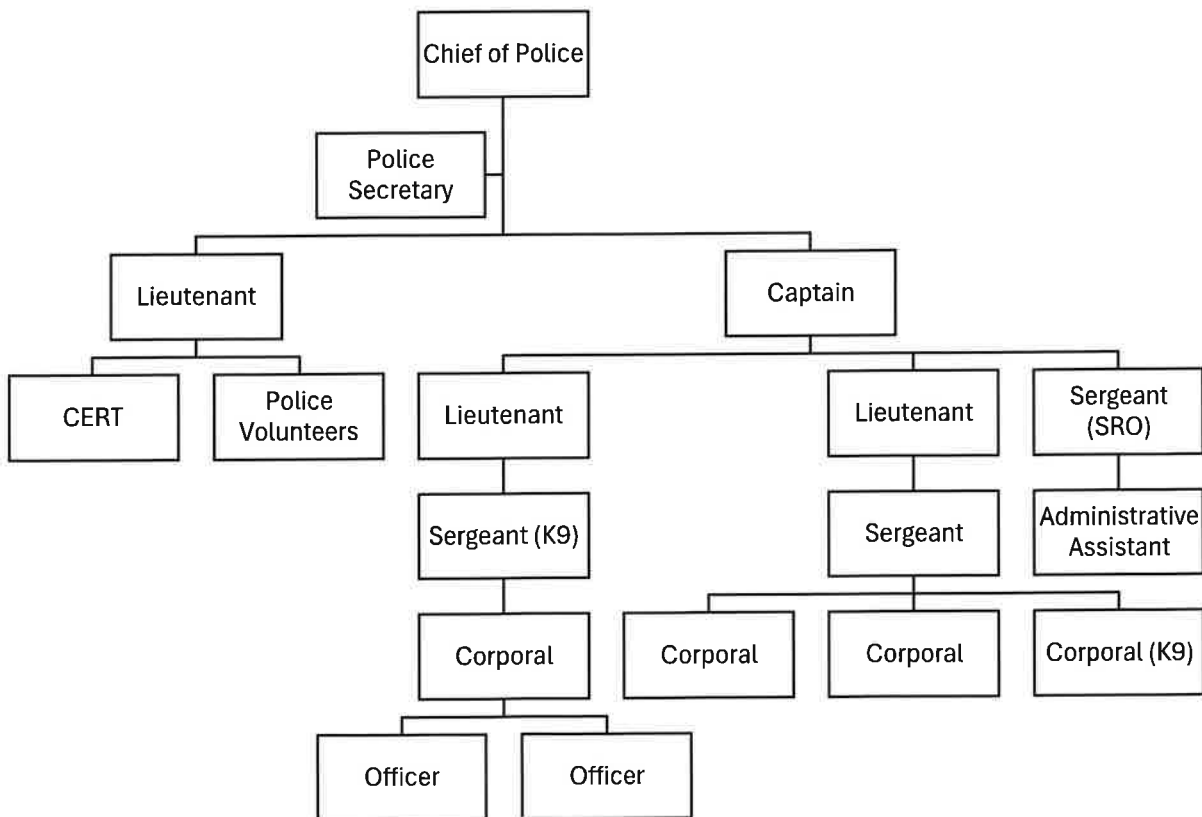
The OVPD has a staff of 14 sworn officers and 3 civilian employees in administrative assistant roles and as the CERT/Volunteer Coordinator.

At the time of this report, the Chief of Police is the chief executive officer (CEO) and there is one captain position that serves as the Deputy Chief, three (3) lieutenants, three (3) sergeants, four (4) corporals and two (2) officers.

The patrol force works 12-hour shifts with two teams, each commanded by one of the lieutenants and composed of one sergeant and three (3) call responders, a combination of corporals and/or officers. On average there are between one to two units normally working to respond to calls for service both within Ocean View and to requests for response outside of the jurisdiction.

Figure 3 below is the current OVPD organizational chart.

Figure 3. OVPD Organizational Chart



Patrol Workload Analysis

A primary question is the impact of responding to calls for service (CFS) outside of jurisdiction in unincorporated Sussex County as well as the neighboring incorporated Town of Millville. To determine the impact of responding to CFS in Millville to the overall workload of OVPD patrol operations, a summary patrol workload analysis was performed.

Personnel allocation is an imperfect process; the analysis here involves only one calendar year and looking at prior years may provide a different distribution. In addition, despite the best efforts of the department, it is likely that there will always be some variations between call for service (CFS) workloads and personnel distributions. However, larger deviations suggest an ongoing condition that demands additional scrutiny. This type of analysis should occur at least annually, and agency leaders should consider this analysis against personnel allocations.

Officer Availability

Patrol staffing requirements are determined by evaluating the total workload in hours against hours of officer availability. Officers are not able to work for a variety of reasons, including days off, vacation, sick leave, holiday time, court appearances, and training obligations. To define staffing needs, deploy officers properly, and evaluate productivity, it is necessary to calculate the actual amount of time officers are available to work.

OVPD officers are budgeted to work 2080 hours per year; however, to gain a more accurate picture of how many hours per year the average officer is available to work, various leave categories must first be deducted from this total. To assist in these calculations, generalized leave data was obtained from the OVPD (leave hours from 2021-2024). The average leave usage by OVPD officers was 361 hours per year. After subtracting leave categories from the total, the average officer is available to work 1,719 hours per year, not 2,080 hours, as is often thought (understanding that this represents the cumulative average—individual availability can vary greatly).

Understanding the actual amount of work time available for officers is central to building appropriate staffing levels and to ensuring that adequate shift coverage is attained in relation to CFS needs. It is also a critical component in calculating staffing demands, based on an examination of workload against worker capacity. Often called the shift relief factor, it shows the relationship between the maximum number of hours that an officer can work absent overtime (2080 hrs.) and what they actually work. In simple terms it shows the number of officers needed to fill each shift/position. In this case it requires at least 1.2 officers to fill each shift position at the current staffing/workload/leave usage levels. Mandatory and elective training will also reduce the number of hours that officers are available to work and increase the shift relief factor.

Measurement standards make it possible to evaluate and define patrol staffing and deployment requirements. The patrol staffing model evaluates the amount of time that patrol officers are required to use in responding to community-initiated calls for service. Community-initiated calls

for service are those that are generated by the public calling 911. Calls initiated by patrol officers are considered proactive actions and are accounted for elsewhere in the workload model.

