

CITY OF OAK POINT

DEPARTMENT OF PUBLIC SAFETY POLICE OPERATIONAL POLICIES

POLICY: 6.1 USE OF FORCE

REVISED DATE: 06.22.2020

Broadly speaking, the “use of force” by law enforcement officers becomes necessary and is permitted under specific circumstances, such as in self-defense or in defense of another individual or group. There is no single, universally agreed-upon definition of use of force. The International Association of Chiefs of Police has described use of force as the “amount of effort required by police to compel compliance by an unwilling subject”. While we attempt to give Officers guidance, no universal set of rules governs when officers should use force and how much.

Context Counts

No two situations are the same, nor are any two officers. In a potentially threatening situation, an officer must quickly tailor a response and apply force, if necessary. Situational awareness is essential, as are restraint, and officers must judge when a crisis requires the use of force to regain control of a situation. In almost all cases, time becomes the key variable in determining when an officer chooses to use force.

Amount of Force Used

Law enforcement officers should use only the amount of force necessary to mitigate an incident, make an arrest, or protect themselves or others from harm. The levels, or continuum, of force police use include basic verbal and physical restraint, less-lethal force, and lethal force.

The level of force an officer uses varies based on the situation. Because of this variation, guidelines for the use of force are based on many factors, including the officer’s level of training or experience.

An officer’s goal is to regain control as soon as possible while protecting the community. Use of force is an officer’s last option — a necessary course of action to restore safety in a community when other practices are ineffective.

Injuries may occur in any use-of-force incident, and Officers should ensure that those injured receive medical aid and that the family of any injured person is notified.

POLICY

In accordance with state and federal law, members of this department shall use only that force that is objectively reasonable in light of the facts and circumstances confronting them. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer (or member of this department) on the scene. As indicated by the United States Supreme Court in *Graham v. Connor*, “the calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly

CITY OF OAK POINT

DEPARTMENT OF PUBLIC SAFETY POLICE OPERATIONAL POLICIES

evolving – about the amount of force that is necessary in a particular situation.” Partial compliance with this policy will be deemed non-compliance.

I. PURPOSE

The purpose of this policy is to provide law enforcement officers of this agency with guidelines in the use of deadly and non-deadly force.

II. DEFINITIONS

A. Deadly force

Deadly Force: Any use of force that creates a substantial risk of causing death or serious bodily harm.

B. Non-deadly force

Non-deadly Force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.

C. Objectively Reasonable

Objectively Reasonable: In determining the necessity for force and the appropriate level of force, members shall evaluate each situation in light of the known circumstances including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community or members of this department.

III. PROCEDURES

A. Use of Non-deadly Force

Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable to effectively perform their duty. Circumstances including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community or members of this department must be considered in this decision.

B. Use of Deadly Force

Law enforcement officers are authorized to use deadly force when one of the following applies:

1. To protect the officer or others from what is reasonably believed to be a threat of death or serious bodily harm.
2. To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant and immediate threat of death or serious physical injury to the officer or others. Where practicable prior to discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

C. Deadly Force Restrictions

1. Warning shots shall not be fired.

CITY OF OAK POINT

DEPARTMENT OF PUBLIC SAFETY POLICE OPERATIONAL POLICIES

2. Firearms shall not be discharged at a moving vehicle except if an officer reasonably believes that a person poses an immediate threat to the officer or another person with deadly force by means of a vehicle, an officer may use deadly force against the driver of the vehicle if it is reasonable necessary to protect the officer or another from death or serious bodily injury.
3. As officers of this department are not routinely trained in the use or application of choke hold or carotid control holds techniques, these are prohibited except where no other option is available for the protection of life or self defense.
4. Use of Streamlite or MagLite or other objects as weapons is prohibited with exception. An officer may use a flashlight or other object designed for a use other than as a weapon only to defend himself or another from imminent serious bodily injury or death if departmentally sanctioned methods are not available or are impractical. The use of a flashlight or other alternative weapon under such circumstances, depending on the manner of use, may be deemed an application of deadly force and all requirements related to baton use shall be observed.
5. Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured, when the officer reasonably believes that deadly force can be used without harm to the officer or others. In these circumstances, a supervisor shall be contacted prior to the use of deadly force if time permits.

IV. FORCE DE-ESCALATION

De-escalation tactics and techniques are those actions required to be undertaken by an officer(s) to avoid physical confrontations, while minimizing the need to use force during an incident **when the totality of the circumstances and time permit**. These tactics and techniques are required to be used unless action is immediately necessary to protect the officer, another person or to stop dangerous behavior. De-Escalation tactics and techniques shall be employed when practical and safe to do so to increase the likelihood of voluntary compliance and cooperation.

It is the policy of this Department that when all of the reasonably known circumstances indicate it is safe, prudent, and feasible to do so, an officer(s) shall attempt to slow down, reduce the intensity, or stabilize the situation so that more time, options and/or resources may become available for incident resolution.

