

GENERAL ORDER VII

SUBJECT: REPORTING USE OF FORCE

EFFECTIVE DATE: 03-10-92

REVIEW DATE: 01-13-12

NOTE: This rule or regulations 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 proven, can only form the basis of a complaint by this department, and then only in a nonjudicial administrative setting.

I. Purpose

To establish police regulations governing the reporting of use of force and deadly force by department members.

II. Definitions

A. Resistance Level I

On occasion, 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, General Order V, control options could include: body language, verbal persuasion, contact controls, joint restraints, weapon assisted leverage techniques, and nerve center controls.

B. Use of Force Incident - any act or incident resulting from the use of force by a department member which results in injury, alleged injury, or death to any person. Near-miss incidents involving the use of deadly force are within the scope of this directive.

III. General Policy

It is the policy of the West Plains Police Department to ensure that all sworn personnel are properly trained and equipped to utilize appropriate and reasonable levels of physical force, as determined by the particular circumstances, in order to protect the public safety.

A. As part of this process, the department requires a Level I Use of Force Report from any officer who uses physical force to overcome a subject's resistance which meets or exceeds the behavior identified in General Order V section V. B. Resistance Level I or greater, and Level II Use of Force Reports for use of force incidents which result in injury, alleged injury, or death. In addition, the Department will require officers to report the display of firearms in situations where officers may determine it necessary to ready a weapon for imminent use and the weapon is displayed to a suspect during the incident.

B. The Use of Force Reports will be used to assist in identifying training and equipment needs. The reports will also provide for the immediate documentation of the force used so that should a complaint be filed, the pertinent facts would be readily available.

C. After a use of force incident, the officer's initial actions will address the medical needs, if any, of the suspect involved. If, in an officer's opinion, a prisoner needs medical attention, or at the request of the prisoner, the officer shall contact a supervisor who shall authorize the transportation of that prisoner or arrange for the transportation of the prisoner to a medical treatment facility. If the officer is in doubt as to the necessity of medical treatment, the prisoner will be transported, by appropriate means, for medical evaluation of his/her condition.

Nothing in this section shall preclude the immediate application of emergency life saving measures of summoning of emergency medical assistance, if required, prior to notification of a supervisor.

D. Off-duty officers involved in the use of force situations are subject to the same reporting procedures as on-duty officers. When an off-duty officer is involved in a use of force situation, he/she shall notify an on-duty supervisor immediately.

IV. Procedure for Level I Reporting

A. Officers are required to complete the LEVEL I Use of Force Report in the following circumstances:

1. When an officer applies physical control holds, compression, or pain inducing techniques to make an arrest; and
2. No complaint of physical injury is made by the suspect or observed by the officer;

3. Anytime a weapon is made ready for imminent use and is displayed to a suspect during the course of an incident (this includes weapons displayed to persons later determined not to be suspects, i.e., store owners, employees of a business, etc., which are present at a scene and not readily discernible as innocent parties);

B. Immediately following an incident, the officer will notify his/her immediate supervisor and request a copy of the LEVEL I Use of Force Report form. (See Addendum A)

C. The supervisor will review the circumstances of the incident with the officer involved and any witnesses present at the scene. He/she will note the general condition of the suspect by direct observation.

1. The supervisor may elect to proceed with a LEVEL II Use of Force Report and investigation if he/she deems it necessary.

2. Under no circumstances will a supervisor decline to speak with a suspect regarding a use of force incident.

D. The officer will complete the LEVEL I Use of Force Report Form and return it to the supervisor prior to ending his/her tour of duty.

V. Procedures for Level II Reporting

A. The officer shall contact his/her immediate supervisor and advise him/her of the circumstances surrounding the incident. He/she shall also complete the (4 copy) portion of the LEVEL II Use of Force Report and forward it to his/her supervisor no later than the end of the current shift.

Note: Officers are to use Department approved use of force forms only.

VI. Firearms Discharged - Investigative Process

The following procedure will be used to investigate every incident of firearms discharged by a department member except for target practice, ballistics examination or other Department training.

A. Involved Officer

1. Whenever a member discharges his/her firearm, either accidentally or officially, he/she shall immediately;

a. Determine the physical condition of any injured person and render first aid when appropriate,

b. Request necessary medical aid,

c. Notify the Dispatcher of the incident and location.

