

## GENERAL ORDER V

SUBJECT: USE OF FORCE

EFFECTIVE DATE: 03-10-92

REVIEW DATE: 01-13-12

Note: This rule or regulation is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety of care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proved, can only form the basis of a complaint by this department, and then only in a nonjudicial administrative setting.

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### I. Purpose

To establish guidelines governing the use of force and its limitations, and clearly describe prohibited activities.

All entry level officers shall be issued this order and thoroughly trained in its content prior to be authorized to carry firearms.

### II. Definitions

#### A. Deadly Force Includes:

1. Any force applied in any manner by means that could reasonably be expected to cause death or serious physical injury.
2. Any force applied in any manner by means that could reasonably be expected to cause death or serious physical injury.

B. Excessive Force: All force beyond what is objectively reasonably required to successfully affect legitimate self-defense or any other lawful purpose. Excessive force is always unnecessary force. Each situation must be evaluated according to particular circumstances. As a guide, *Graham V. Conn* 109 S.Ct. 1865, 104 LEd.2d 443 (1989) set forth the objectively reasonable standard to determine whether the force applied was excessive. The "reasonable" test states:

1. Reasonableness is determined by balancing the nature and quality of the intrusion with the countervailing government interests.
2. The reasonableness analysis contemplates careful consideration of the facts and circumstances of the encounter, including:

- a. The severity of the crime.
  - b. Whether the suspect poses an immediate threat to the safety of the officers and/or others.
  - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.
3. Reasonableness is to be judged from the prospective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.
  4. Not every push or shove violates the 4th amendment.
  5. The reasonableness standard must make an allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly moving.
  6. The officer's underlying intent or motive is irrelevant to the "objective reasonableness" test, however, if the officer has evil or malicious intent or evidences a callous disregard for the suspect, the officer may be liable for punitive damages or possibly criminal culpability.
- C. Firearms are any weapon from which a projectile is forcibly ejected by an explosive.
  - D. Non-deadly force is the force employed which is neither likely nor intended to cause death or serious physical injury.
  - E. Reasonable belief exists when facts or circumstances the officer knows before the application of force, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
  - F. Serious physical injury is any injury to the body that causes, or is likely to cause, acute or permanent disablement, disfigurement, or significant degree of pain and suffering. Included within this definition are injurious internal disturbances, severe psychological trauma, and any injury that requires significant medical treatment or hospitalization. Examples are, broken bones or teeth, dislocations, grievous cuts, lacerations, burns, abrasions, internal injury, hematoma, etc. Severe psychological or emotional injury can also fall within this definition.

- G. Unnecessary force is any force that is uncalled for and that serves no legitimate purpose.
- H. Excited delirium is a state of extreme mental and physiological excitement, characterized by extreme agitation, hypothermia, hostility, exceptional strength and endurance without apparent fatigue.

### III. General Policy

- A. Officers are confronted frequently with situations where, in order to protect the public safety and the officer, force may be exercised. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. Obviously, there are varying degrees of force that may be justified, depending on the dynamics of the situation.
- B. The department expects that officers will employ the amount of force which is objectively reasonable to accomplish a legal purpose. When applying deadly force, an officer's objective must be to stop or incapacitate the suspect.
- C. The use of excessive force, shall result in certain corrective actions and may result in criminal prosecution.
- D. The use of force by officers shall, when circumstances permit, be progressive in nature. The point of entry into the use of force continuum will vary with each situation. The level of force may escalate at any time and officers must be prepared to meet the threat with that amount of force which is objectively reasonable to control the situation.
- E. Officers employing physical force to overcome a subject's resistance which is at or exceeds Resistant Level I, as explained within Section IV of this General Order, will be required to complete a special Use of Force Report, in accordance with General Order V.

### IV. Progressive Use of Force

Progressive force refers to the escalation of force used by an officer in order to control a situation, from minimal force to maximum force. An illustration of the department's Use of Force: Confrontation/Control Continuum is presented as Addendum A of this order. The use of force by officers shall be in compliance with the training standards established by the department. Officers of this department may only use that level of force which is objectively reasonable under the circumstances to neutralize or prevent unlawful behavior.

## A. Level - Cooperative

In the course of normal patrol, the officer's contact with the general population is vastly more positive than negative, and likewise, much more prone to non-force than forceful confrontation. Even in exceptional cases, at times the officer may simply re-adjust his spatial positioning or elicit greater eye contact (body language methods) and gain reluctant compliance of the individual. or the non-complaint individual may have the officer's request repeated or verbally convinced that increased reluctance need not progress to resistance (verbal persuasion methods) culminating in eventual compliance.

