GENERAL POLICE ORDER
CLEVELAND DIVISION OF POLICE

USE OF FORCE

SUBJECT: USE OF FORCE
ASSOCIATED MANUAL: INSPECTION, INTERNAL AFFAIRS, EMPLOYEE ASSISTANCE UNITS
RELATED ORDERS: 1.1.22, 2.1.02, 2.1.03, 2.1.04, 2.1.06, and 4.1.10

CHIEF OF POLICE: Michael McGrath, Chief

Substantive changes are italicized

PURPOSE: To establish guidelines for members of the Cleveland Division of Police relative to the use of force. To provide direction and clarity in those instances when a subject’s actions require an appropriate use of force response.

POLICY: A respect for human life shall guide members in the use of force. Division members shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the life of the member or others. Excessive force is strictly prohibited.

A member’s responsibility is the protection of the public. Standards for the use of force are the same on-duty and off-duty. Members shall not use force that may injure bystanders or hostages, except to preserve life or prevent serious bodily injury. Deadly force is never justified solely to protect property. The use of force is not left to the unregulated discretion of the involved member. Use of force decisions are dictated by the actions of the resistant or combative subject. Justification for the use of force is limited to the facts actually known or reasonably perceived by the member at the moment that force is used. Deadly force shall not be used to effect an arrest or prevent the escape of a person unless that individual presents an imminent threat of death or serious bodily injury to members or others.

DEFINITIONS:

Force means the following actions by a member: any physical strike or instrumental contact with a person, or any significant physical contact that restricts movement of a person. The term includes, but is not limited to, the use of firearms, conducted electrical weapon (CEW - e.g. Taser), chemical spray, or hard empty hands, the taking of a subject to the ground, or the deployment of a canine. The term does not include escorting or handcuffing a person, with no or minimal resistance.
Deadly Force is any action likely to cause death or serious physical injury. It may involve firearms, but also includes any force or instrument of force (e.g. vehicle, edged weapon) capable of causing death or serious injury. Deadly force includes firing at or in the direction of a person and head strikes with an ASP baton or any hard object.

Less Lethal Force is any use of force other than that which is considered deadly force. Less Lethal force includes any affirmative physical action taken by a member to control a subject. In addition to the less lethal force associated with the use of pepper spray, Taser (CEW) and the ASP baton, less lethal force includes the following:

1. Use of a member’s body part(s) to strike an individual;
2. Use of Division-issued intermediate weapons (See Section IV) deployed on approved body target areas (e.g. large muscle groups, not to include head strikes);
3. Use of joint manipulation and/or pressure point techniques;
4. Striking an individual with an object (other than a firearm) that may in exigent circumstances be used as a weapon (i.e. portable radio or flashlight) on approved body target areas;
5. Wrestling with an individual;
6. Actively holding/pinning an individual against the ground or other fixed object;
7. Any deliberate force which causes injury to another or causes another to fall or collide with an object;
8. Use of a police canine that results in a dog bite; Purposeful physical contact by a police horse that results in injury;
9. Any other less lethal physical action required to control a resistant, combative, or violent individual.

Objectively Reasonable Force is that level of force that is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who actually used force. Objective reasonableness is not analyzed with hindsight, but will take into account, where appropriate, the fact that officers must make rapid decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations. This policy guideline applies to
all uses of force, not only the use of deadly force. *Reference U.S. Supreme Court case Graham v. Conner (1989).*

**Intermediate Weapons** are authorized instruments or devices approved and issued by the Division. These instruments or devices include, but are not limited to, the following: OC pepper-spray, the ASP baton, the Taser, and the Beanbag Shotgun.

**Passively Resistant:** A Passively Resistant subject is one who fails to follow voice commands. A Passively Resistant subject may be verbally abusive using non-threatening language. A Passively Resistant subject is also any person who resists arrest simply by passively refusing to comply as directed (dead weight). The police member does not objectively and reasonably perceive an imminent physical threat.

