



USE OF FORCE

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General Order: 01-2017(rev)
Subject: Use of Force Policy
Issued By: Annette M. Mecklenburg, Chief of Police

PURPOSE:

To provide Officers with guidelines on the use of deadly and non-deadly force.

POLICY: (Ohio Collaborative 8.2015.1a)

Use of Force

Employees may only use the force which is reasonably necessary to effect lawful objectives including: effecting a lawful arrest or overcoming resistance to a lawful arrest, preventing the escape of an offender, or protecting or defending others or themselves from physical harm.

Use of Deadly Force

The preservation of human life is of the highest value in the State of Ohio and the City of Cleveland Heights. Therefore, employees must have an objectively reasonable belief deadly force is necessary to protect life before the use of deadly force. Deadly force may be used only under the following circumstances:

1. To defend themselves from serious physical injury or death; or
2. To defend another person from serious physical injury or death; or
3. In accordance with U. S. and Ohio Supreme Court decisions, specifically, *Tennessee v. Garner* and *Graham v. Connor*.

DEFINITIONS:

1. De Minimis Force – physical interactions meant to guide and/or control a subject that do not constitute reportable force (e.g. use of control holds that do not cause pain and are not reasonable likely to cause pain; using hands or equipment to stop, push back, separate, or escort a person in a manner that does not cause pain, and are not reasonably likely to cause any pain).
2. Deadly Force – any force which carries a substantial risk that it will proximately result in the death of any person.
3. Reasonable Belief – what an ordinary and prudent person in the same or similar circumstances would believe based upon his/her knowledge of the facts surrounding the event as they existed at the time of the event.
4. Serious Physical Harm – means any of the following:

- A. Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - B. Any physical harm which carries a substantial risk of death;
 - C. Any physical harm which involves some permanent incapacity, whether partial or total, or which involves some temporary, substantial incapacity;
 - D. Any physical harm which involves some permanent disfigurement, or which involves some temporary, serious disfigurement;
 - E. Any physical harm which involves acute pain of such duration to result in substantial suffering, or which involves any degree of prolonged or intractable pain.
4. Objectively Reasonable – cannot be specifically defined, however in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances. These may include, but are not limited to, the severity of the crime at issue, the level of threat or resistance presented by the subject, and the danger to the community. “Reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight.”

I. USE OF FORCE

- A. Officers may use force in the performance of their duties in the following circumstances:
 - 1. To prevent the commission of a criminal offense.
 - 2. To prevent a person from injuring him/herself.
 - 3. To affect the lawful arrest of persons resisting or attempting to flee from custody.
 - 4. In self-defense or in the defense of another person.
- B. Before using force, the officer should consider the following:
 - 1. The severity of crime at issue.
 - 2. Imminent threat to the officer or others.
 - 3. Suspect actively resisting arrest or seizure.
 - 4. Attempting to resist arrest or seizure by flight.

II. LEVELS OF FORCE

When the use of force is necessary and appropriate, members and employees shall, to the extent possible, utilize an escalating scale of options and will not employ a more forceful measure unless it is determined that a lower level of force would not be adequate, or such level of force is attempted and actually found to be inadequate. The scale of options, in order of increasing severity, is set forth below:

- A. Verbal Persuasion
- B. Physical Strength
- C. Straight Baton/ASP Baton or Impact Weapon
- D. Firearm

It is not the intent of this order to direct officers that they must try each of the options before escalating to the next. Clearly, good judgment and each situation will dictate at which level an officer will start. Officers using any type of force are accountable for its use and shall file a written report describing the type(s) of force used and the reasons for the use, as further detailed below. The Department shall maintain a copy of all said reports in a single place.

III. OFFICER RESPONSIBILITY FOR REPORTING (Collaborative 8.2015.1b)

- A. Officers are required to make an immediate verbal report to Supervisors following any use of force or use of deadly force, and file a written report in the following situations:
 - 1. When an Officer takes any action that results in, or is alleged to have resulted in injury or death of any other person.
 - 2. When an Officer applies physical force (except for *de minimis force*), uses an intermediate weapon or a deadly weapon against another person, whether or not an injury results.
 - 3. When an Officer discharges a firearm, accidentally or intentionally, in an on-duty or off-duty capacity, other than training purposes or recreational purposes.
- B. Each Officer who uses force or use of deadly force in an incident shall submit a separate written supplement to the Incident Report (Use of Force Report Form, #1050).
- C. Any Officer who witnesses a use of force or use of deadly force shall advise a Supervisor and submit a written report.
- D. Reports are to be submitted before the end of the shift. When an Officer is injured or unable to make the report, the Officer's Supervisor will submit a written report prior to the end of the shift.
- E. All use of force reports shall specify who was involved in the incident, the actions of the suspect that necessitated the use of force, the reasons why the Officer used force, as well as any suspect complaints of injury, medical treatment received, or refusal of medical treatment.