In evaluating this data, a patrol officer's time is classified into three parts:

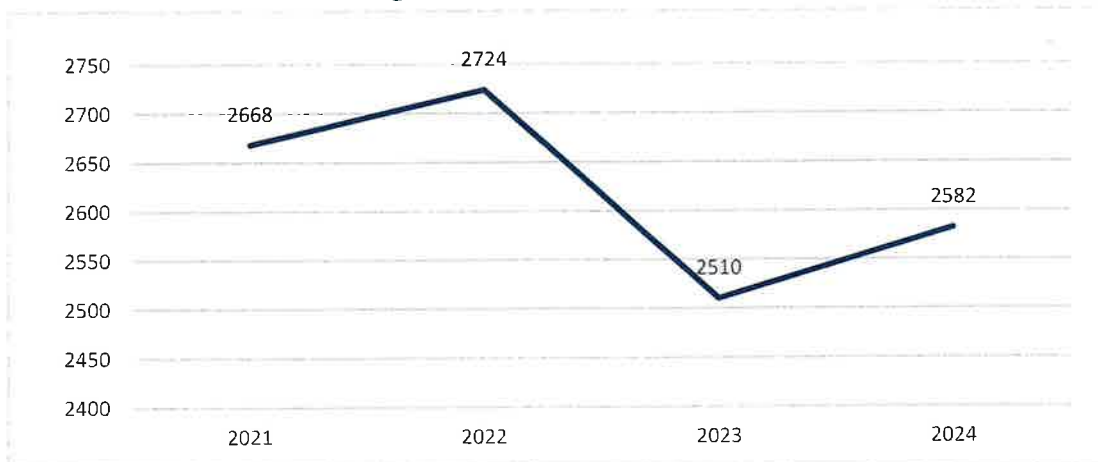
- Administrative Time
- Obligated Time - Response to Community Initiated CFS
- Community Engagement Time

CFS response should account for between 30-50% of a patrol officer's time, administrative time 30%, and the remainder should be devoted to specific proactive problem solving and community engagement. Departments that follow this model and allow patrol officers significant time for problem solving and community engagement are more successful in crime reduction strategies and building strong and lasting partnerships with the community they serve.

Obligated Time

Obligated time is the aggregate amount of time consumed by officers to answer calls for service generated by the public and to address on-view situations discovered and encountered by officers. It is the total of criminal, non-criminal, traffic, and backup activity initiated by a call from the community. When expressed as a percentage of the total labor in an officer's workday, obligated time of officers designated as first responders should fall between 30%-50%. Figure 4 below shows the total number of reported incidents from 2021-2024.

Figure 4. OVPD CAD Incidents



Source: OVPD CAD Data

Table1 is a list of reported police incidents over the past four years (2021-2024). Analysis of the data shows that the majority of the incidents responded by OVPD are service-related calls rather than criminal response / investigations.

The top four incidents by number of responses are:

1. Business Check
2. Welfare Check
3. Residence Check
4. Assist Delaware State Police (DSP) 4

Table 1. OVPD Police Incidents

Incident Type	2021	2022	2023	2024
911 Disconnect	14	7	15	9
Animal Complaint	21	20	10	10
Assault	0	1	4	3
Assist BBPD	35	32	34	35
Assist DSP 4	242	258	261	226
Assist DSP 5	1	0	2	3
Assist DSP 7	7	6	8	6
Assist Fire Dept	21	17	20	24
Assist Other Agency	72	44	52	64
Assist SBPD	32	12	7	8
Bicycle Violation	0	2	0	0
Burglar Alarm	153	121	102	127
Burglary	1	5	5	1
Business Check	811	762	683	597
Civil Other	10	12	4	7
Criminal Impersonation	0	0	0	0
Criminal Mischief	3	7	5	7
Criminal Trespass	4	2	1	1
Death Investigation	6	6	4	2
Disabled Vehicle	13	13	13	15
Disorderly Conduct	4	4	8	9
Domestic	27	34	19	21
DUI	21	32	18	39
Found Property	0	10	10	18
Fraud	13	12	17	23
Harassment	3	8	4	9
Investigation	10	12	5	8

Ocean View Police Department
 Legal and Risk Analysis

Incident Type	2021	2022	2023	2024
Local Fugitive	24	48	29	56
Lost-Found	12	3	13	2
Medical Assist	54	68	76	78
Megan's Law Notification	2	3	0	1
Mental Illness	3	3	4	2
Misc Title 11	8	11	13	11
Misc Title 16	8	17	13	13
Misc Title 21	0	2	8	9
Noise	20	17	18	6
Offensive Touching	0	3	2	7
Overdose	0	3	3	1
OOS Fugitive				1
Parking	4	11	8	9
Public Assist	81	80	97	70
Quick Stop	37	0	0	0
Reckless Endangering	1	0	2	0
Residence Check	196	329	275	361
Service Other	14	3	6	5
Sexual Assault	4	1	1	0
Shoplifting	2	3	3	2
Shots Fired	2	2	1	1
SUSCOM Write Off	14	12	5	2
Susp Person	35	45	29	41
Susp Vehicle	11	24	35	21
Terr Threat	1	0	1	2
Theft	17	13	25	19
Theft - ID	4	5	1	0
Title 16 (Civil)	31	27	5	2
Town Ordinance	11	5	5	8
Traffic Collision HR	9	10	12	18
Traffic Collision PD	60	59	50	47
Traffic Collision PI	9	7	6	10
Traffic Hazard	12	22	18	26
Traffic Other	35	33	30	46

Incident Type	2021	2022	2023	2024
Transport to Hospital	1	3	3	4
Underage Consumption / Poss	0	1	0	0
Welfare Check	422	412	402	429
Grand Total	2668	2724	2510	2582

Source: OVPD data. Rows highlighted in blue indicate assisting other agency incidents.

In simple terms it is the amount of proactive community engagement time that has the greatest impact on a police department’s ability to address crime and quality of life issues in its community.

While a detailed/comprehensive workload analysis was not within the scope of this study, the analysis suggests that OVPD is staffed to provide its officers both at the current workload level and projected near future workload significant uncommitted time for proactive / community engagement time. Ocean View is, by using any measure to evaluate community safety, a very safe community.