**Actively Resistant/Self-Destructive Behavior:** An Actively Resistant subject is one who takes an offensive or a physically resistant action. These actions can take the form of the subject standing at the ready and menacing with an object, device, or material capable of inflicting serious injury; the subject using bodily force such as punching, striking, scratching, grabbing/holding; the subject using active physical resistance to custody or presenting an imminent biohazard threat such as spitting or throwing a biohazard at the member or attempt of same. Also in this category: evading custody (escape), destroying evidence, or attempting to harm self (ingesting narcotics, suicide attempt), making explicit verbal threats to cause injury to the member or others present and which the member reasonably believes the person will carry out that threat. The member objectively and reasonably perceives an actual or imminent threat to self, others or evidence. In the interest of officer safety, members shall be particularly vigilant of persons presenting physical cues of an imminent attack (yawning with outstretched arms, glancing around assessing the environment, staring at the officer’s duty belt, balling fists, shifting their body into a fighting stance ...).

**Deadly Active:** A Deadly Active subject is one who is presenting a deadly threat with a firearm, edged weapon, deadly ordnance, Taser/Electronic Control Device (CEW), motor vehicle, or any other instrument or substance capable of causing death or serious physical injury. Also included is an attempt to disarm the member, incapacitate the member or a life-threatening weaponless assault. The member objectively and reasonably perceives an imminent threat of death or serious physical injury to self or innocent others.

**PROCEDURES:**

I. Members who are present at the scene of a police-involved use of force are not relieved of the obligation to ensure that the use of force complies with the
requirements of the law; and, in the instance of a Cleveland police officer, adherence to Divisional rules, policy, and training. Members of the Division of Police have a duty to act if the use of force against a subject by any law enforcement officer clearly becomes excessive or objectively unreasonable.

A. Members shall factor into their response their ability to deescalate the use of force. The witnessing member’s response may range from physical intervention, to voice commands, to appropriate after-action notification. If reasonably able to do so, the member shall intervene physically to deescalate the application of force. The member shall also:

1. If reasonably able to do so, take custody of the person of the objectively unreasonable force.

2. Ensure that medical care is provided as needed.

3. In all cases, report witnessed suspected excessive use of force to the next non-involved supervisor in their chain of command before reporting off duty, and documenting same in their daily duty report and a Form-1 to the next non-involved supervisor in their chain of command.

B. Supervisors shall investigate all reports of alleged excessive force brought to their attention and take action as appropriate. Supervisors shall in all such instances promptly make their superior aware of the allegation and proposed action. The supervisor investigating the allegation of excessive force shall contact the Officer in Charge (OIC) of the Integrity Control Section (ICS) and advise same of the allegation. At this point, the OIC of ICS may at his/her discretion take over the investigation of the allegation.

II. Officers shall be trained and tested yearly on the law and Division policy regarding the use of force, appropriate methods to effect arrests, and the apprehension of fleeing subjects. The Division mandates strict knowledge and compliance with this order. Immediate supervisors are responsible for clarifying misunderstandings associated with this order.

III. Force Level

A. Members shall determine the level of force necessary to protect themselves or others, or gain compliance from combative, resistant or violent individuals.
Members shall consider alternative tactics to the use of force, which include, but are not limited to:

1. Concealment and/or cover
2. Voice commands and other verbal attempts to deescalate the situation
3. Show of force (i.e. multiple officers, display of weapons)

B. Action-Response

Members are prepared with knowledge of laws, proper training in use of force decision-making, proper training and accountability to high ethical standards and an understanding of Division directives. The member’s response shall be judged strictly on what is objectively reasonable based on the totality of circumstances and all facts known or reasonably perceived by the member at the moment that a force response is employed.

Members shall be guided by the suspect’s actions as they fall into three general categories: Passively Resistant (Category 3), Actively Resistant/Self-Destructive Behavior (Category 2), and Deadly Active (Category 1). Members shall refer to their training and the Use of Force report form for guidance in tailoring the appropriate response as prompted by the suspect’s actions.