IV. SUPERVISOR RESPONSIBILITY FOR REPORTING (Collaborative 8.2015.1c)

- A. A Supervisor will be immediately summoned and respond to any incident of use of force on a priority basis. In any instance of use of force, the Supervisor shall:

1. Document the Officer's and suspect's statements of actions taken, injuries sustained and medical treatment needed or desired.
 2. Identify/interview witnesses as appropriate
- B. In all cases involving serious injury, death or long-term hospitalization, the Supervisor shall contact the Chief and Detective Bureau Captain. The Chief or Captain will determine if the Detective Bureau is required to direct an investigation.
- C. The Supervisor shall prepare and submit to the Chief a complete review of any use of force not investigated by the Detective Bureau. That report shall include but shall not necessarily be limited to the following:
1. Full explanation of the incident, including statements (recording) of witnesses, suspect(s) and medical personnel; copies of medical reports.
 2. Any photographs or videotapes of injuries.
 3. Any other information pertinent to a complete understanding of the incident

V. INCIDENT REVIEW

- A. All incidents where deadly force or use of force has been applied, on-duty or off-duty, shall be reviewed by the Detective Bureau Captain.
- B. The Detective Bureau Captain's report will be completed within 30 days of the incident and will make a confidential report of his findings to the Chief.
- C. The Chief will review the facts and make a final determination as to whether the use of force was justified.

VI. USE OF VERBAL PERSUASION TO ACCOMPLISH CUSTODY

- A. The practice of courtesy and professionalism in all public contacts encourages understanding and cooperation; lack of courtesy and professionalism arouses resentment, and often physical resistance.
- B. Whenever possible, officers shall issue clear verbal instructions to offenders and employ the minimum force required to affect an arrest. Whenever possible, officers shall attempt to achieve control through the use of verbal commands and physical gestures before graduating to physical force.
- C. Officers shall attempt to maintain control of interpersonal encounters and maintain officer safety and the safety of others. Officers are permitted to use that force which is reasonable and necessary to protect themselves from bodily harm.

VII. REASONABLE FORCE

- A. Police Officers shall occasionally use force to make arrests and ensure public safety. It is not intended that a suspect must use physical force against an officer before an officer shall be permitted to respond in kind.
- B. Deadly force may be used only when an officer has probable cause to believe that the person against whom the deadly force is being used has the imminent intent, ability, and opportunity to cause the death or serious physical harm to the officer or another.
- C. The escalating scale of options does not change the standards which guide the use of discretion in the field. Options range from verbal persuasion to the use of a firearm.
- D. Justification for the use of force is limited to what is reasonably known or reasonably perceived by the officer at the time of the use of force. Facts discovered after the event shall not be considered in determining whether the force was justified.

VIII. USE OF PHYSICAL FORCE TO ACCOMPLISH CUSTODY

- A. Where an officer encounters a level of resistance amounting to threats or intimidation when making a lawful arrest, the officer may respond with physical control amounting to touching, grabbing, or holding the arrestee.
- B. Where an officer encounters physical resistance when making a lawful arrest, the officer may respond with the use of pressure points, joint manipulation techniques, and physical takedowns with the intent to overcome and control the suspect's physical resistance.
- C. Where an officer encounters active or aggressive physical resistance on the part of the offender when attempting to make a lawful arrest, the officer may use physical skills and tactics including striking and kicking.

IX. USE OF STRAIGHT BATON/ASP BATON/IMPACT WEAPON TO ACCOMPLISH CUSTODY

- A. The baton/impact weapon in the hands of a police officer training in its use is a formidable weapon.
- B. In order to obtain effective results, avoid unnecessary injury to suspects, and minimize criticism of the department, the baton/impact weapon must be used properly and judiciously.