Operational Impact of Out-of-Jurisdiction Response

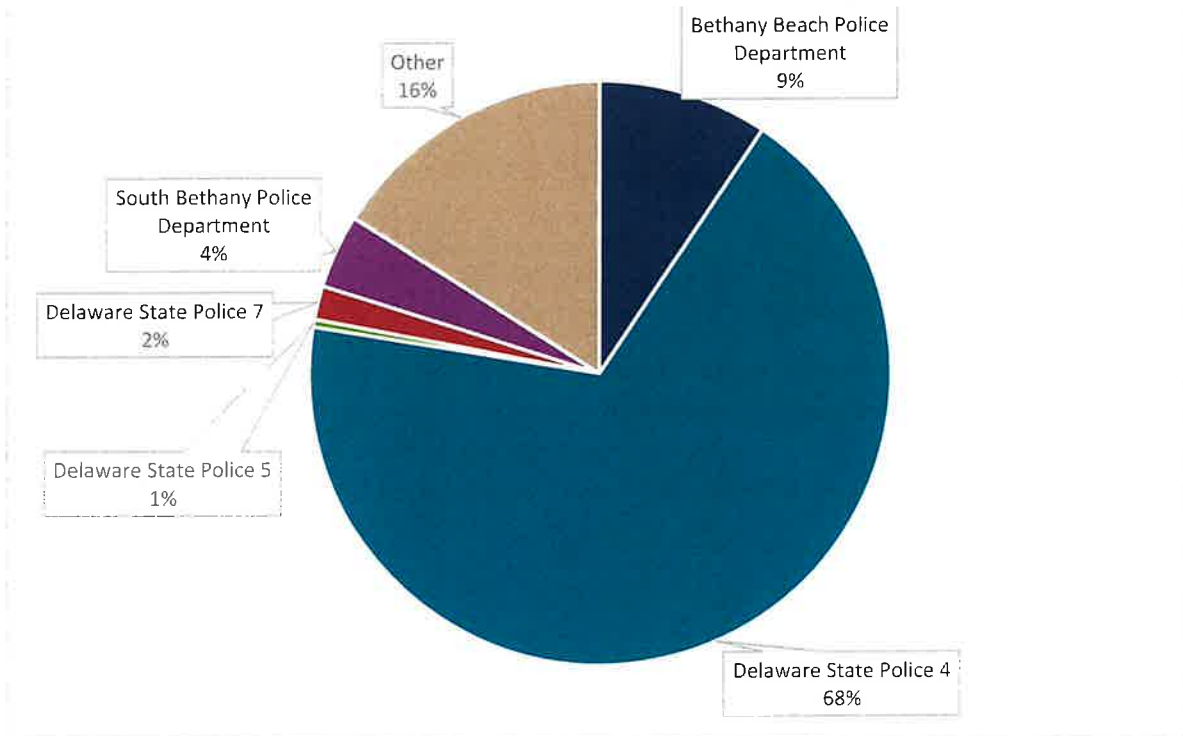
The principal focus of this review is to determine the operational impact, the legal issues and the risk involved with Ocean View officers responding to calls for service outside of the Town of Ocean View. In Sussex County, most dispatching for police services is done by SUSCOM, the Emergency Communications / Operations Center for Sussex County, which is operated by and under the control of the DSP.³ All local and state police within Sussex County operate on a common radio channel. Dispatch operations within SUSCOM are managed by the Delaware State Police.

Several Delaware statutes authorize police officers to take action outside of their local jurisdictions in a variety of circumstances. These laws enable officers to assist officers of allied police agencies when needed and to provide more effective services to the public. By way of example, if a local police officer is dispatched by SUSCOM to assist a State Trooper outside of the local officer’s jurisdiction, the local officer has the same authority as the State Trooper during that incident. A more detailed analysis of these statutes is provided in the Legal Analysis Section.

A review of the data found in Table 1 above shows that for the years 2021-2024, the average number of CAD reported incidents was 2,621. Of those, 362 incidents or 13.8% involved assisting other agencies (highlighted in blue in Table 1). It is important to note that not all of the assist other agency calls involved an out-of-jurisdiction response, and they involved local and state agencies as shown in Figure 5 below.

³ Dewey, Milford, and Rehoboth Beach are not dispatched via SUSCOM.

Figure 5. All Calls for OVPD to Assist Other Agency (2021-2024)



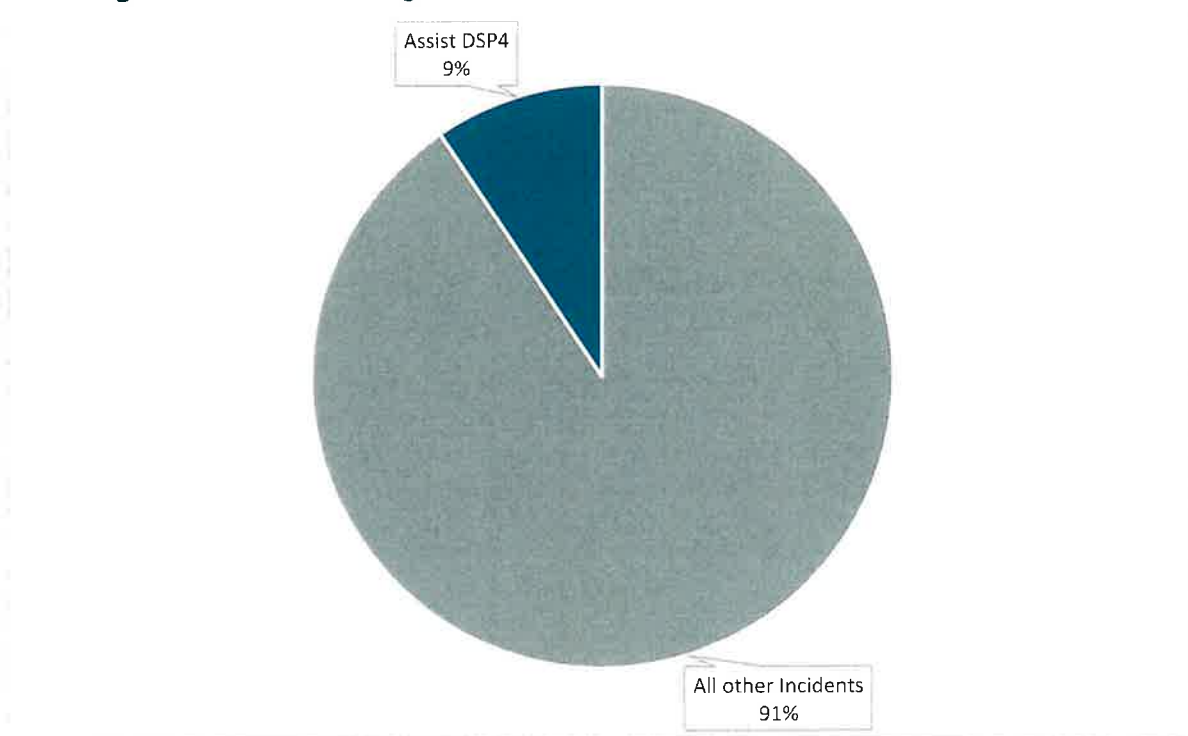
Source: OVPD CAD Data

A closer evaluation of the data, as shown in Figure 5 above, shows that 16% of the calls are in the category “Assist Other Agency.” This category is not considered extra jurisdictional response. Assists in this category occur when other agencies (federal, state or local) request OVPD assistance for police activity within the Town of Ocean View. Activities such as assistance with search warrants, looking for wanted people or welfare checks at locations all within the Town of Ocean View.