C. Members shall consider the following member/suspect factors when choosing an Action-Response:

1. Age
2. Gender
3. Body size
4. Skill level
5. Number of suspects and number of members
6. Relative strength of suspect and member
7. Known or apparent medical condition
8. Known or apparent drug/alcohol usage

D. Special circumstances unique to each situation involving use of force:
   1. Weapon proximity
   2. Injury or exhaustion
   3. Position (e.g., being on the ground)
   4. Distance from the suspect
   5. Special knowledge or training
   6. Availability of other options
   7. Environmental conditions
   8. Subject presents threat of a bio-hazard (saliva, blood, other body fluids) by way of spitting or throwing the bio-hazard at a member.
   9. Degree to which the subject is already restrained (handcuffed, physically controlled by others, or whose mobility has been otherwise severely compromised)

IV. Intermediate Weapons
   A. Members who successfully complete mandated training and meet the Division’s proficiency standards are issued and required to carry intermediate weapons on duty and while engaged in secondary employment. Members who are Taser, ASP and OC Spray qualified shall carry the Taser and at least one other intermediate weapon as so qualified. If not Taser qualified, members must carry both the ASP and OC Spray as so qualified.
   B. Members shall not use intermediate weapons on individuals who are Passively Resistant.
   C. Members shall carry and use only those intermediate weapon holsters/carriers furnished by the Division or specifically authorized by the Chief of Police.
D. Members may draw, display, point or threaten to use intermediate weapons if they fear for their safety or the safety of others, or to gain compliance from a resistant, combative, or violent individual.

E. Batons/Hard Objects Used as a Weapon

1. The Division authorizes a member to use an expandable baton while on duty or working secondary employment. Absent exigent circumstances, the Division prohibits the use of non-traditional weapons/hard objects to gain compliance from resistant, combative, or violent individual(s).

2. The “Riot Baton” is authorized only during field force deployment.

3. When a member uses the ASP baton, Riot Baton, or any hard object/non-traditional weapon, medical personnel shall examine the subject (i.e. EMS, Emergency Room).

4. Photographs of the area struck by an ASP baton, Riot Baton, or any hard object/non-traditional weapon shall be taken and be made part of the investigative packet.

F. Oleoresin Capsicum “OC” Spray

1. If feasible, members shall provide a loud verbal warning before OC spray is used.

2. Members shall not use OC spray on women known or believed to be pregnant.

3. Unless a member is being assaulted or believes an assault is imminent and there are no other alternatives, members shall not use OC spray on persons with a known respiratory condition.

4. If OC spray is used on a juvenile, elderly, pregnant, physically disabled person, or a suspected mentally ill person, they shall be transported to the nearest hospital for treatment.

5. Members shall assist bystanders who come into contact with OC discharges. If an injury occurs or medical attention is required, the member shall complete an Injury to Person/Accidental/OC Spray
Record Management System (RMS) report and ensure that a copy of it is forwarded through the chain of command to the Inspection Unit.

6. If a suspect does not comply after two one-second bursts of OC that successfully reach the target, members shall discontinue use and select an alternative response.

7. When control is established at the scene, the member shall make a reasonable effort to relieve the suspect’s OC discomfort. Members shall wash OC from the suspect’s eyes as soon as possible at the scene, the booking location or a hospital.

8. Immediately transport suspects for emergency medical care if:
   a) Symptoms, other than mild, last beyond 45 minutes.
   b) Suspect experiences difficulty breathing or loses consciousness.
   c) The member believes that the suspect needs medical attention, regardless if the suspect requests it or not.
   d) The member becomes aware of a medical condition (bronchitis, heart ailment, emphysema, etc.) that OC spray may aggravate.

