

**Policy:** 1128.27, Use of Force

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## **I. PURPOSE**

The purpose of this policy is to provide law enforcement officers with guidelines for the use of less-than-lethal and deadly force.

Members shall only use the level and amount of force that is objectively reasonable to effectively attain lawful law enforcement objectives and only when no effective alternative appears to exist or is impractical under the same or similar circumstances.

The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the member or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” In addition, the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.” *Graham v. Connor*, 490 U.S. 386 (1989)

## II.POLICY

It is the policy of the Orlando Police Department to have a use-of-force policy that reflects out value of human life and our desire to protect our members and others. Excessive use of force is prohibited.

## III.DEFINITIONS

Active Physical Resistance: The subject's use of physically evasive movements or verbal signals to indicate an intention to take physical actions to defeat an officer's attempt at control. This includes bracing, tensing, pulling away, or preventing the officer from getting close to him/her to avoid being taken into custody. This describes a subject who physically resists or verbally expresses an intention to physically resist an officer.

Aggressive Physical Resistance: The subject has battered or is about to batter a person/employee and the subject's action is likely to cause injury.

Approved Weapons and Equipment: Any department-issued weapons or equipment or personally owned weapons or equipment approved by the appropriate departmental authority.

Area Treatment: The delivery of a chemical agent to an area, directly or indirectly, to cause people to leave the area or deny access to an area. This delivery method does not include delivery directed at a specific subject.

Canine Apprehension: The act of releasing a police-trained canine in order to physically seize a suspect to make an arrest.

Carotid Restraint (also referred to as Vascular Neck Restraint): Any technique used by members to restrict blood flow to a person's brain by compressing the sides of the neck where the carotid arteries are located.

Chokehold: A physical maneuver that restricts an individual's ability to breathe for the purpose of incapacitation.

Critical TEW Incident: When a TEW is deployed on a subject that results in serious/critical injury or experiences a serious/critical health condition resulting from a TEW deployment, and the subject is transported to the hospital, or when the subject dies.

Deadly Force (also referred to as Lethal Force): Any action, by a subject or a member, that is likely to cause death or great bodily harm.

Deadly Force Resistance: The subject's actions are likely to cause imminent danger of death or great bodily harm to the employee or another person.

Direct Application: The delivery of a chemical agent to a specific person or persons to modify their behavior.

Employee: Any employee of the City of Orlando Police Department (sworn/non-sworn) who has been trained by the Department with any approved weapon or equipment, is authorized to carry such approved weapon or equipment, and is authorized to use force subject to this policy.

Exigent Circumstances: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

Force: As it relates to this policy, the tactics and/or techniques utilized by an employee to control or regain control of a subject, in self-defense, in the defense of others, to counter resistance by a subject, or when objectively reasonable.

Forcible Felony: Murder, armed robbery, armed sexual battery, arson or use of explosive devices to a structure occupied or presumed to be occupied, kidnapping, burglary armed with a firearm, and any felony that involves the threat of or the use of deadly force against an individual.

Great Bodily Harm (also referred to as "Serious Bodily Injury"): A physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Hard Control: The employee applies techniques that could result in greater injury to the subject should the subject resist their application by the employee.

Imminent Danger: Immediate threat of great bodily harm.

Intensified Techniques: Those techniques necessary to overcome the actions of the subject, short of deadly force. If the subject resists or continues to resist these techniques, there is a strong probability of injury being incurred by the subject.

Less-Than-Lethal Force: A type or quantity of force, which is neither likely nor intended, to cause death or serious physical injury. Such force normally includes but is not limited to, the use of physical strength or skill, chemical agents, the defensive police baton, TEW's, or any other departmentally approved less-than-lethal tool or technique.

Member: Any duly appointed police officer in the department.

Passive Physical Resistance: The subject refuses to comply or respond to the officer's verbal commands. The subject does not attempt to physically defeat the actions of the officer(s).

Person in Crisis: Used to refer to an individual exhibiting signs of medical distress or bizarre behavior, such as severe agitation, profuse sweating, hyperactivity, confusion, intense paranoia, hallucinations or disrobing, that appear suddenly but with short duration.

Soft Control: The employee applies techniques that have a minimal potential for injury to the subject should the subject resist the technique.

Taser Energy Weapon (TEW): A TEW is an electronic device that transmits electrical impulses to override the central nervous system that controls the skeletal muscles. It is designed to incapacitate a target from a distance.

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Taser 10 Cartridge: A cartridge tube that has one singular probe in it, which expels a projectile (probe) upon explosion.

Taser 10 Magazine: A magazine that is inserted into the front of the TASER 10 device, which holds 10 cartridges. Duty magazines (black in color) are the only magazines authorized for field use. All other magazines (training/purple, HALT/blue, and inert/red) are for training use only.

Totality of Circumstances: The various factors known to or considered by an employee at the time law enforcement action was taken.

Warning Alert: Prior to cartridge deployment, a feature that emits a bright light from the front of the TASER as well as a loud noise.

Warning Shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

## **IV. PROCEDURES**

### **1. USE OF FORCE GENERAL REQUIREMENTS**

#### **1.1 OBJECTIVE REASONABLENESS**

Objective reasonableness is based upon the totality of circumstances known to or considered by the employee at the moment force was used and may include, but is not limited to, the severity of crime; whether the subject is an immediate threat to the safety of the employee or any individual; whether the subject is resisting arrest or attempting to evade arrest by flight; the number of subjects and employees involved; the size, age, and condition of employees and subjects; the duration of the police action; injury; known violent history of any subject; known or suspected use of intoxicants by subject; known or apparent mental or psychological condition(s); environmental factors; and any other factor or circumstances that may be relevant to the Use of Force that is known to or considered by the employee at the time such force is applied.