The remaining categories were assisting adjoining departments of Bethany Beach (BBPD) and South Bethany Beach (SBPD) departments and various commands / troops of the Delaware State Police (DSP4, DSP5, DSP7). It should be noted that the OVPD has a specific MOU with the SBPD allowing for mutual aid and joint patrol of each other’s jurisdictions.

A major focus of this study is OVPD’s response to assist DSP Troop 4 which is the primary law enforcement agency for those areas of Sussex County that do not have police departments. Over the past four years (2021-2024), 9.4% of OVPD’s recorded CAD incidents as shown in Figure 6 below were for assisting DSP4 and involved out-of-jurisdiction response to other locations within Sussex County. Given the importance of mutual aid response in the Delaware law enforcement community, this is not an unrealistic number.

Figure 6. OVPD Percentage of Assist DSP 4 to All Other CAD Incidents (2021-2024)



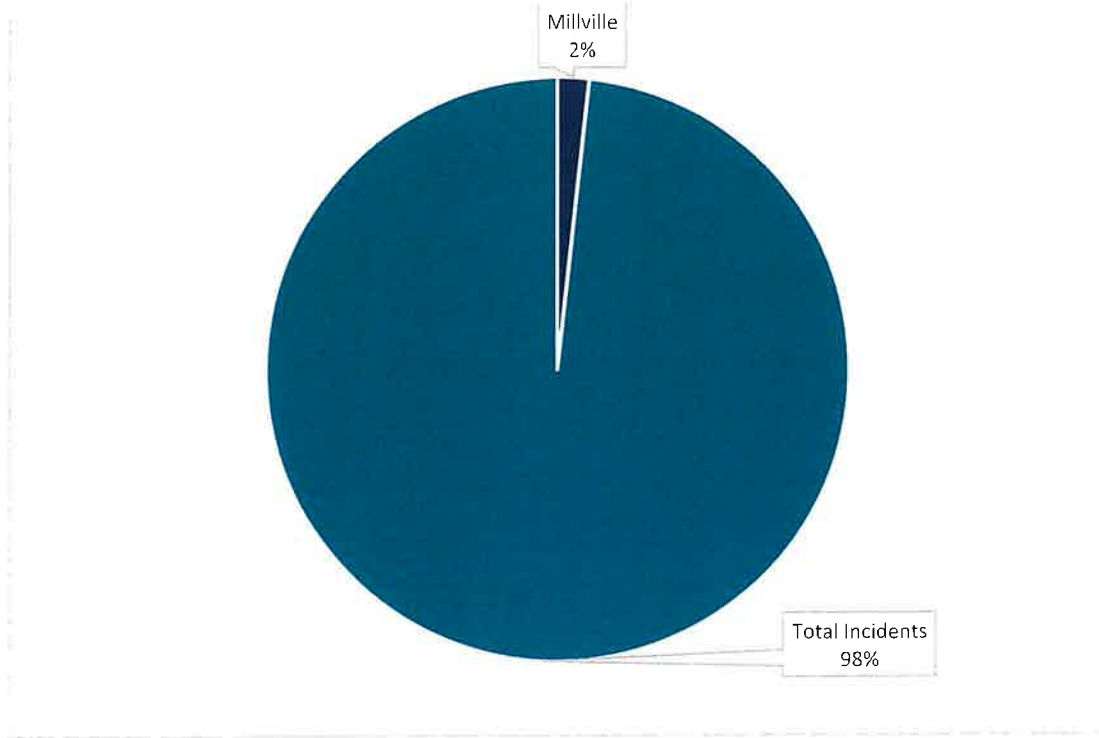
Source: OVPD CAD Data

During the study process, discussions took place about the impact of OVPD's response to calls in the neighboring community of Millville. This town borders Ocean View and does not have its own police department; its law enforcement services are provided by the Delaware State Police.⁴ Because of concerns expressed by some Ocean View residents, the department specifically tracks the number of responses and the time spent on calls in Millville. At this point, it is important to emphasize that while community members of Millville clearly benefit from police services provided by OVPD, the OVPD response is not to calls from Millville community members but to requests for response or assistance from the Delaware State Police via SUSCOM dispatch.

In 2024 OVPD response to assist DSP in Millville accounted for 2% of the total reported incidents as shown in Figure 7 below. Again, the current analysis shows that the response to assist DSP in Millville is of such low numbers to have a minimal impact on OVPD's operations.

⁴ Per information provided by the Town of Ocean View, Millville contracts with the Delaware State police for 40 hours a week of police services.

Figure 7. OVPD Response to DSP Request for Assist in Millville (2024)



Source: OVPD Data

Two other areas were also examined to analyze the impact of response to calls to assist DSP in Millville. Of the 47 responses in 2024, DSP troopers were on the scene in all but 8 incidents. In those 8 incidents, DSP troopers were dispatched but the incidents were cleared by OVPD officers prior to DSP arrival.

The final area of analysis was to evaluate the amount of time that OVPD officers are using to respond to calls to assist DSP in Millville. During 2024, OVPD officers spent on average 110 minutes per month responding to these calls to assist DSP in Millville (note there was one entry on June 2, 2024, that showed a call taking over 12 hours; this is likely an error and was not included in the time calculations).

Per discussions with Ocean View, Sussex County provides an annual grant ranging from \$30,000 to \$45,000 per year to the town from 2020 through 2025. One of the original purposes of this grant was to help offset the cost of out-of-jurisdiction response.

Summary of Operational Analysis of Out-of-Jurisdiction Response

- Responses are to official requests/ dispatched calls.
 - Majority are to assist DSP 4 with calls in Sussex County
 - Most are in the unincorporated areas of Sussex County

- While any response out-of-jurisdiction takes an officer away from their assigned area, the impact on available obligated and unobligated time for OVPD officers is minor.
- Successful participation in the Delaware law enforcement community requires mutual aid and mutual support.
- Sussex County provides some compensation to offset the cost of out-of-jurisdiction response.
- The Town of Ocean View remains a very safe community.
- While the impact of out-of-town response is minimal, Ocean View can take some action to further reduce the impact.
 - Limit response to only priority (emergency response) calls where there is an immediate threat to life.
 - Restrict out of town response to only those occasions when there is more than one officer working.
- The Ocean View Police Department has the time/resource capacity to expand police services to areas outside of its boundaries. It would be prudent for the Town of Ocean View leadership to establish a positive working relationship with contiguous communities to explore mutually beneficial partnerships regarding joint police services.