9. Members shall carefully handle the suspect’s clothing to avoid OC contact.

10. If it will not endanger innocent bystanders, OC may be released in enclosed areas to move suspects who refuse to exit when a forced exit is required.

11. The use of OC on an individual attempting to swallow evidence or contraband is permitted when all of the following criteria have been met:
   a) There is a clear indication that the object or substance in the subject’s mouth is contraband.
   b) There are exigent circumstances such as the imminent destruction of evidence or medical emergency.
c) The subject has refused to comply with the member’s verbal command to spit out any contraband.

d) The use of OC is not otherwise prohibited by another section of this order.

V. Investigation of Use of Force (*Less Lethal*)

A. When force is used, whether or not an injury occurs (*whether on-duty, off-duty, or secondary employment*) members shall promptly request a supervisor to respond to the scene. Members shall obtain necessary medical assistance for subjects appearing to be injured or complaining of injury. An on-duty superior officer from the district in which the incident occurs shall investigate off-duty/secondary employment members’ use of force. Supervisors who observe, participate in, authorize, or are otherwise involved in the use of force shall not assume investigative responsibilities of the incident.

B. In cases where members assigned to multi-agency units or task forces are involved in use of force incidents, the supervisor who is next in the chain of command who did **not** observe, participate in, authorize, or otherwise was involved in the use of force shall assume investigative responsibilities of the incident.

C. When *less lethal* force is used, members shall complete an RMS report with “Police Intervention” in the title. One such titled report is sufficient to cover all members involved in a single incident of Use of Less Lethal Force as long as that report contains all the information in the narrative section that accounts for each member’s Use of Less Lethal Force actions.

1. The member completing the RMS report shall include the notation “Use of *Less Lethal* Force report completed” in that narrative.

2. The member completing the RMS report shall identify within it all members who used force during the incident.

D. *The member completing the RMS report shall complete pages 1 through 3 of the Use of Less Lethal Force (ULLF) report (see attached Appendix) and the additional members involved attachment as necessary before reporting off-duty. The reporting member shall ensure that all the involved members’ actions are noted on the ULLF report.*
E. When documenting physical force, only that physical force actually applied needs to be documented. Failed attempts at force, such as the missed thrust of a punch, the missed swing of an ASP, or a failed takedown attempt, need to be documented only to the extent that physical contact was made (e.g. failure to complete a takedown may be documented simply as balance displacement.) The only exceptions are:

1. The discharge of a firearm in a use of deadly force investigation by UDFIT.

2. A Taser deployment when both darts miss the subject. In this instance, a Taser miss shall be indicated in the check box in the Impact Area section of the ULLF report.

3. A beanbag shotgun deployment when the beanbag misses the subject. In this instance, a beanbag miss shall be indicated in the check box in the Impact Area section of the ULLF report and the Integrity Control Section Call-up Team shall respond to investigate the use of force investigation.

F. When completing the Action Response section (page 2) of the ULLF report, members shall check all boxes in all categories indicating all suspect and member actions as appropriate. It is possible that a use of force event may require that multiple boxes be checked in all three categories for both the suspect and the member.

G. Before reporting off duty, the member completing the RMS report shall:

1. Submit the original RMS and ULLF reports to the investigating supervisor. The supervisor shall sign the reports after having checked them for accuracy and completeness.

2. Fax the supervisor-signed Police Intervention RMS and ULLF reports to the Record Intake/Review Unit and to the Inspection Unit.

3. Forward the original supervisor-signed RMS report to the district/bureau Commander’s Office for later forwarding to Record Intake/Review Unit.

4. The member shall return a copy of the RMS report and the originals of the ULLF report and other documents to the investigating supervisor
for the completion of the investigation and additional endorsements in the chain of command and for final forwarding to the Chief’s Office.

H. Supervisors notified of the Use of Less Lethal Force shall immediately respond to the scene and conduct an objective, impartial, complete investigation to include a review of all known relevant video and audio evidence.