#### **1.2 USE OF FORCE CONTINUUM**

The "Use of Force Continuum Guideline" (Appendix A) provides a training guide to assist employees in determining their response to meet the resistance encountered by a subject. This "Use of Force Continuum" is a guideline only; every Use of Force is unique to its own circumstances. The Continuum Guidelines shall not limit the employee's response or permit a greater response than objectively reasonable under the totality of circumstances.

#### **1.3 USE OF FORCE BY NON-SWORN EMPLOYEES**

All non-sworn employees who must use some form of force shall do so for self-defense purposes only. The non-sworn employee(s) shall immediately call for additional members and shall not attempt to effect an arrest. When possible, the non-sworn employee will leave the area and allow responding members to effect the arrest.

#### **1.4 DUTY TO RENDER MEDICAL AID**

Once the scene is safe and as soon as practical, a member shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility. The employee must monitor the affected subject for breathing irregularities and level of consciousness. The employee must call OFD if there is any sign or reason to believe that a subject's condition is deteriorating and will provide aid until relieved by medical authorities. If multiple members use force on a subject, then one employee shall be designated to monitor the subject until medical personnel arrive.

When responding to incidents involving a Person in Crisis where the use of force is likely, members should, whenever practical, request emergency medical personnel to respond to the scene.

#### **1.5 DUTY TO INTERVENE AND REPORT**

A member has a duty to intervene to prevent or stop the use of excessive force by another member when it is safe and reasonable to do so. Though many members may be at the scene of an incident where force is being used, some members may not be directly involved in taking police action. All law enforcement officers have an obligation to protect the public and other members. Therefore, it shall be the duty of every member present at any scene where force is being applied and observed, to either stop or attempt to stop another member when force is inappropriately used and/or no longer required. Members who witness inappropriate or excessive force or force that otherwise may be in violation of policy or training shall report suspected violations immediately to a supervisor or Internal Affairs.

#### **1.6 DE-ESCALATION REQUIREMENT**

De-escalation is a learned skill, and the ability to successfully achieve it can have definite safety and security implications. Some examples of de-escalation techniques include using communication, physical space, and time to reduce the level of intensity of a situation.

A member shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force. De-escalation techniques shall be used whenever possible and when such delay will not compromise the safety of the member or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime.

#### **1.7 USE OF LESS-THAN-LETHAL FORCE**

When de-escalation techniques are not effective or appropriate, a member may consider the use of less-than-lethal force to control a non-compliant or actively resistant individual. A member is authorized to use agency-approved, less-than-lethal force techniques and issued equipment in the following situations:

- To protect the member or others from immediate physical harm.
- To restrain or subdue an individual who is actively resisting or evading arrest.
- To bring an unlawful situation safely and effectively under control.

The use of physical force should be discontinued when resistance ceases or when the incident is under control. Physical force shall be not used against individuals in restraints, except as objectively reasonable to prevent their

escape or prevent imminent bodily injury to the individual, the member, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.

## **2. USE OF DEADLY FORCE**

### **2.1 DEADLY FORCE REQUIREMENTS**

A member is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified only when in the following situations:

- To protect the member or others from what is reasonably believed to be an immediate threat of death or serious bodily injury or
- To prevent the escape of a fleeing subject when the member has probable cause to believe that the person has committed or intends to commit a felony involving serious bodily injury or death, and the member reasonably believes that there is an imminent risk of serious bodily injury or death to the member or another if the subject is not immediately apprehended.

When feasible, the member shall identify himself or herself as a law enforcement member and warn of his or her intent to use deadly force. Deadly force shall not be used when serious injury is likely inflicted upon persons other than the individual against whom the member is authorized to use deadly force. The safeguarding of other human lives shall outweigh all other considerations.

The discharge of a firearm is deadly force as matter of law.

## **3. WEAPONS, RESTRAINING TOOLS, AND TECHNIQUES**

### **3.1 THE USE OF FIREARMS**

A record on each approved firearm, department or personally owned, will be maintained by the Firearms Training Unit.

#### APPROVED USES OF FIREARMS

Members of the department may discharge an approved firearm only under the following circumstances:

- a. When the member reasonably believes the subject poses an imminent danger of death or great bodily harm to an employee or any individual.
- b. When the member has probable cause to believe a subject is committing or has committed a forcible felony and the subject's actions pose imminent danger of death or great bodily harm if apprehension is delayed.
- c. For firearm practice at an approved gun range.
- d. For the purposes of test firing.
- e. To give an alarm or to call for assistance, for an important purpose when no other means is possible, and the round may be fired safely into the ground.
- f. To kill a dangerous animal or one that humane consideration requires release from further suffering when no other means of disposition is available.

### FORBIDDEN USES OF FIREARMS

The following uses of firearms are expressly forbidden:

- a. Firing into or over the heads of crowds.
- b. Firing warning shots.
- c. Firing into buildings, enclosures, or through doors when a subject is not visible.
- d. Cocking the hammer of a weapon except to improve aim immediately prior to firing.
- e. Firing from a moving vehicle except in exigent circumstances that must be articulated.

### FIREARM USE RESTRICTIONS

The following restrictions apply to the use of firearms:

- a. When the handgun is outside the holster, the weapon shall be pointed in a safe direction with the trigger finger outside the trigger guard, until there is a need to fire at the member is at risk.
- b. Shoulder-fired weapons shall not be placed in the vehicle weapon rack with a round in the chamber.
- c. Shoulder-fired weapons shall not be used or carried in an off-duty status.

### **3.2 FIRING AT MOVING VEHICLES**

A moving vehicle alone does not constitute a threat that justifies a member's use of deadly or potentially deadly force, particularly if the sole objective of the driver is to evade capture. Firearms shall not be discharged at a moving vehicle unless:

- a. A person in the vehicle is threatening the member or another person with deadly force by means other than the vehicle, or
- b. The vehicle is operated in a manner deliberately intended to strike a member or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

A member shall not intentionally position himself/herself in the path of a moving vehicle, or approach in the vehicle's potential path of escape, either front or rear, creating circumstances where the use of deadly force is the likely outcome. A member in the path of an approaching vehicle will attempt to move to a position of safety rather than discharging a firearm at the vehicle or any occupants of the vehicle.