2. Secure the scene.

3. The officer shall remain at the scene, unless he/she is injured, until the arrival of the appropriate investigators; however, if the circumstances are such that the continued presence of the officer at the scene may cause a more hazardous situation to develop (violent crowd), the commanding officer at the scene shall have the discretion to instruct the officer to respond to another, more appropriate location.

4. The officer will protect his/her weapon for examination and submit said weapon to the appropriate investigator.

5. The officer shall, utilizing the Use of Force Report, prepare a detailed report in accordance with Section VI of this General Order.

6. The officer should not discuss the case with anyone except:

a. Supervisory personnel

b. The officer's legal counsel.

B. Communications (dispatch) shall:

1. Dispatch medical aid.

2. Notify the Chief of Police.

3. Notify the Assistant Chief of Police.

4. Notify the Investigation Division.

C. Investigation Division

The Investigation Division will conduct or assist in a thorough investigation of every shooting by a police officer which results in injury or death. The investigation shall include the following minimum procedural standards:

1. Proceed to the scene immediately.
2. Assume control of the scene.
3. Where injury resulted, notify the County Prosecuting Attorney's Office.
4. Examine the weapon(s) of all officers present at the time the shots were fired including secondary weapons and weapons in police vehicles.
5. Secure weapons that may have been fired.
6. Secure samples of spent ammunition.
7. Separate, secure, and interview all on-scene witnesses.
8. Photograph the scene.
9. Secure all physical evidence. Have proper medical authorities secure projectiles from the victim's body.
10. Obtain hospital, autopsy, lab, and photographic reports.
11. Before interviewing or requesting written statements of the involved officer(s), the investigator shall advise the officer of his/hers rights (Miranda Warning) in a criminal investigation. The Miranda Warning form will be retained as part of the original report.
12. The Investigation Division shall prepare a detailed report of the investigation and submit same to:
 - a. the Chief of Police,
 - b. the County Prosecuting Attorney.

13. The Investigation Division will develop findings and make recommendations to the Chief of Police in the following areas;

- a. Whether the shooting was within policy, out of policy, or accidental;
- b. Tactical considerations;
- c. Training considerations;
- d. Quality of supervision;
- e. Corrective action;
- f. The post shooting investigative process and quality.

VII. Civil Rights Investigation

A. The department will respect the rights of the federal government to conduct an independent investigation to identify any civil rights violations which may have occurred.

B. The department will not request any of its members who may be the subject of an investigation to confer with federal investigators without advise of counsel.

VIII. Administrative Duty

A. Any officer directly involved in a use of deadly force incident shall be placed in an "administrative assignment" directly upon completion of his/her preliminary report of the incident. This assignment shall be without loss of pay or benefits, pending the results of the investigation. The assignment to administrative duties shall not be interpreted to imply or indicate that the officer has acted improperly.

B. While on administrative assignment the officer will be available at all times for official departmental interviews and statements regarding the use of deadly force incident, and shall be subject to recall to regular duty at any time. The officer shall not discuss the incident with anyone except the County Prosecuting Attorney, department personnel assigned to the investigation, the officer's legal counsel, the officer's psychologist, the officer's chosen clergy, and the officer's immediately family.

IX. Psychological Services

1. Should a member of this department be involved in an incident where the use of force is necessary, he/she may:

A. At the member's request, receive psychological treatment

B. At the request of the member's immediate supervisor, receive psychological treatment.

2. In the event deadly force is used, psychological treatment is required.

X Use of Force Report Annual Summary

The Chief of Police will issue a summary report on the use of force by Department personnel. The report will be prepared annually and contain the following information:

A. Total Level I Use of Force Reports filed and number of reports by each officer;

B. Total Level II Use of Force Reports filed and number of reports by each officer;

C. Number of suspects injured during the use of force incidents;

1. Break down of injuries by degree of severity

2. Age of suspects

3. Race of suspects

4. Sex of suspects

D. Number of officers injured during use of force incidents;

1. Breakdown of injuries by degree of severity.

2. Age of officers

3. Race of officers

4. Sex of officers

E. Breakdown of suspects' weapons by type;

- F. Breakdown of officers' weapons by type;
- G. Civilian complaints filed on unreported use of force incidents;
 - 1. Complaints sustained
 - 2. Complaints unfounded

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:

Charles Brotherton, Jr., Chief of Police