1. In dealing with people, each officer must attempt to make his contact one which inspires respect and generates cooperation and approval of the public. A citizen's encounter with the police can be a frightening, emotional experience and under these circumstances, the risk of misunderstanding is great.
2. The manner and form in which an officer speaks to the individual(s) can be effective means of exerting verbal force in order to control the situation. Verbal force may be in the form of warnings, advice, persuasion, volume and tone control and may, in and of itself, be progressive in nature, depending upon the circumstances. All are effective means of utilizing reasonable and necessary verbal force. If used properly, officers may not have to resort to the use of other forms of force.
3. The majority of arrests made by officers of this department are made peacefully; the prisoner is handcuffed, searched, and transported. In these situations there is neither resistance, nor the need to use force. On occasion, some form of physical maneuvering may be required to escort the individual from one location to another.

## B. Resistance Level I

On occasions, police officers are faced with an uncooperative individual or one who refuses to be placed in custody and other alternatives would be, or have been, ineffective or inappropriate. Incidents of this nature require officers to use sufficient force to make the lawful arrest without unnecessarily aggravating the situation. The object of this level of force is to gain compliance and control while minimizing the risk of injury to the officer, the person being placed into custody, and innocent bystanders. As shown in Addendum A, control options could include: body language, verbal persuasion, contact controls, joint restraints, weapon assisted leverage techniques, nerve center controls, chemical irritants, inflammatory agents, and electro muscular devices.

## C. Resistance Level II

Resistance in this classification is active in its scope and intensity. The suspect's indifference is expressed via physical defiance. The individual may turn away from the officer and attempt to leave the scene. He may actively resist the officer's attempts at controls. The critical aspect of Resistance Level II is that no direct force or violence has been directed toward the officer. It should be noted, however, that resisting a control technique could directly or indirectly injure the officer and, therefore, subsequent techniques deployed attempting to gain control of the suspect could legitimately escalate into a high level or non-compliance. As shown in Addendum A, control options for this level of resistance could include: all techniques listed for Resistance Level I, as well as, weapon assisted pain compliance techniques.

NOTE: Strangle Holds, Lateral Vascular Neck Restraints (LVNR) and other similar holds which restrict the ability to breathe or restrict blood flow are prohibited.

1. Tear Gas: The use of tear gas will be limited to tactical operations conducted under the direct supervision of personnel trained in the proper use of chemical weapons.
  - A. Prior to deployment of chemical agents, due regard shall be exercised for the safety of the subject, police officers, and innocent citizens. Proper scene cordon and evacuation techniques shall be utilized.
  - B. The minimal amount of chemical agents necessary under the circumstances shall be deployed. Only non-burning agents will be deployed within a structure or near a potentially flammable environment.
  
- D. Assaultive Level I

In this level the officer is met with active, hostile resistance expressing itself in the form of physical attack upon the officer. Resistance keys upon the direction of the violence as well as the intensity and, therefore, includes a large realm of resistance activities. In each case, the specific judgment as to overall scope of the violence must error on the side of officer safety. In additions to the control options presented for Resistance Levels I and II, the officer could include intimate impact weapons as well as extended impact weapons in his range of force options.

1. Intimate Impact Weapons: This level of unarmed force involves the use of what is commonly known as personal weapons (i.e., fist, hand, elbow, feet, knee, etc.). The use of personal weapons can be employed by officers to defend themselves against unlawful assaults where higher levels of force are not necessary and other verbal and physical force alternatives would be, or have been, ineffective or inappropriate. Application of this level of force must be justified and appropriate.

2. Use of Baton: The baton will be carried by uniformed officers below the rank of Assistant Chief at all times while on duty. The baton shall only be used in accordance with current departmental training standards. The use of the baton shall be restricted to quelling physical confrontations where other verbal or physical force alternatives would be, or have been, ineffective or inappropriate.
  - b. Prior to being authorized to carry the ASP baton, officers will be required to successfully complete the manufacturer's user certification course. Only certified instructors will be utilized to conduct certification and annual recertification courses for the department.
  - c. Only batons approved by this department shall be authorized for use by employees.
  - d. When carried, the baton will be secured in a manner consistent with established uniform standards.
  - e. Other types of striking devices are strictly prohibited and shall not be carried while on duty or acting in an official capacity as a member of this department. PR-24 may be carried if the officer has been certified with it.

E. Assaultive Level II

At this level is the violent subject who by his actions creates a reasonable assessment that his non-compliant activity has the potential to cause the officer great bodily harm and even death. Most officers will readily, almost instinctively, perceive when their actions are in defense of life and therefore, justified in force options which range from the levels indicated earlier to include: extended range impact projectiles, weaponless techniques with debilitating potential, weapons techniques with debilitating potential, service firearm, and supplemental firearms.