### **3.3 USE OF HANDCUFFS**

Members responsible for the custody and safe handling and transporting of subjects should utilize their department-issued handcuffs as a primary restraining device to ensure the security of and prevent injury to the subject. The handcuffs should be double-locked, behind the subject's back. Consideration may be given to a subject's age, physical condition or disability, and mental capacity with regard to the decision to utilize handcuffs. In the event the decision is made not to handcuff a subject, another member should be assigned to assist in transporting the subject to the destination. Subjects may only be handcuffed to a fixed object designed for temporary restraint when it is necessary to protect any individual from harm or in completion of the member's duties (i.e., booking procedures, medical).

### **3.4 USE OF FLEXCUFFS**

Members may use flexcuffs in lieu of handcuffs when appropriate. Subjects should be flexcuffed in such a manner as to ensure the security of and prevent injury to the subject. Flexcuffs shall be removed using flexcuff cutters. In cases of emergency only, flexcuffs may be removed with other cutting instruments. When using other cutting instruments, extra care should be given to the removal of the flexcuffs to ensure that injury does not occur to the subject during the removal process.

### **3.5 USE OF FOUR-POINT RESTRAINT**

When a subject resists and creates an imminent danger to the subject, member, or any individual, members may utilize a four-point restraint. A four-point restraint is the securing of the subject's feet to his or her hands from the rear, using handcuffs, flexcuff, and/or a Ripp-Hobble. When it is necessary to utilize a four-point restraint on a subject, members shall not "cinch" down the handcuffs, flexcuffs, or Ripp-Hobble. The feet should not be brought past a 90-degree angle to the body. This ensures the safest method of utilizing this restraint technique. Two members should transport a four-point-restrained subject for member and subject safety, whenever possible. The member shall monitor the subject at all times while in a four-point restraint.

### **3.6 USE OF CHOKEHOLDS AND CAROTID RESTRAINTS**

Chokeholds and Carotid Restraints (Vascular Neck Restraints) may not be utilized except in situations where deadly force is authorized.

### **3.7 USE OF CANINES FOR APPREHENSIONS**

Canine apprehension shall only be used to apprehend suspects for a felony arrest. A warning should be given by the police canine handler prior to releasing the canine. No member shall give a police canine warning unless they are an active police canine handler. In those cases where the police-trained canine has been released to apprehend a subject, the officers on the scene shall refrain from becoming involved in the pursuit unless directed to do so by the canine handler.

A K-9 team may also be deployed by a commander to apprehend persons at any scene where containment is essential. These scenes may involve persons who are not known to have committed a felony crime but pose an imminent danger to officers, members of the public, or themselves.

After any apprehension, a request for medical assistance shall be made by any officer as soon as possible. The canine handler shall ensure that Communications has been notified and the request has been made. The initial responding officer shall complete an Incident Offense Report and an Arrest Affidavit (a charge of resisting with/without violence shall be included, when appropriate). A Use of Force report must be completed by a K-9 Unit supervisor. In the event that a K-9 Unit supervisor is unavailable (off shift) a patrol supervisor or K-9 Unit corporal will respond to the scene and conduct the initial investigation and forward all information to the respective K-9 Unit supervisor for completion. In the event a K-9 Unit supervisor is the principal employee in the Use of Force, the information gathered will be forwarded to the opposite rotation K-9 Unit supervisor for completion. Once the Use of Force report is completed it will be routed to the Special Patrol Section Commander for review. A CSI shall take photos any time a subject is physically apprehended by a police-trained canine. These photos will be maintained by them according to their standard policies regarding crime scene photos.

### **3.8 USE OF CHEMICAL AGENTS**

Department-issued chemical agents may be used when necessary to stop passive or greater resistance. The purpose of the chemical agent is to minimize the potential threat of resistance by the subject. Chemical agents will cause burning and tearing of the eyes, heavy discharge from the nose, difficulty in breathing, disorientation, panic, and uncontrollable sneezing. The effects of the chemical agent alone do not classify as an injury. The appropriate use of a chemical agent without injury and when spray is the sole tactic used will require an incident report and/or charging affidavit and completion of a Use of Force report.

Chemical agents should only be used in a direct application in those situations in which an arrest is likely. If an arrest is not made, the watch commander shall be notified as soon as possible, and an Incident Report shall be completed concerning the incident.

All employees in uniform authorized to carry an approved chemical agent shall carry that agent while performing on-duty or extra-duty work assignments. Members who wear plain clothes and members in limited-duty status shall carry their approved chemical agent, concealed, while performing their assigned duties. Members may carry their chemical agent in an off-duty status. Non-sworn employees shall not carry their chemical agent in an off-duty status.

### **3.9 USE OF CLEAR OUT**

“Clear Out” is a non-lethal, non-flame-creating chemical irritant that is contained in an aerosol canister and has the same effects as chemical agents. Clear Out is designed to force a subject from a confined area or to disperse large crowds. It is to be used when verbal methods of persuasion have failed and there is an anticipated danger to members if Clear Out is not used to extract the person(s). The authorization to use Clear Out shall be given by a watch commander, incident commander, or higher authority.

The decision to use Clear Out may be based on the physical sighting of a subject in a structure, on eyewitness statements to the fact that a subject was sighted in the structure, or any other information that establishes a high degree of likelihood that a subject is inside, e.g., Sonitrol. The subject must be offered an exit, not “locked” in a structure. It may be necessary to utilize two or more cans in a structure. Allow sufficient time (at least five minutes) for the gas to expand throughout the structure. If the subject has not exited the structure, the watch commander will determine how to secure the structure.

Clear Out may also be used in accordance with P&P 1302, Civil Disturbances.

### **3.10 USE OF PYROTECHNIC GRENADES**

A pyrotechnic grenade is a device that releases a chemical agent into the atmosphere through the burning of a chemical compound. The types of chemical agents available are smoke (HC), CS (Orthochloro-benzalmalononitrile), and OC (Oleoresin capsicum).