When time and circumstances reasonably permit, an officer(s) shall consider whether a subject's lack of compliance is a deliberate attempt to resist or is the result of an inability to comply based on factors including, but not limited to:

- Medical conditions
- Mental impairment

CITY OF OAK POINT

DEPARTMENT OF PUBLIC SAFETY POLICE OPERATIONAL POLICIES

- Developmental disability
- Physical limitation
- Language barrier
- Drug interaction
- Behavioral crisis

An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident and which tactical options are the most appropriate to bring the situation to a safe resolution. An officer is not expected to engage in force de-escalation measures that could jeopardize the safety of himself, the community or of any employee.

Where circumstances and time reasonably permit, an officer(s) shall take those reasonable and prudent actions which operate to mitigate the immediacy of the threat thereby giving the officer(s) time to call more officers, utilize other tactics, or request specialty assistance, such as Crisis Negotiators. The number of officers on scene may increase the available force options, a circumstance which has the potential to increase the ability of the officer(s) to reduce the overall force used by promoting consideration of other viable alternatives such as:

- Decreasing the exposure to the potential threat by using distance or physical barriers between an uncooperative subject and an officer.
- Containing the threat.
- Maximizing the use of cover or concealment to reduce officer(s) exposure to potential threats by placing the officer(s) in a safer position.
- Communicating from a safe position to gain the subject's compliance through the use of verbal persuasion, advisements, and/or warnings. Generally, communication techniques should engage active listening to calm agitated individuals and promote rational decision-making.
- The officer's physical actions may also de-escalate a potentially volatile/violent situation; i.e., exhibiting a relaxed body language.

When the circumstances warrant an application of force, the level of force applied must reflect the totality of the reasonably known circumstances surrounding the immediate situation. The officer need only select a level of force that is within the range of "objectively reasonable" options. Officers must rely on training, experience and an assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed.

CITY OF OAK POINT

DEPARTMENT OF PUBLIC SAFETY POLICE OPERATIONAL POLICIES

Officers may either escalate or de-escalate the use of force as the situation progresses or as circumstances change. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, the degree of force shall be de-escalated accordingly. An officer has the duty to intercede when observing unreasonable or unnecessary force being applied to a given situation.

V. TRAINING

- A. All officers shall annually receive training in the use of their firearms, all non-lethal weapons authorized by the department, De-escalation Techniques, reality based training(RTB) exercises, hands-on arrest and defensive tactics, as well as the Use of Force policy prior to performing any law enforcement duties.
- B. All officers shall be trained and qualified with their firearms at least once annually.
- C. All officers shall receive training in the department's De-escalation and Use of Force policy annually, incorporating RBT training at a minimum of once annually.
- D. All officers shall receive hands-on arrest and defensive tactics training.
- E. Officers shall receive training in Taser weapons used by the department and demonstrate proficiency with those weapons at least every two years.

VI. REPORTING USE OF FORCE

- A. Officers shall document any application of force except for those arising in training or departmental demonstrations.
- B. If officers have employed any use of physical force which has resulted in bodily injury to any party or used any impact, electrical, or chemical weapons, or discharged any firearm, they shall first provide for appropriate medical aid for the subject injured and:
 - 1. When safe to do so, notify the Director by phone of any use of force. Notification by one officer involved in the event is sufficient, unless an additional officer feels that facts have been misrepresented or omitted. The Director shall determine if an immediate investigation is required.
 - 2. Photographs of any person involved will be taken as soon as possible after the use of force or alleged use of force, to document any injury or lack of injury. These will be taken by the Sergeant or in his absence the senior patrolman.
 - 3. Submit a Use of Force form to the Director prior to the end of shift describing the incident, the force used, and any medical aid rendered. The Use of Force form shall be in addition to any other required reports.

CITY OF OAK POINT

DEPARTMENT OF PUBLIC SAFETY POLICE OPERATIONAL POLICIES

VII. DEPARTMENTAL REVIEW

A. Review

1. A sergeant shall be appointed by the Director to perform a review and report to the Director all reported uses of force to determine whether:
 - a. Departmental orders were violated.
 - b. Relevant departmental policy was clearly understandable and effective to cover the situation.
 - c. Departmental training was adequate.
 - d. Departmental equipment operated properly.
2. At least annually, the Director shall prepare a use-of force incidents report to be made available to council and to determine if additional training, equipment, or policy modifications may be necessary.

B. Internal investigations

An internal investigation will be conducted on any use of deadly force by members of this department. An internal investigation may be conducted on other uses of force incidents if a violation of law or department policy is suspected. The criminal investigation may be conducted by another law enforcement agency with concurrent jurisdiction at the request of the Director, with the request the results be presented to the grand jury for review.

C. Assignment

Pending administrative and if applicable Grand Jury review, any officer whose actions have resulted in the death or serious bodily injury of another person shall be removed from line duty assignment. This action is intended to protect both the officer's and the community's interest until the situation is resolved. This re-assignment is not considered punitive in nature.

Approved: M. Shackleford

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CITY OF OAK POINT

DEPARTMENT OF PUBLIC SAFETY POLICE OPERATIONAL POLICIES

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