1. All officers are equipped with a firearm to defend themselves or others against deadly force. An officer shoots when it is reasonably necessary to preserve his life or the life of another. When a firearm or other deadly force is used, it must be within the realization that the death of a person may occur.
2. Justification for the use of deadly force must be limited to what reasonably appears to be the facts known or perceived by an officer at the time he decides to use such force. Facts unknown to an officer, no matter

how compelling, cannot later be considered in determining whether the use of deadly force was justified.

3. An officer may use deadly force in the defense of a citizen or himself from what he reasonably believes to be an immediate threat of death or serious physical injury. Provided that the further risk of death or serious physical injury to others if the violent felon is not apprehended exceeds the risks inherent in the use of deadly force to others.
4. Deadly force may be used to prevent the escape of a fleeing felon when the officer has exhausted all other means of capture AND:
  - a. The officer reasonable believes that the person to be arrested has used deadly force in the commission of a felony, OR:
  - b. The officer reasonably believes that the person whose arrest is sought will inflict death or serious physical injury to the officer or others if apprehension is delayed.
5. Deadly force may be used to kill seriously injured or dangerous animals when no other disposition is reasonably practical. When feasible, Officers must obtain approval from a supervisor before such action is taken.

#### V. Shoot To Stop

- A. Members shall fire weapons to stop an assailant from completing a potentially deadly act as described in this Order. For maximum stopping effectiveness and minimal danger to innocent bystanders, the officer shall shoot "center body mass".
- B. "Warning shots" are prohibited.
- C. Shots shall not be fired toward, into, or at a crowd or gathering.

#### VI. Shooting At Or From Moving Vehicles

Officer shall not discharge a firearm at or from a moving vehicle.  
(At moving or fleeing vehicles involved in violations of the Motor Vehicle Law (including hit and run and stolen auto) unless necessary to defend the life of the officer or another person.)

#### VII. Display of Firearms

- A. Firearms may be displayed in the following situations:

1. When the use of firearms is authorized pursuant to this order.
  
  2. When the person to be apprehended has committed, or there is probable cause to believe the person to be apprehended has committed, a felony offense and the possibility exists (that the individual poses an immediate threat of bodily harm to the officer(s) or others,) based on the following:
    - a. Severity of the charge;
    - b. Individual or number of individuals to be apprehended;
    - c. Credible information received concerning weapons and/or subject's propensity for violence;
    - d. Other circumstances under which the felony arrest may occur which render the drawing or display of a firearm a reasonable precaution.
- B. Except for general maintenance, storage or authorized training, officers shall not draw or exhibit their firearm unless circumstances create strong reasonable cause to believe that it may be necessary to lawfully use the weapon in accordance with this order.
- C. A firearm shall not be used as a club, hammer, pry bar, tool, or for any other purpose other than for which it was intended.
- D. A revolver shall not be carried or placed at any time in a "cocked" condition. Officers carrying semi-automatic pistols will return the weapon to the safe action firing condition as soon as practical after discharging a round or rounds.
- E. Officers shall not engage in any "horse play", "quick-draw", or any other similar activity.
- F. Weapons shall not be used for any purpose other than approved range training, performance of duty, or as otherwise provided by law. Departmental weapons shall not be carried or utilized for hunting, or similar, non-law enforcement activity.
- G. No officer shall display or provide any weapon to a citizen to inspect, examine, or otherwise handle.

- H. No officer shall furnish his firearm to any citizen or civilian enlisting his assistance.

#### VIII. Deadly Force Other Than Firearms Prohibited

- A. Deadly force may consist of the use of items, articles, instruments, or equipment other than firearms which are designed, intended, and routinely utilized for other legitimate police purposes such as vehicles, batons, flashlights, etc.

Deliberate use of any such item, article, instrument, or equipment for any purpose other than that for which it was designed and intended, or in a potentially deadly manner (i.e., as a club), is prohibited except in cases where the use of deadly force is specifically authorized by this order.

- B. Striking to the head should be avoided, it may occur only as a LAST RESORT when no other means of control exists and the use of deadly force is justified.

#### IX. Training

Officers shall receive in-service training on an annual basis regarding defensive tactics and the use of physical force and control holds. This training will be consistent with current legal trends and generally accepted law enforcement procedures.

- A. Only certified instructors will be utilized to present post training. Although not required, it is preferred that the instructors be sworn members of this department.
- B. A training syllabus will be prepared by the lead instructor and submitted for review.
- C. All training syllabi will be approved by the Chief of Police prior to implementation.
- D. All sworn personnel shall be required to attend these training sessions as scheduled, unless excused for a justifiable reason.

#### AUTHORITY

- A. This policy is issued by the authority of the Chief of Police. Any policy additions, deviations or revisions shall be made only at the direction of the Chief of Police.

By Authority of:

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Charles Brotherton, Jr., Chief of Police