The grenade burns at 750-800 degrees Fahrenheit and is specially designed for outdoor use in crowd control situations only. Pyrotechnic grenades shall not be deployed onto rooftops, into crawl spaces, or indoors due to its fire-producing capability. The grenades shall be used primarily for the purpose of dispersing illegally- assembled crowds or to protect lives and property when the circumstances indicate that the uses of these chemical or pyrotechnic agents are the most effective manner of accomplishing the objective. Smoke grenades may be used to

determine wind direction, as a carrier agent for CS munitions, or to conceal the movements of mobile field force personnel.

Pyrotechnic grenades shall only be used with the authorization of the incident commander, watch commander or higher authority. The incident or watch commander will establish the protocol or parameters in advance concerning the extraordinary use of chemical agents in accordance with a Level 1 Mobile Field Force event in the Department's current issue of P&P 1302, Civil Disturbances.

Only those members who have completed the Department-approved training will be permitted to deploy pyrotechnic grenades. The incident or watch commander should have Communications check all channels for any on-duty ERT Chemical Team grenadier(s) to respond since they have specialized training and may have a variety of chemical munitions readily available.

Chemical munitions packs are located in the Quartermaster vault at OPH and SECPO. These packs must be signed out with the approval of the watch commander. The Patrol Services Bureau commander or designee will be responsible for chemical munitions packs.

### **3.11 USE OF EXPLOSIVE DEVICES**

Explosive devices include distraction devices and other similar devices using small explosive content and are only authorized for use by SWAT. Refer to P&P 1504, SWAT Team, for policy guidance on the use of explosive devices by SWAT.

### **3.12 USE OF TASER ENERGY WEAPONS (TEW)**

The TASER 10 (TEW) and Taser 7 manufactured by Axon Enterprises are the Taser Energy Weapons, (previously called Conducted Energy Weapons-CEW) approved by the department.

Members may not carry a TEW unless it has first been reviewed, inspected, and approved by the Department's lead TEW instructor. Members shall complete the Department's training course and demonstrate proficiency prior to carrying the TEW.

The TEW is a less-lethal weapon and is not intended to replace the firearm as the primary tool used when there is a potential for the use of deadly force. The use of the TEW must involve an arrest or a custodial situation during which the person who is the subject of the arrest or custody escalates resistance to the officer from passive physical resistance to active physical resistance, and the person:

- a. Has the apparent ability to physically threaten the officer or others (including themselves); or
- b. Is preparing or attempting to flee or escape. However, no policy or guideline can describe every situation a member might face.

When practical, members should use verbal commands to alert assisting personnel of the intended TEW deployment by stating, "Taser, Taser, Taser," unless doing so would compromise the safety of others.

Officers should apply restraint techniques consistent with Use of Force Policy and handcuff the subject under power as soon as practical. Each activation of the TEW is considered an additional Use of Force.

The TEW probes shall not be intentionally aimed at a person's head, neck, chest (above the nipples), or groin unless intensified techniques or deadly force are warranted. The recommended point of aim for the frontal discharges is just above the belt line (lower abdomen) to the feet, including the arms. The Taser 7, "drive stun" technique shall not be intentionally delivered toward a person's head, neck, or groin unless deadly force is warranted.

Officers should consider environmental factors that may increase the risk of injury to a subject during Taser deployment. Examples include:

1. Falls
  - a. Subjects standing on a roof, on a bridge, on top of a vehicle, near windows/stairs, or subjects on busy streets.
2. Drowning
  - a. Subjects in boats or near bodies of water.
3. Flammable Liquid
  - a. Members should not discharge the TEW in environments where potentially flammable, volatile or explosive materials are present.
4. Chemical Spray
  - a. The TEW should not be discharged if a flammable chemical spray has been deployed on the subject.
5. Animals
  - a. A TEW may be used on animals in circumstances where the use of such device is necessary for the safety of the member, the public or the animal.

Absent exigent circumstances involving imminent great bodily harm, the TEW shall not be deployed on elementary school age children, the elderly, females reasonably believed to be pregnant, individuals with apparent physical disabilities impairing their mobility, and handcuffed or otherwise secured subjects. If a member deploys a TEW in any of the circumstances listed above, the member must clearly document the exigent circumstances which made the deployment objectively reasonable in the Use of Force Report.

The TEW shall not be used on a subject who is holding illegal drugs in his/her mouth when the sole method of their resistance is the refusal to spit the illegal drugs out of their mouth.

The CEW shall not be used on subjects operating bicycles or motor vehicles except in cases of aggressive resistance. A subject is deemed to be operating a motor vehicle if the motor vehicle is in motion. This includes vehicles, motorcycles, scooters, boats, and bicycles.

If there is an injury or complaint of injury or other medical necessity, OFD shall be requested and advised that the subject has been impacted by the TEW. In cases where a subject is struck with a probe in the face, throat, groin, female breast, or male nipple area, OFD must respond to the scene to treat the injury. However, OFD will not be responsible for removing probes. The subject, when struck in any of these areas, must be transported to a hospital for probe removal.

Only members certified to use a TEW are authorized to remove probes that have struck the subject in any area other than those listed above. TEW probes should be removed as soon as the member determines that the potential for further resistance has subsided. Since the TEW probes are a biohazard, they must be treated as such. Consequently, latex gloves must be used when removing TEW probes. The probes and cartridges must be packaged as evidence in accordance with the current issue of the Exposure Control Plan.