Legal and Risk Analysis

Legal Considerations

The leadership of the Town of Ocean View expressed concerns about potential civil liability related to the Ocean View Police Department's (OVPD) practice of responding to calls for service outside of the town's jurisdictional limits. While the issue of reimbursement from Millville for OVPD's responses to that incorporated municipality was also mentioned, it was made clear that the primary concern was the risk of civil liability. Based on the Millville call-for-service data, the most pressing issue is the Town's legal risk.

The risk to the Town raises five distinct questions:

1. Do Ocean View police officers have lawful authority to take police action outside the Town of Ocean View?
2. What is the Town's exposure to civil liability generally?
3. Is Ocean View exposed to greater liability when OVPD responds outside of the Town?
4. Does the relationship between the State Police and local police departments (DSP routinely dispatches local police agencies to support State Troopers throughout Delaware) support the need for State indemnification of municipalities?
5. What should the Town do to manage the risk of out-of-jurisdiction responses?

These questions are addressed in this section.

1. Do Ocean View police officers have lawful authority to take police action outside the Town of Ocean View?

Yes. Delaware statutes authorize such out-of-jurisdiction responses.

To answer the above question thoroughly, the most likely circumstances that result in an OVPD officer providing police service outside of the Town must be considered. They include:

- When dispatched by SUSCOM;
- Pursuant to a request for assistance from the Delaware State Police;
- Rendering assistance to another police officer to prevent injury or death to the officer receiving assistance;
- Pursuant to the mutual aid law; or

- When engaging in fresh pursuit of a suspect.

Responding to SUSCOM dispatches

The Public Safety Answering Point in Sussex County goes by the moniker 'SUSCOM.' At SUSCOM, the Delaware State Police (DSP) operate and is responsible for dispatching DSP Troopers and local police officers to calls for service within Sussex County. Ocean View officers are routinely dispatched by SUSCOM to support DSP Troopers outside of the Town of Ocean View.

Title 11 §1911(f)⁵ makes it clear that when an Ocean View police officer is dispatched by DSP at SUSCOM to support a Trooper outside of Ocean View's corporate limits, Ocean View officers have the same police authority as DSP Troopers for the purpose of that event.

Responding to a request for assistance from the Delaware State Police

Title 11 §8302⁶ of the Delaware Code confers State Police authority upon any police officer who responds to a request for assistance from the State Police. This statute is not limited only to incidents where DSP has dispatched a local officer; it is broader. The 'request for assistance' could take other forms such as a radio broadcast from a Trooper in trouble, a direct phone call to a local police department, an in-person conversation between a Trooper and a local officer, or electronic communication of any sort.

⁵ (f) When police officers who are certified by the Police Officer Standards and Training Commission are dispatched by a Public Safety Answering Point outside of their respective jurisdiction as conservators of the peace, those officers shall be considered to be acting as officers of the dispatching agency and have the powers of arrest thereof.

⁶ § 8302. Powers and duties of State Police; local police officers assisting State Police.

(b) When police officers who are certified by the Delaware Police Officer Standards and Training Commission are acting outside their respective jurisdiction as conservators of the peace in response to a request for assistance from the State Police, those officers shall be considered to be acting as State Police Officers and shall have the powers of arrest thereof.

Rendering assistance to prevent injury or death

Title 11 §1911(a)⁷ of the Delaware Code defines the term ‘police officer,’ and Ocean View police officers are certainly included in that definition. Paragraph (e)⁸ of that same section authorizes police officers to take action to assist another police officer anywhere in the State when the officer providing assistance reasonably believes that, unless they render assistance, the other officer will be injured or killed.

Providing assistance pursuant to Delaware’s mutual aid law

The Police Mutual Assistance Act (‘PMAA’; Title 11 §§1941-1947 of the Delaware Code⁹) eliminated the cumbersome practice of agency leaders drafting and signing multiple mutual aid agreements each year with allied police departments throughout the State. The PMAA establishes statewide guidelines for police agencies to request—and receive—help from other police agencies. The PMAA envisions that a police chief (or designee) of one jurisdiction could request help from another jurisdiction when the requesting chief determines that they need additional police resources to deal with an incident.

⁷ § 1911. Police officers; statewide authority.

(a) For purposes of this section “police officer” means any police officer holding current certification by the Police Officer Standards and Training Commission as provided by Chapter 84 of this title and who is:

(3) A member of the police department, bureau or force of any incorporated city or town;

⁸(e) A police officer may render assistance to another police officer at any location within the State when the officer reasonably believes that the police officer to be assisted is lawfully performing that officer’s duty and that death or injury will occur to that police officer if assistance is not provided.

⁹ § 1942. Definitions.

As used in this subchapter:

(1) “Emergency” means any such circumstance which, in the judgment of the principal law-enforcement officer of the requesting jurisdiction, requires additional police assistance, and shall include such planned or anticipated or scheduled events that, in the judgment of the principal law-enforcement officer of the requesting jurisdiction, will require additional police resources beyond the reasonable capacity of the requesting jurisdiction....

§ 1943. Use of police from other jurisdictions in emergencies.

Whenever the necessity arises during an emergency, upon request, the police of one jurisdiction may, pursuant to this subchapter, lawfully enter into another jurisdiction for the purpose of assisting in meeting such emergency.

§ 1946. Direction and authorization of activities.

(b) The principal law-enforcement officer shall be empowered to authorize all police from a foreign jurisdiction to the same extent as if they were duly authorized law-enforcement officers of the jurisdiction.

For example, if the Bethany Beach police chief determined that a sudden event (e.g. a large protest) required police resources beyond the capacity of those in Bethany Beach and requested OVPD officers to assist, the responding OVPD officers would be authorized to act as police officers within the Town of Bethany Beach during that incident.

Engaging in vehicular pursuits outside of Ocean View

Title 11 §1935¹⁰ of the Delaware Code authorizes police officers to engage in pursuits throughout the State in order to arrest a fleeing individual when an officer has reasonable grounds to suspect that the person fleeing has committed a crime or a motor vehicle violation in the State. Ocean View officers must adhere to departmental policy, but the state law is highly permissive.

2. What is the Town's exposure to civil liability generally?

The Town's civil liability for lawsuits based on state law claims is severely limited by statutes favorable to local governments. The Town's biggest liability risk comes from federal lawsuits.