1. The baton/impact weapon must be carried properly in the officer's baton ring or scabbard.
2. Officers are not to use the baton/impact weapon as a tool to intimidate, either by slapping it in the officer's hand or poking it at another.
3. The baton/impact weapon is generally used against an aggressive, unarmed suspect or when lesser levels of control have failed, or have been determined by the officer to be inadequate.
4. The baton/impact weapon when properly used is capable of delivering extremely powerful blows to stun and incapacitate an aggressive opponent. It is also capable of delivering lethal or permanently disabling blows. Blows to the head, throat, neck, armpit, or chest cavity must be avoided whenever possible.
5. To properly control and therefore maximize its effectiveness, the baton/impact weapon should normally never be raised above the head to strike a blow.
6. The use of the baton/impact weapon as a club is generally prohibited.

X. USE OF DEADLY FORCE

- A. An Officer's use of deadly force is justified when one or both of the following apply:
 1. To defend himself or others from what is reasonable believed to be a threat of death or serious physical harm.
 2. To prevent the escape of a violent fleeing felon who the Officer has probable cause to believe will pose a threat of death or serious physical harm to the Officer or others.
- B. An Officer may also discharge his/her firearm in connection with the performance of his/her official police duty, for the following reasons:
 1. For target practice at the Cleveland Heights Police Department shooting range or other approved range.
 2. To destroy an animal that represents a threat to public safety; or as a humanitarian measure where the animal is seriously injured, when the officer reasonably believes that deadly force can be used without harm to the Officers or others.

3. Generally, an officer shall not draw or display his/her weapon except for a legal use or official inspection. An officer shall never draw his/her weapon unless he/she plans to and is ready to use it. When it is necessary to fire a weapon, it shall be fired to stop and incapacitate an assailant from continuing or completing a potentially deadly act and not for the purposes of wounding or warning an assailant.

XI. DEADLY FORCE RESTRICTIONS

- A. An Officer shall not fire into the air or ground in an attempt to halt a fleeing criminal. Therefore, warning shots are prohibited.
- B. Officers shall not shoot from a moving vehicle.
- C. Officers shall not shoot at a moving vehicle, except in a bonafide self-defense situation where the force employed creates no substantial risk of injury to innocent persons.
- D. No department-issued firearm shall be used for any purpose not described in this General Order (i.e., department-issued firearms shall not be used for hunting or other recreational uses.)

XII. REFERRAL/MEDICAL ATTENTION

- A. Following a use of force incident, an individual shall be provided medical treatment in the following situations:
 1. Where there is any visible injury that may require treatment.
 2. When any individual requests medical attention.
 3. When any individual is incapable of communicating his/her well-being.
 4. Where an individual becomes unconscious at any time.
 5. When the Officer or Supervisor determines that an individual should be treated.
- B. An injured suspect shall not be admitted to the jail or held in detention without being examined and released by a physician or qualified health care provider:
 1. Whenever there is doubt concerning the need for medical attention, it should be resolved through examination of the subject by medical personnel.

2. Refusal of treatment shall be documented and verified by the Officer and attending physician or qualified health care provider.
- C. If a suspect or prisoner is unconscious, seriously injured, or claims serious injury or incapacitation, first aid will be administered by Officers and Paramedics will be called to the scene. If the prisoner is to be transported to the hospital by Paramedics, an Officer will accompany the prisoner.

Prisoners being transported to the hospital for treatment will be secured with handcuffs and other restraints to the extent that their injury permits.
 - D. Positional Asphyxia – Being unable to breathe in certain positions can cause serious physical injury or death. Persons susceptible include the highly emotional, overweight persons, persons under the influence of drugs or alcohol, and those who have expelled extreme physical effort. Officers are to be alert for this condition.
 - E. The arresting Officer shall notify Paramedics if force was used on the suspect, or if the suspect has an injury or complaint of pain.
 - F. A Supervisor will be called and respond to the scene any time a use of force results in the need for medical treatment.

XIII. DISTRIBUTION AND TRAINING (Collaborative 8.2015.1d)

Sworn Officer – Following release of a revision to this policy, all Sworn Officers shall be assigned this policy, without delay, for review.

Roll Call Training – Whenever changes in this policy occur, all supervisors shall schedule roll call training sessions to instruct Officers on the changes.

Annual Training – Annually each Officer shall demonstrate proficiency in the use of all approved lethal weapons. Annually each Officer shall read this policy and sign a document to confirm that they have reviewed and understand this policy. Training shall also include documented testing on the Officer's knowledge of the agency's use of force policy including the policy statement, training, reporting, and policy review and investigations.

New Hires – Personnel shall provide all sworn new hires with specific training on the scope and contents of this policy and sign a document to confirm that they have reviewed and understand this policy.