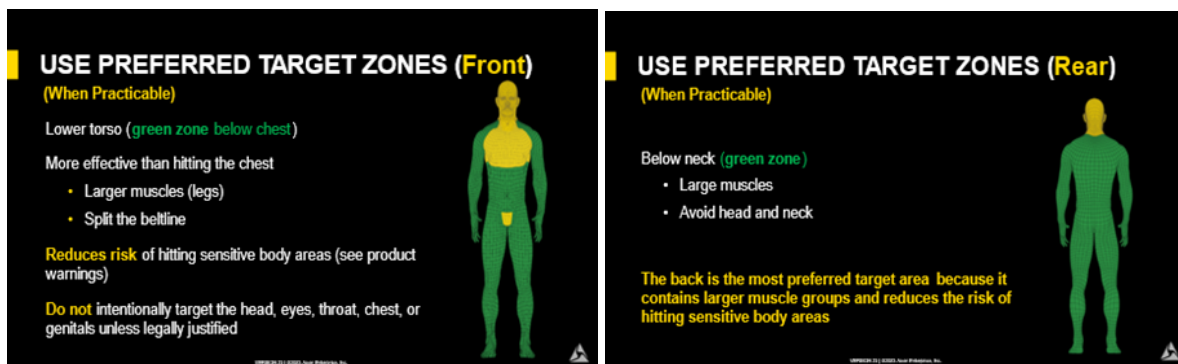
Digital photographs will be taken of the location where the TEW probes struck the body. Employees taking photographs of subjects must do so out of public view if the probes strike private areas of the subject's body.

The probes and cartridges must be packaged as evidence in accordance with the current issue of the Exposure Control Plan. TEW Probes and TEW Cartridges are to be logged into evidence. The probes shall be seated into the cartridges and placed into a Sharps container. The Sharps container shall be placed into a brown paper bag with all used serial numbers listed on the package and the evidence receipt. Cartridge numbers used shall be entered in the member's report.

After a Use of Force incident, replacement cartridges will be issued by the Quartermaster Unit with a requisition signed by a member with the rank of Lieutenant or above. If the Quartermaster Unit is closed, a Watch Commander may obtain the cartridges and issue them to the member. Managers approving replacement cartridges must ensure that the circumstances surrounding the discharging of the TEW are properly documented.

In the event of a Critical TEW Incident, on call CSI shall be notified to document the incident. While on scene, the TEW and its contents shall be collected by CSI with the cartridges still inside the magazine, as soon as possible. No manipulation of the TEW shall take place prior to collection by CSI. The department TEW Coordinator shall be notified.

In the event of an accidental discharge with no contact to a subject, a Use of Force report will not be needed; however, a supervisor must be notified of an accidental discharge and ensure that the Incident Report is completed. The incident report should be forwarded to the Training Section Supervisor, and a member may be required to attend remedial training on the use of the TEW. The spent cartridge will be placed into Property and Evidence. The remedial training will be conducted by a Training Section Instructor. Remedial training can also be conducted at a supervisor's request. A Use of Force report **MUST** be completed if an accidental discharge results in contact with a person.



### **3.13 USE OF THE BATON**

The department-approved baton may be carried by members on their person while in uniform. Members in plain clothes may carry their batons concealed when working on duty, extra-duty, or when off duty.

The baton is the primary police impact weapon. The purpose of using the baton is to stop active resistance or when it is an objectively reasonable and necessary option under the circumstances. Using the baton to target the shaded areas (Appendix B) below the shoulders shall be in response to aggressive resistance or deadly force. Using the baton to target the head or neck shall be in response to deadly force resistance only.

The flashlight is not to be used as an impact weapon.

### **3.14 USE OF LESS LETHAL PROJECTILE**

The less lethal projectile is a secondary police impact weapon. Members trained/certified to carry and deploy the less lethal projectile shall inspect their designated weapon prior to each tour of duty. The less lethal projectile shall not be used or carried in an off-duty status.

The purpose of using the less lethal projectile is to stop active resistance or as objectively reasonable under the circumstances. Using the less lethal projectile to target the shaded areas (Appendix B) below the shoulders shall be in response to aggressive resistance or deadly force. Using the less lethal projectile to target the head or neck shall be in response to deadly force resistance only.

The less lethal projectile may also be used in situations where the baton or other control techniques are impractical or unsafe. When practical, every effort will be made by members deploying the less lethal projectile to inform other employees prior to firing.

The use of less lethal projectiles is authorized against animals that pose a threat to public or employee safety.

All less-lethal projectile weapons shall be returned to the Quartermaster Unit upon leaving a Unit that authorizes the use of the weapon or upon separating from the agency.

Any officer who fails to attend any less lethal projectile training will not be permitted to carry the specified weapon. The In-Service Training Unit will be responsible for maintaining documentation of all initial, refresher, and remedial less lethal projectile training.

#### **3.14.1 SABRE .68 CALIBER LESS LETHAL LAUNCHERS**

Only Sworn officers who have met all training and proficiency requirements are authorized to use the Sabre Less Lethal Launcher. The Launcher is a less lethal chemical agent delivery system that may be used on individual subjects as well as in crowd control situations. The Sabre Less Lethal Launcher may be used when:

- a. An officer, based on objective reasonableness, perceives an imminent threat of physical force against themselves, other persons, or subject self-inflicted injuries.
- b. An animal poses an immediate threat to the officer or another person.

The Sabre Less Lethal Launcher may be used to control a dangerous or violent subject when a less lethal use of force:

- a. Is justified;
- b. When attempts to subdue the subject by other methods have been, or will likely be, ineffective in the situation at hand;
- c. When a subject(s) uses active, aggressive, or aggravated resistance to prevent the employee from establishing control;
- d. To disperse unruly crowds threatening unlawful property damage, physical violence, or
- e. When there is a reasonable expectation, it will be unsafe for officers to approach within contact range of the subject(s).

#### SABRE LAUNCHER DEPLOYMENT

Whenever possible, a cover officer should be present before deciding to deploy the Sabre Less Lethal Launcher. A verbal warning shall be given before deploying the Launcher:

- a. To allow the subject(s) an opportunity to comply with the officer's commands.
- b. A verbal warning is not required if it would provide the subject a tactical advantage.