I. Supervisors shall ensure that medical care has been provided for as needed. If EMS is not conveying the prisoner, the supervisor shall judiciously consider if it is appropriate to have members who were involved in that use of force to also handle the transport of that prisoner to a medical facility. Given the totality of the circumstances of the use of force and available staffing, the supervisor may assign the prisoner transport to other non-involved members.

J. The supervisor handling the initial Use of Less Lethal Force investigation shall prepare an investigative packet to include:

1. A supervisor’s Form-1 with a synopsis of the incident and an evaluation of the Use of Less Lethal Force. Address whether or not the force was appropriate and in compliance with Division rules and procedures.

2. Copies of associated RMS and accident reports.

3. The member’s original ULLF report containing the supervisor’s appropriate endorsements/comments and other completed sections.

4. Interviews of the subject and all witnesses.

5. Photographs of any injuries to members, witnesses, and/or subjects.


7. When the Taser is used, a copy of the downloaded data. Downloads shall be done by a supervisor or an Integrity Control Section investigator. Hard copies of the downloaded data shall be labeled with the involved officer’s name and badge number.
8. If applicable, a copy of any photographic or video evidence available. A non-exhaustive list of sources of such evidence include the Bureau of Homeland Services (Jail and Division of Police buildings), the Aviation Unit, in-car mobile video recording (MVR) video, video or still photographs from an officer’s personal electronic device, and private source video such as security system recordings utilized by businesses and residences.

9. If the Use of Less Lethal Force is the result of a secondary employment action, determine if the member had approval to work said secondary employment. The investigating supervisor shall contact the Personnel Unit to determine the member’s secondary employment status, or if unable to do so during normal business hours, request that the day shift administrative supervisor handle this task. This task may be handled via e-mail.

K. The investigating supervisor shall within seven calendar days of the incident forward the packet through their chain of command. Supervisors in the chain of command shall each have seven calendar days to review and assess the force used to determine if it is in compliance with Division rules and procedures. If an investigative review cannot be completed within the seven day period, the investigative supervisor shall complete a Form-1 stating the reason for the delay and request an additional seven days, and forward same through the chain of command. Each subsequent delay requires a new Form-1.

L. The commander’s office shall ensure that the investigative packet is complete and accurate, is placed in an envelope marked Use of Less Lethal Force separate from the daily inter-office mail and forwarded through the chain of the command to the Deputy Chief in that investigating supervisor’s chain of command.

M. After review and endorsement, the Deputy Chief shall forward the investigative packet (with their recommendation) to the Chief of Police.

N. The Inspection Unit shall collect all Use of Less Lethal Force reports that are faxed to them and cause same to be entered into a database for tracking purposes and statistical analysis.
VI. Use of Deadly Force/Firearms

A. Officers who meet the Division’s requirements and demonstrate proper proficiency shall be allowed to carry firearms.

B. Officers shall carry and use only those weapons, holsters, and ammunition furnished by the City of Cleveland or authorized by the Chief of Police.

C. Officers may draw, display, or point a weapon if they fear for their own safety or the safety of others.

D. Use of safe tactics involving vehicles:

1. Vehicle stops (high risk, low risk, or unknown risk) present tactical dilemmas for officers. Members shall not unreasonably place themselves in a position where a threat of imminent danger of death or serious physical injury is created when attempting to stop a motor vehicle or apprehending a felony suspect. When conducting a high risk stop or a stop for suspicious circumstances presenting an unknown risk, the member shall employ tactics that promote safety for the officer and the public.

2. When conducting high or unknown risk vehicle stops, members should avoid standing directly in front of, behind, or beside a suspect vehicle and shall not intentionally use their body to block the suspect vehicle. The likelihood of injury to the member substantially increases when using these dangerous and rarely effective tactics.

3. Officers will follow all training protocols/guidelines which are taught in the Police Academy relative to high risk stops involving vehicles and armed suspects.