While OVPD officers have legal authority to take action outside of the Town in a variety of circumstances, none of the statutes provide or require indemnification for the Town from the assisted government agency in the event a civil claim. If an Ocean View officer and/or the Town of Ocean View are sued as a result of an out-of-jurisdiction incident, Ocean View must defend the cause of action just as if the incident occurred within Ocean View.

To explore the Town's exposure to civil liability thoroughly, the law of the two forums in which suits against the Town may originate must be reviewed: state court and federal court.

State claims

Delaware law provides strong protection for municipalities against civil liability for state claims. Title 10 (Courts and Judicial Procedure) Chapter 40 of the Delaware Code limits the civil liability of local governments in two ways: 1) with a general immunity (with exceptions) from most tort claims, and 2) by establishing a maximum dollar amount that a plaintiff may be awarded in a lawsuit.

¹⁰ § 1935. Fresh pursuit by county, municipal, town and other peace units.

Any peace officer of a duly organized county, municipal, town, interstate bridge or university peace unit or a law-enforcement officer of the Department of Natural Resources and Environmental Control, but not county sheriffs or their deputies, may carry out fresh pursuit of any person anywhere within this State, regardless of the original territorial jurisdiction of such officer, in order to arrest such person pursued, when there is reasonable grounds to suspect that a felony, misdemeanor, or violation of the Motor Vehicle Code has been committed in this State by such person.

1) General immunity; exceptions

Section 10-4011 reads in pertinent part:

§ 4011. Immunity from suit.

- (a) *Except as otherwise expressly provided by statute, all governmental entities and their employees shall be immune from suit on any and all tort claims seeking recovery of damages....*

Section 4012¹¹ carves out three distinct exceptions to the general immunity established in §4011. The most relevant exception that applies to police operations is the following one:

§ 4012. Exceptions to immunity.

A governmental entity shall be exposed to liability for its negligent acts or omissions causing property damage, bodily injury or death in the following instances:

- (1) *In its ownership, maintenance or use of any motor vehicle, special mobile equipment, trailer, aircraft or other machinery or equipment, whether mobile or stationary.*

Taken together, §4011 and §4012 provide significant immunity to the Town from state law claims, but they leave the Town exposed to civil liability from police operations involving the negligent operation of its police cars. The Town could face lawsuits from routine driving, emergency (lights and siren) responses to calls for service, and high-speed pursuit driving.

¹¹ **§ 4012. Exceptions to immunity.**

A governmental entity shall be exposed to liability for its negligent acts or omissions causing property damage, bodily injury or death in the following instances:

- (1) *In its ownership, maintenance or use of any motor vehicle, special mobile equipment, trailer, aircraft or other machinery or equipment, whether mobile or stationary.*
- (2) *In the construction, operation or maintenance of any public building or the appurtenances thereto, except as to historic sites or buildings, structures, facilities or equipment designed for use primarily by the public in connection with public outdoor recreation.*
- (3) *In the sudden and accidental discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalines and toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water.*

2) Limitation of damage awards

Section 10-4013¹² caps the amount a plaintiff can recover to either \$300,000 or the limit of the municipality's insurance coverage—whichever is greater.

The takeaway is that the Town's exposure to civil liability from state law claims based on actions of its police officers is limited to acts involving the use of motor vehicles, and it is further limited by the statutory cap of the damage award. State law claims are not the Town's greatest liability exposure; that comes from potential federal claims.

Federal claims

Typically, federal claims against local government officials are brought against an individual acting 'under the color of state law' for the deprivation of a federally protected constitutional or statutory right pursuant to 42 U.S.C. §1983. An individual is acting 'under color of law' when they are exercising the authority given to them by the local government. These §1983 suits are typically directed against individual police officers rather than against a local government. Before a plaintiff can prevail in such a suit against a local government, they must prove that the illegal conduct of the police officer was a result of municipal policy, custom or practice such that it is the 'moving force' behind the alleged constitutional violation or that the government was aware of the problem but was deliberately indifferent to the need to train, supervise, discipline, etc.

§1983 suits are frequently brought alleging Constitutional violations of the 1st Amendment (infringement of freedom of speech, press, religion etc.), 4th Amendment (excessive force; wrongful arrest or detention; unreasonable searches or seizures), and 14th Amendment (race and gender discrimination under the equal protection clause; lack of procedural due process). **These federal lawsuits can be very expensive to a municipality; there is no cap on damage awards, and additionally, the prevailing party may be awarded reasonable attorney's fees. In some circumstances, attorney's fees may exceed the underlying damage award.**

3. Is Ocean View exposed to greater liability when OVPD responds outside of the Town?

Yes. Data indicates that, due to the types of calls, out-of-jurisdiction responses pose an elevated risk of liability to the Town.

¹² § 4013. Limitation on damages.

- (a) In any action for damages permitted by this subchapter, the claim for and award of damages, including costs, against both a political subdivision and its employees, shall not exceed \$300,000 for any and all claims arising out of a single occurrence, except insofar as the political subdivision elects to purchase liability insurance in excess of \$300,000 in which event the limit of recovery shall not exceed the amount of the insurance coverage.

It is important to note that police work authorizes—and frequently requires—officers to engage in actions that generate exposure to civil liability. Among other things, officers are authorized to use force; to drive with lights and siren; to detain and arrest people; to search persons and places; and to seize property. The risk of civil liability is always present regardless of whether an OVPD officer is acting within or without the Town of Ocean View. All things equal, the risk of liability is the same whether Ocean View officers take action in or outside of Town. But are all things equal? Is there something about responding outside of Ocean View that generates more risk? Part of the concern is that the types of calls that OVPD officers run outside of Ocean View posed a greater risk than calls within the Town.

There is some evidence in the data indicating that the risk to the Town may be higher when OVPD officers respond to calls outside of Ocean View. Table 2 below illustrates select types of calls-for-service that the Ocean View Police Department responded to in 2024. The call types were chosen because they are the ones that present an elevated risk factor for officers and the Town due to the circumstances inherent in these events. For instance, these calls may require an officer to engage in a high-speed vehicular pursuit; to make an arrest; to investigate a potential crime in progress; to interact with a mentally ill person; to defuse a violent scene in a family’s home; to look for a fugitive who is evading arrest; to respond to an emergency call with lights and siren; or to confront a disorderly, intoxicated individual. Any of these situations can go badly in an instant.

Call types were divided into two categories: 1) the total number of calls, and 2) the proportion of those calls that were out-of-jurisdiction (OOJ) calls. As you review the table, note the percentage of each call type where Ocean View officers respond outside of the Town; the numbers are significant. Overall, 40% of these elevated risk calls are OOJ calls—with several individual call types much higher than that.