Prior to deployment, the deploying officer will announce "less lethal, less lethal, less lethal" to alert other officers of the impending Less Lethal Launcher deployment. Officers hearing this warning should immediately break contact with the intended target and create distance while the Launcher projectiles are deployed.

Due regard will be exercised by deploying officer(s) for the safety of the subject(s), officers, and bystanders. Officers will deploy the minimal number of projectiles necessary to overcome a subject(s) resistance.

The use of the Sabre Less Lethal Launcher in crowd control situations shall be authorized by an incident commander or higher, except, in the event of exigent circumstances, where the officer in charge cannot reasonably contact higher authority.

Officers deploying the Less Lethal Launcher will avoid intentionally striking the face, eyes, neck, spine, and groin and will attempt to target the center mass of the body.

- a. If the subject(s) is wearing heavy clothing officers will target less padded areas such as legs and arms, as well as the surfaces around the suspect(s).
- b. Officers will target physical structures near the subject(s), either at an elevated height or by targeting the ground, roadway, or curb, as a means to disperse the Less Lethal Launcher chemical agent to control unruly crowd situations.

If feasible, officers may assist the affected subject(s) and/or bystanders with the decontamination process.

#### THE SABRE LESS LETHAL LAUNCHER WILL NOT BE USED:

- a. When the subject(s) does not pose or appear to pose an immediate threat of physical force against an officer, other persons, or themselves.

- b. When the subject(s) is at an elevated location which poses a risk of great bodily harm or death to the subject(s) should they fall unless deadly force is authorized.
- c. When the subject(s) is known or appears to be:
  - 1. A pregnant woman unless the use of deadly force is justified;
  - 2. child under the age of 13 unless the use of deadly force is justified;
  - 3. An elderly person unless the use of deadly force is justified;
  - 4. On a handcuffed or otherwise restrained subject(s) except in extraordinary articulable circumstances where such person violently attacks an officer or another person and places the officer or another person at risk of serious bodily injury or death and lesser means have been attempted and failed or are not feasible;
  - 5. Into an enclosed area, unless the officer has the means to enter and remove the subject(s);
  - 6. When the subject(s) is the operator of a motor vehicle;
  - 7. As a means to intimidate, coerce, or frighten an individual or crowd unless the officer reasonably believes justification exists to deploy the chemical agent it's designed to discharge;
  - 8. To affect the arrest of a subject(s) who is unable to resist the officer.

The Sabre Launcher will be used according to Department training. Officers will receive original training and refresher training at a minimum, every year.

### **3.14.2 40MM 4-SHOT LAUNCHER**

Only Sworn officers who have met all training and proficiency requirements are authorized to use the 40mm launcher. The department-issued 40mm launcher is designed to shoot a foam/sponge projectile. The 40mm Launcher may be used when the officer, based on objective reasonableness, perceives an imminent threat of physical force against themselves, other persons, or subject(s) self-inflicted injuries.

The 40mm Launcher may be used to control a dangerous or violent subject(s) when deadly force is justified or attempts to subdue the subject(s) by other methods have been, or will likely be, ineffective in the situation at hand; or there is a reasonable expectation it will be unsafe for officers to approach within contact range of the subject.

#### 40MM LAUNCHER DEPLOYMENT

Whenever possible, a cover officer should be present before deciding to deploy the 40MM Launcher.

A verbal warning will be given prior to deploying the 40MM Launcher:

- a. To allow the subject the opportunity to comply with the officer's commands.
- b. A verbal warning is not required if it would provide the subject a tactical advantage.

Prior to deployment, the deploying officer will announce "less lethal, less lethal, less lethal" to alert other officers of the impending 40MM Launcher deployment.

#### A DEPARTMENT 40MM LAUNCHER WILL NOT BE USED:

- a. When the subject does not pose or appear to pose an immediate threat of physical force against an officer, other persons, or themselves;

- b. When the subject is at an elevated location which poses a risk of great bodily harm or death to the subject should they fall, unless deadly force is authorized;
- c. When the subject is known or appears to be:
  1. A pregnant woman unless the use of deadly force is justified;
  2. A child under the age of 13 unless the use of deadly force is justified; or
  3. An elderly person unless the use of deadly force is justified.
  4. When the subject is the operator of a motor vehicle;
  5. On a handcuffed or otherwise restrained individual except in extraordinary articulable circumstances where such person violently attacks an officer or another person and places the officer or another person at risk of serious bodily injury or death and lesser means have been attempted and failed or are not feasible;
  6. As a means to intimidate, coerce, or frighten an individual or crowd unless the officer reasonably believes justification exists to deploy the Bean Bag Shotgun.
  7. To affect the arrest of a person who is unable to resist the officer.

When engaging a subject, the deploying officer will evaluate the effectiveness of each round after each impact. Officer(s) will control and handcuff the subject as soon as the situation permits.

The 40mm Launchers will be used according to department training. The target area for the 40mm sponge round will be the hips, buttocks, and thighs of the subject.

Officers will receive original training and refresher training at a minimum, every year.

## **4. USE OF FORCE TRAINING AND PROFICIENCY**

### **4.1 USE OF FORCE POLICY TRAINING**

All employees who carry lethal or less-lethal weapons will be issued copies of, and be instructed on, the Agency's Use of Force policy before they are assigned and authorized to carry the weapon.

All members shall receive documented training, at least annually, on this agency's use of force policy and related legal updates. In addition, training shall be provided on a regular and periodic basis and designed to:

- Provide techniques for the use of and reinforce the importance of de-escalation.
- Simulate actual shooting situations and conditions.
- Enhance members' discretion and judgment in using less-than-lethal and deadly force in accordance with this policy.

### **4.2 TECHNIQUES AND TOOLS TRAINING**

Employees shall maintain and demonstrate proficiency with department-authorized techniques, restraining tools, and weapons as determined by the Training Section Commander. Less-lethal weapon training will be conducted biennially on the following less-lethal weapons: ASP baton, chemical agent, and less-lethal projectile. Employees are restricted from carrying any weapon (lethal and less-lethal) for which they have not proven proficiency.