4. Officers shall not reach into or place any part of their bodies inside a driver-occupied vehicle during a traffic stop or field interview. This action is extremely dangerous and can result in the officer being dragged by the vehicle. This prohibition is not applicable if the officer’s intention is to render aid to a vehicle occupant.

5. Firing at or from a moving vehicle is rarely effective and presents an extreme danger to innocent persons, particularly if the officer in a moving vehicle is attempting to use a firearm. A moving vehicle in
and of itself is not a presumed threat that justifies the use of deadly force (e.g. a vehicle avoiding a road block or officer-deployed road spikes in and of itself is insufficient justification to shoot at the vehicle); unless it can be clearly and convincingly articulated that:

a. The vehicle/occupant poses an immediate and/or continued threat of death or serious physical harm and

b. There are no other reasonable means available to avert or eliminate the threat and

c. The deployment of deadly force does not place innocent persons at risk of stray gunfire or harm from an uncontrolled vehicle.

6. Officers shall not fire at or into a vehicle when an occupant no longer poses a threat of death or serious physical harm.

E. Officers shall not fire warning shots.

VII. Investigation of Deadly Force

A. Officers shall:

1. Immediately notify their superior.

2. Obtain necessary medical assistance for subjects who appear to be injured or complain of injury.

3. Maintain their firearm(s) and ammunition in their unaltered states until such time that the OIC or designee from the Use of Deadly Force Investigation Team (UDFIT) can view and take those items into custody. No firearm shall be surrendered in this manner until the scene is safe and secured.

Unless circumstances at the scene require that the weapon be immediately ready for use, officers shall not mechanically manipulate their weapon (clear malfunction, work the slide, remove debris, remove magazine) prior to turning over custody of same to the OIC or designee from UDFIT. This directive shall not prevent an officer from clearing a malfunction or reloading while still engaged in an evolving, unresolved, or threatening situation.
4. Be immediately removed from street duty, and assigned temporarily to non-sensitive work, if they cause death or injury.

5. Complete a post-traumatic stress incident debriefing program if they cause death or injury, and not return to street duty until so ordered by the Chief of Police.

B. Sector Supervisors shall:

1. Immediately respond to the scene and take control.

2. Advise the Communications Control Section (CCS) to notify UDFIT immediately upon learning there has been a use of deadly force incident by a police officer or any use of force by a Cleveland police officer resulting in serious injury to another person or the officer. The supervisor shall direct CCS to first notify UDFIT before any other notifications are made (i.e. Labor Unions of involved members, Employee Assistance Unit, and Office of Professional Standards). These units perform a support function to UDFIT.

3. Ensure that medical care has been provided for as needed.

4. Ensure that witnesses have been identified and separated.

5. Ensure that involved officers have been identified and separated. Due care shall be taken that each separated officer is NOT isolated and is in the company of a non-involved person at all times.

6. Take a firearm into custody when the officer involved has suffered an injury or other trauma/incapacitation up until such time that it can be transferred to the custody of UDFIT.

7. Ensure that the crime scene is secure and that an officer is assigned responsibility for maintaining the crime scene and the Crime Scene Entry Log.

8. Confer with the OIC of UDFIT and ensure that all related RMS reports are generated as required.

C. A Crime Scene and Records Unit detective shall identify, photograph, collect, log, and secure all evidence at a Use of Deadly Force scene.
D. Immediately following the initial on-scene investigation, the involved officer(s) shall appear at the Homicide Unit. UDFIT may direct the involved officer(s) to transfer to the Homicide Unit custody of their body armor, uniform, leather gear, equipment, or other items as needed.

E. Uses of Less Lethal Force that are immediately related to or occur concurrently with a Use of Deadly Force shall be handled by UDFIT. This is applicable in incidents when an officer employed both less lethal and deadly force, as well as to officers who employed only less lethal force during the same deadly force incident.

MM/ajg
Policy & Procedures Unit
Attachments (ULLF - Forms A & B)