Table 2. Summary of key call types from 2024 (source: SUSCOM*)

Call type	Total	OOJ*	% OOJ
Accidents—personal injury	29	15	51
Disorderly conduct	24	10	41
Fugitive	51	17	33
Domestic	62	42	68
DUI	43	10	23
Psych incident	21	16	76
Pursuits	8	6	75
Shoplifting	7	4	57
Suspicious activity	67	5	7
Trespass	12	4	33
Warrant service	4	3	75
Totals	328	132	40

*SUSCOM’s data is consistent with OVPD’s data.

**OOJ = out-of-jurisdiction

It is clear that the Town is exposed to additional risk due to OVPD's out-of-jurisdiction responses.

4. Does the relationship between the State Police and local police departments (DSP routinely dispatches local police agencies to support State Troopers throughout Delaware) argue for State indemnification of municipalities?

Local police agencies incur added risk when they respond to OOJ calls in direct support of DSP on calls that are the responsibility of the State Police and could consider making the argument that the regular and frequent use of local agencies to support DSP argues for the State to indemnify local governments if liability arises from such calls.

DSP relies on assistance from local agencies constantly. As described earlier in this report, Delaware law grants to local officers the same police authority as State Troopers when dispatched in this way, yet Delaware does not provide legal defense in the event of a lawsuit, nor does the state indemnify localities if damages are awarded against a municipal officer. These calls elevate the risk of liability to the municipalities that employ the local officers.

A cursory review of the dispatch practices and the indemnity laws in the neighboring states of Maryland, New Jersey and Pennsylvania was conducted. Similarly, the dispatch practices and the indemnity laws of Rhode Island were reviewed to see if, due to its small size, it might have some practices in common with Delaware.

Like Delaware, none of those states indemnify local police agencies. Unlike Delaware, however, none of them dispatch local police officers; the state police agencies only dispatch only their state troopers. This is a critical distinction. The Delaware State Police Department routinely dispatches local agencies to assist Delaware Troopers on calls that are the responsibility of the Delaware State Police. None of these other state police departments do that.

5. What should the Town do to manage the risk of OOJ responses if ending OOJ responses is not feasible?

- *In the short term, continue or implement good risk management practices, modify the OVPD pursuit policy to further restrict pursuits, and consider increasing liability insurance.*
- *In the long term, advocate for a state law change that would require Delaware to indemnify agencies when they were dispatched to assist Delaware State Police.*

The Ocean View Police Department is routinely dispatched by SUSCOM to support the Delaware State Police (DSP) and other local police agencies outside of the Town of Ocean View. Other police departments in Sussex County operate the same way, and as a result, Ocean View benefits from reciprocal assistance from other police agencies when Ocean View needs help. This is the practice in Sussex County and throughout Delaware. By necessity and enabled by state laws that confer

authority outside of an agency's jurisdiction, police departments in Delaware move fluidly in and out of their jurisdictions to help one another.

While not currently being contemplated, if Ocean View were to stop responding to out-of-jurisdiction calls, there is a risk that the Town will lose some of the assistance currently provided by other agencies. Additional risks that the Town should consider in exploring such a decision include reputational harm to OVPD, disruption to the existing positive relationships with other police agencies, and a potential negative effect on public safety for Ocean View residents and residents in surrounding areas of Sussex County.

Short-Term Risk Management Strategies

If the Town elects to continue with out-of-jurisdiction responses, the focus must then be on risk management strategies. What follow are best practices that reduce liability risk; some of which the department has already implemented.

- 1. Careful hiring practices.** The chief of small agencies should be directly involved in interviewing, vetting, and selection of new hires. This ensures that each new hire will be chosen based on their character and their 'soft' skills that are so important in today's policing environment. Chief McLaughlin told the team that he is involved in this process.
- 2. Good training with periodic refresher training.** It is imperative that basic academy training thoroughly teaches Constitutional law and civil rights concepts so that each trainee will fully understand how they fit into civil society. Further, department-level field training should focus on agency values and community expectations. Additionally, ongoing in-service and specialized training should update officers on changes in the law and policy and provide opportunities for staff development. OVPD provides post-academy training during field training on agency policy and standards, and the Chief has relayed that he is committed to providing training over and above the state-mandated in-service hours, and for years he has made specialized training available to his officers to grow their skills and knowledge.
- 3. Administrative review of critical incidents such as uses of force and pursuits.** By reviewing body camera video, dashcam video, written reports and related information in the aftermath of critical incidents, the Chief can determine if OVPD officers are acting consistent with law and policy in stressful situations that expose the Town to liability. As a matter of practice, and consistent with accreditation standards, the Chief has confirmed he conducts these critical incident reviews.
- 4. Appropriate discipline when officers violate policies.** When policy violations do not result in appropriate discipline, the policy is weakened and becomes meaningless. Importantly, recurring violations of policy may be viewed as an agency's de facto policy, and that exposes a municipality to direct liability under §1983 under a 'moving force' theory

of causation or a theory of deliberate indifference. Chief McLaughlin stated that he does not hesitate to take disciplinary action when appropriate.

- 5. Report review.** Supervisors should read every police report submitted by their subordinates in order to ensure that officers are in compliance with law and policy. Deviations from established policies should be addressed right away and documented as necessary to demonstrate good supervisory practices. Supervisors should notify superiors in the chain of command when significant or repeated deviations are identified.
- 6. Thoughtful policies combined with training on the policies.** Written policies should provide clear guidance and be drafted with risk management as a priority. Leaders should provide training on policies to make sure that officers understand and implement the policy as intended. OVPD has a contract with Lexipol to generate written policies for the Department and Lexipol sends frequent training bulletins and quizzes to OVPD which serve as a tool to train and refresh officers on key aspects of policies.
- 7. Strong supervision in the field.** It is important to have field supervisors on duty around the clock to support and guide patrol officers in their work. The team has learned that there are many times when OVPD officers are on duty without direct supervision. This is a common problem with small police departments and Chief McLaughlin acknowledged that he would like to have more supervisors as a risk management strategy. To fill the supervisory gap, the Chief makes himself available by phone at all times, and lives very close to the OVPD station and can respond in minutes if needed.
- 8. Restrictive pursuit policy.** OVPD's pursuit policy is not a restrictive one; it is a 'balancing test' policy that allows officers to initiate a pursuit whenever any driver flees, while requiring the pursuing officers to balance the need to apprehend a fleeing driver against the danger to public safety created by the pursuit. This type of policy is very permissive in practice and allows officers to chase drivers for even minor traffic violations. A more restrictive pursuit policy would reduce the number of vehicular pursuits and thus decrease risk. Due to the inherent risks involved in pursuits, the team recommends a policy which would prohibit pursuits unless officers have probable cause to believe that the fleeing person has committed a felony which involved the infliction or threat of serious physical injury or death. During discussions about policies, the Chief has indicated he is open to considering a policy change.
- 9. Limit OOJ responses to urgent call types.** Consider limiting OOJ responses only to calls that require a rapid response. OVPD can decide what makes sense for their policing environment, but by way of example, OVPD could decide to limit all OOJ responses to calls that involve violence, the threat of violence, or personal injury from any source. In such a scenario, OVPD would continue to respond to officer-in-trouble calls, robberies, assaults, domestic violence incidents, personal injury collisions, emergency medical calls and the like, but they would not respond to lower priority calls such as burglar alarms, property

damage collisions, shoplifting, suspicious activity, welfare checks, traffic complaints, thefts, etcetera.