Only weapons (lethal and less-lethal) and ammunition meeting Agency approval are to be used in the performance of an employee's duty (both on and off duty). A list of approved less-lethal weapons may be obtained from the Firearms Training Unit.

Supervisors will inspect and document, on a yearly basis, the condition of all less-lethal weapons carried by their employees and ensure that expiration dates are not exceeded. Each employee should also ensure that the expiration dates on their less-lethal weapons are not exceeded.

### **4.3 FIREARMS TRAINING**

Firearms training will be conducted at least twice annually subject to the terms of any applicable collective bargaining provision. The Training Unit shall be responsible for establishing standards of proficiency, ensuring compliance by all members, and maintaining proficiency records.

Failure of an employee to demonstrate and maintain acceptable standards of proficiency shall be cause for remedial training. Remedial training shall be coordinated with the Training Unit and shall be completed within seven days. An employee's continued inability to maintain proficiency standards shall cause the employee to be placed on an alternative assignment pending a final determination as to their job fitness, in accordance with the current issue of P&P 1617, Relief of Duty, Alternative Duty, and Limited Duty.

Employees who are unable to participate in training and/or evaluation sessions that qualify them to carry weapons and employ force (e.g., during an extended leave of absence, physical disability, etc.) shall be restricted as to their use of police authority in accordance with the current issue of P&P 1619, Injuries, Illnesses, and Medical Conditions, or the current issue of P&P 1617, Relief of Duty, Alternative Duty, and Limited Duty. Prior to resuming full duty status, employees must demonstrate proficiency in all areas, to the satisfaction of the Training Unit.

## **5. USE OF FORCE REPORTING REQUIREMENTS**

### **5.1 WHEN REPORTING IS REQUIRED**

A sworn supervisor shall conduct a Use of Force investigation and complete a Use of Force report under the following circumstances:

- a. Use of chemical agent.
- b. Use of impact weapons (baton, less lethal projectile, etc.)
- c. K-9 dog bites, other than accidental.
- d. Use of Taser Energy Weapon (TASER 7 & TASER 10)
- e. Forearm/knee/open and closed hand strikes.
- f. Kicks.
- g. Use of a tactic and/or technique used on a handcuffed subject.
- h. Use of any technique or the application of any weapon that results in actual or claimed (evident or non-evident) injury.

When a firearm is discharged, or an employee applies any technique or weapon that results in death, an Initial Notice of Inquiry shall be generated in lieu of the Use of Force report. The only exception is when an employee utilized

deadly force in the killing of a dangerous animal or one that humane consideration requires release from further suffering, when no other means of disposition is available. In this case the employee shall complete an Incident Report in lieu of an Initial Notice of Inquiry or Use of Force report.

## **5.2 USE OF FORCE REPORTING PROCEDURE**

### **5.2.1 SUPERVISOR NOTIFICATION**

Once a reportable Use of Force has occurred, the involved employee will notify his or her immediate supervisor as soon as possible. The use of a tactic or technique not requiring notification will be documented in charging affidavits, incident reports, and/or supplemental reports by the involved employee. If it occurs during an extra-duty work assignment or off-duty, an on-duty supervisor will be notified to conduct the investigation. In those instances where the involved employee is a supervisor, another uninvolved on-duty sergeant will be notified to conduct the investigation.

### **5.2.2 SUPERVISOR INVESTIGATION**

Once notified, the responsible supervisor shall respond to the scene as soon as possible and interview all involved employees and witnesses. The supervisor should also assess the medical status of the subject and verify requests for medical assistance if required. The supervisor investigation will include reviewing, approving, and obtaining copies of all reports, affidavits, witness statements, and available video and audio recordings for inclusion in the Use of Force report.

### **5.2.3 INCIDENT REPORT REQUIREMENT**

Members who have used a technique or weapon requiring a Use of Force investigation shall complete an Incident Report by the end of their tour of duty, except in misdemeanor cases where the use of a chemical agent is the sole Use of Force and there are no injuries claimed or evident. Supervisors will ensure that these reports are completed within the prescribed timeframe. Supervisors will ensure that members involved in a Use of Force incident view a video of the incident, if available, prior to the completion of reports. If video of the incident is known but not available in a timely manner, then the general account of the incident (elements of crimes, probable cause) shall be documented on charging affidavits and incident reports. Supplemental reports will be generated to supply greater details of the incident once the video becomes available and has been viewed. A short form Use of Force report may be utilized when the sole tactic is the deployment of a chemical agent and there are no other injuries or claimed injuries as a result of the use of a chemical agent, (the effects of the chemical agent do not qualify as injury). An incident report shall be completed when CEW is deployed and is unsuccessful (the prongs do not make contact with the subject). A copy of the incident report shall be forwarded to the ASCU for statistical purposes. For all other Use of Force reports, a regular Use of Force form shall be used.

### **5.2.4 WATCH COMMANDER NOTIFICATION**

The supervisor shall notify the on-duty watch commander of the circumstances requiring the initiation of a Use of Force report. Notifications shall be accomplished as soon as possible but no later than the end of their tour of duty and the name of the manager notified shall be documented in the Use of Force report narrative.

### **5.3 USE OF FORCE REPORT SUPERVISOR REVIEW**

The supervisor shall ensure that photographs are taken of any injury, actual or claimed, by either the subject or the employee, that result from an application of force by the employee in response to a subject's resistance. If available, a CSI or forensic photographer will take the photographs of all injuries requiring hospitalization and/or treatment at a medical facility. If no CSI or forensic photographer is available, a supervisor, with the permission of a watch commander, will take the photographs, which shall be maintained in accordance with standard policies regarding crime scene photos. The photographs will document the reported injury as well as the overall condition and/or appearance of the subject. All employees capturing digital images must adhere to the current issue of Departmental P&P 1902, Forensic Photography, Digital Camera, and Digital Imaging Archive. Photographs that have been processed or archived through the Forensic Imaging Unit do not need to be attached to the Use of Force report.

The online Use of Force report is pre-structured except for the narrative section. The supervisor shall separate the employees involved into two categories: Principal Employees and Assisting Employees. Supervisors will not list an officer as an Assisting Employee if their actions, standing alone, would not require a Use of Force report. For example, if the only action an officer took was handcuffing that did not result in any injury, this officer would not be listed as an Assisting Employee.

A Principal Employee is any employee who encounters physical resistance or force from a subject and must use a technique or weapon to overcome it.

Assisting Employees shall be listed and are defined as those using controlling techniques or restraint holds while assisting the principal employee.

Witness Employees are any employee who only observes the use of force.

The narrative portion is to be completed by the supervisor and should include:

- a. A statement indicating a review of a charging affidavit and/or incident report for probable cause or reasonable suspicion.
- b. The specific resistance the employee encountered and the specific response of the employee.
- c. Employee/subject factors and special circumstances.
- d. How the injuries were incurred and a description of the extent of the injuries. This includes both employees and subjects.
- e. Synopsis of witness and subject statements, if any.
- f. Statement indicating if video and/or audio was reviewed, saved as evidence, and is consistent with the statements made by involved employees and witnesses.
- g. A statement by the supervisor indicating whether the employee's response was in keeping with department policy.

### **5.4 USE OF FORCE REPORT ROUTING RESPONSIBILITIES**

#### **A. SUPERVISOR**

The reporting supervisor completes the Use of Force investigation report online. In the routing "comments" section, the supervisor completing the investigation will notate one of the following actions:

- **“No Action”**- This means they do not believe any corrective action is needed after the investigation and the use of force is consistent with policy and statute.
- **“Formal Counseling”**- In this situation, the investigating supervisor believes corrective action is needed. Details of the formal counseling **will not** be included in either the comments or instructions section of the routing. Details will be documented in the Formal Counseling Entry online. When creating the Formal Counseling Document, utilize the case number from the use of force report. Counseling sessions shall also include a training component which will also be documented online.
- **“Formal Training”**-In this situation the investigating supervisor believes additional training is needed. Details on the formal training will not be included in either the comments or instructions of the routing. Formal training will be conducted by the In-Service Training staff and documented in the Formal Training Entry online. When creating the Formal Training Document, utilize the case number from the use-of-force report.
- **“INOI Recommended”**- If the supervisor believes a Use of Force policy violation may have occurred that warrants an Initial Notice of Inquiry (INOI), the report will be forwarded to the notified watch commander for review. If the notified watch commander concurs, the notified watch commander will initiate the INOI referral process.

The reporting supervisor shall complete the first page of the Use of Force Report by the end of their tour of duty. Supervisors shall complete Use of Force Reports and shall forward it to the notified watch commander within fourteen (14) days of the incident. Extension of the fourteen days must be approved by the notified watch commander. After entering one of the above actions in the comments section, the reporting supervisor shall note “For Review” in the routing instructions section.

## **B. WATCH COMMANDER**

The affected Watch Commander reviews the Use of Force Report from the supervisor and returns if any corrections are needed. After final review, the notified watch commander shall forward the Use of Force report to the affected Division Commander within seven (7) days of receipt of the incident. In the routing **“comments”** section, the watch commander will notate one of the following actions:

- **“No Further Action”**- If the investigating supervisor had an initial comment of “No Action” or “Formal Counseling” and the notified watch commander concurs that no additional corrective action is needed, the watch commander will notate “No Further Action” in the routing comments section and “For Review” in the routing instructions section.
- **“Formal Counseling”**- In this situation, the watch commander believes corrective action is needed for actions that are not clearly a policy violation or are unrelated to the Use of Force policy and no action was taken by the reporting supervisor. The watch commander will notate “For Review” in the routing instructions section. Details of the formal counseling **will not** be included in either the comments or instructions section of routing. Details will be included in the Formal Counseling Entry online. When creating the Formal Counseling Document, utilize the case number from the Use of Force Report. A watch commander can notate “Formal Counseling” and create a Formal Counseling Report online, regardless of whether the reporting supervisor’s actions were “No Action.” Counseling sessions shall also include a training component which will also be documented online.

- **“Formal Training”**-In this situation the watch commander believes additional training is needed. Details on the formal training will not be included in either the comments or instructions of the routing. Formal training will be conducted by the In-Service Training staff and documented in the Formal Training Entry online. When creating the Formal Training Document, utilize the case number from the use of force report.
- **“INOI Initiated”**- The notified watch commander believes a Use of Force policy violation occurred and initiates an Initial Notice of Inquiry per current Discipline Policy 1604.

After entering one of the above actions in the comments section, the notified watch commander will notate “For Review” in the routing instructions section and forward it to the affected Division Commander for review. If an INOI is initiated by the watch commander, the Division Commander will send the report to IA Pro to be closed by Internal Affairs.

### **C. DIVISION COMMANDER**

The Use of Force Report will be sent to the affected Division Commander, who will thoroughly review the report, make one of the following recommendations, and forward it to the Training Division Commander:

- **“Recommend Close”** – When the Division Commander completes review, if he or she deems no further review is required, he or she will forward the report to the Training Division Commander.

### **D. TRAINING DIVISION COMMANDER**

The Training Division Commander receives the Use of Force Report and either closes the report out in IA Pro or forwards the report to the affected Bureau Commander.

### **E. BUREAU COMMANDER**

The affected Bureau Commander reviews any Use of Force Report forwarded by the Training Division Commander.

## **V.FORMS AND APPENDICES**

APPENDIX A-Use of Force Continuum Guide

APPENDIX B-Anatomical Illustration

## **VI.REFERENCES**

This policy rescinds Policy and Procedure 1128.26

Related Policies: Policy and Procedure 1120, 1129, 1302, 1504, 1604, 1702, and 1902

Related Laws: [Florida State Statute 943.1735](#) and [U.S. Constitution Amendment 4](#)