- 10. Sufficient amount of liability insurance.** This is a critically important part of the Town's overall risk management plan to insure against a potentially costly federal claim. The team recommends that the Town consult with their liability insurer, DFIT, to determine if the Town should increase its coverage. Even if the Town is successful in advocating for a change in state law to indemnify municipalities (discussion below), it may be years before such a law is passed by the legislature. The Town should plan to protect itself in the meantime.

Long-Term Risk Management Strategy: Indemnification.

Every day, local police agencies throughout Delaware are dispatched outside of their jurisdictions to assist DSP troopers. Several of the individuals interviewed felt that the State should indemnify local governments against civil state or federal claims that arise as a result of providing assistance to DSP. Such a change would require a new state law.

Further, consideration should be given to partnering early on with the Delaware League of Local Governments (DLLG). The chance of success would increase if the DLLG were to take the lead in conjunction with the Delaware Association of Chiefs of Police to lobby the General Assembly to sponsor a bill.

Legal and Risk Analysis Summary

Here are the takeaways from the analysis:

1. Ocean View officers have lawful authority to take police action outside of the Town.
2. The Town's greatest exposure to civil liability—whether an incident occurs inside or outside of the Town—comes from federal lawsuits under §1983, but there remains the civil liability for claims under state law.
3. The types of calls that OVPD officers run outside of the Town generate greater liability risk to the Town than the calls that OVPD runs inside the Town's boundaries.

Final Summary and Recommendations

This analysis confirms that the Ocean View Police Department operates within the bounds of Delaware law when responding to calls outside its jurisdiction. While these responses are legally authorized and operationally necessary, they do introduce elevated liability risks—particularly in high-risk call types. The Town’s greatest exposure stems from federal claims, which are not subject to statutory caps and can be financially significant.

To mitigate these risks, the report recommends a combination of short-term administrative actions and long-term legislative advocacy. These include revising pursuit policies, strengthening supervisory practices, increasing liability insurance coverage, and pursuing indemnification legislation at the state level.

Recommendations

1. Review and adopt a more restrictive pursuit policy.
2. Evaluate current liability insurance coverage and consult with DFIT on potential increases.
3. Continue implementing best practices in hiring, training, supervision, and incident review.
4. Engage with statewide associations to explore legislative pathways for indemnification.

By taking these steps, the Town can continue to support regional public safety efforts while responsibly managing its legal and financial exposure. The Ocean View Police Department remains a well-regarded agency in a safe and growing community, and with thoughtful policies and planning, it is well-positioned to maintain that reputation.

Appendix A: Example Cases

The cases below have been included as examples of how municipal officers and their agencies can become entangled in civil lawsuits when assisting the Delaware State Police or any other agency. Although these cases involved municipal officers rendering assistance outside of their jurisdictions, these types of civil actions could just as likely result from incidents occurring within the officers' jurisdictions.

Erica Murphy and Edwin Sanchez as Guardians ad Litem of J.S., a Minor et.al. v. Delaware State Police Officer Corporal Dempsey R. Walters et.al.

August 2023, a 15-year-old teenager kicked the front door of a DSP trooper's home and ran off with two of his friends; news accounts described the teens' conduct as a prank by the name of 'ding dong ditch.' The trooper wasn't home at the time, but his girlfriend was. She called the trooper and told him what happened, and the trooper headed for his neighborhood. While en route, the trooper and alerted called other police agencies for backup (some speculate that the trooper may have embellished the facts to get a rapid response from his law enforcement colleagues). Before the trooper arrived, other officers had located and detained the teens. When the trooper arrived, apparently irate, he turned off his body camera and punched the handcuffed teen in the face, breaking the teen's eye socket and causing brain trauma. When the assault was complete, the trooper turned his body camera back on. The now former trooper was indicted and convicted of assault and deprivation of rights and was sentenced to a year in prison.

In July 2025, the three teens filed a lawsuit against the former trooper and the Delaware State Police, as well as officers who responded to assist from the Newport, Elsmere, and New Castle County Police Departments, as well as each agency. That lawsuit is ongoing.

David Scott YARNALL v. Cpl. Anthony MENDEZ

In 2008, a DSP trooper confronted a carjacking suspect by himself and got into a wrestling match. The trooper was able to get the suspect pinned down but not handcuffed and called for help as he was exhausted from the fight. Millsboro officers responded, and one of them used a TASER on the suspect, and the trooper struck the suspect twice in the head with a metal flashlight. The suspect later filed a §1983 lawsuit in federal court alleging excessive force in violation of the 4th, 5th, 8th and 14th Amendments, and naming the Millsboro Police Department, responding Millsboro officers, the trooper and the Delaware State Police as defendants. The claim against the trooper was dismissed upon summary judgment, leaving the Millsboro officer who used the TASER as the sole defendant.

The following is copied from a Delaware State Police press release dated June 23, 2025, and is included to illustrate how an incident can turn deadly in an instant (officers were unhurt in this event, thankfully). A lawsuit has not been filed to the best of our knowledge:

On June 22, 2025, at approximately 11:00 p.m., troopers were dispatched to a residence in the 32000 block of Cea Dag Circle in Dagsboro to check on the welfare of a 49-year-old armed man who made threats to harm himself and his family. The man was identified as Jason Arnold.

While responding, troopers learned that Arnold was driving a black Honda Pilot and was possibly on his way to the family home on Blackwood Drive in Lewes. An officer from the Millsboro Police Department spotted a vehicle matching the description in town limits and attempted a traffic stop. The Honda did not stop, and a pursuit ensued with the assistance of a trooper. The pursuit ended on Blackwood Drive.

The preliminary investigation revealed that after coming to a stop on Blackwood Drive, Arnold got out of the Honda armed with a firearm and began shooting at the officers. The Millsboro officer and the trooper returned fire. Arnold was hit during the exchange but ran into his family's house on Blackwood Drive.



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