

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Force** - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Lorain Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

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All sworn personnel shall be issued a copy of this policy and procedure, and receive instruction on its contents prior to being authorized to carry departmentally approved weapons. The issuance and instruction will be documented by the Field Training Unit and forward to the Department Training Coordinator.

#### **300.2.1 DUTY TO INTERCEDE AND REPORT**

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Any officer who observes another law enforcement or member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor.

Officers witnessing what he/she reasonably believes is excessive or inappropriate use of force shall factor into their response their ability to de-escalate the use of force. The officer's response may range from physical intervention, to voice commands, to appropriate after-action notification. If reasonably able to do so, the officer shall:

- (a) Physically intervene to stop the unreasonable force.
- (b) Take custody of the subject being subjected to the apparent unreasonable force.
- (c) Ensure that immediate medical care is provided.
- (d) Department members who have knowledge of the circumstances relating to the use of force against a subject in violation of this directive will submit a written report to a non-involved supervisor before reporting off-duty on the day the member becomes aware of the misconduct.
- (e) Officers who do not intervene in a use of force incident that is deemed excessive and out of policy may be subject to administrative charges of gross misconduct, and termination.

#### **300.2.2 PERSPECTIVE**

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

#### **300.3 USE OF FORCE**

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

### 300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

### 300.3.2 USE OF FORCE TO EFFECT AN ARREST

Any officer who has reasonable cause to believe that the person to be arrested has committed a crime or public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested, nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance.

### 300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.

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- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and the individual's ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

#### 300.3.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

#### 300.3.5 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use

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of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

#### 300.3.5 USE OF FORCE, WHEN PROHIBITED

**\*\*The unreasonable use of force shall subject officers to the disciplinary process, possible criminal prosecution, and/or possible civil liability.**

Officers shall not:

- (a) Use force to subdue a subject who is not suspected of any criminal conduct, other than to protect an officer's or other person's safety. Officers are not prohibited from using force that reasonably appears necessary to take into custody subjects who pose a risk of harm to themselves, or subjects taken into custody pursuant to 5122.01 Hospitalization of the mentally ill.
- (b) Use retaliatory force (which includes, but is not limited to, force in excess of what is reasonably necessary to prevent escape, force to punish individuals for fleeing or otherwise resisting arrest, force used to punish an individual for disrespecting officers, and other such circumstances).
- (c) Use force against subject(s) who only verbally confront officers and are not involved in criminal conduct.
- (d) Use force against subject(s) who are handcuffed or otherwise restrained, unless it reasonably appears necessary under the circumstances to stop an assault, escape, or is necessary to fulfill other law enforcement objectives.
- (e) Un-holster and display or un-holster and point a firearm unless the circumstances surrounding the incident create a reasonably necessary belief that the situation may escalate to the point at which deadly force would be authorized.
- (f) Use force to overcome passive resistance, except where it is reasonably necessary to achieve a legitimate law enforcement objective.

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- (g) Use force against those who are exercising their First Amendment rights. Physically moving a subject is permitted when it reasonably appears necessary for the safety of that individual or the public. It shall be done with sufficient personnel so as not to endanger the subject or the officers.
- (h) Use the lateral vascular neck restraint/carotid choke, unless the situation is such that it meets the criteria for the use of deadly force.
- (i) Utilize any form of choking technique for the sole purpose of retrieving evidence (drugs or contraband) that the suspect has placed in his/her mouth.
- (j) Use force on a subject in a manner that is likely to cause positional asphyxia. This condition is generally believed to be caused by placing a subject face down while maintaining a significant amount of weight on the subject.
- (k) Tie or cuff a subject's hands to their feet behind their back, the practice known as "Hog Tying", under any circumstances.
- (l) Use head strikes with hard objects, unless the situation is such that it meets the criteria for the use of deadly force.

#### **300.3.6 RESPIRATORY RESTRAINTS**

The use of a respiratory restraint, also known as a chokehold, is limited to circumstances where deadly force is authorized and if applied, is subject to the same guidelines and requirements as a carotid control hold.

#### **300.3.7 USE OF FORCE TO SEIZE EVIDENCE**

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Lorain Police Department for this specific purpose.

#### **300.4 DEADLY FORCE APPLICATIONS**

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or

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death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

#### **300.4.1 MOVING VEHICLES**

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

#### **300.4.2 USE OF FIREARMS PROHIBITED**

- (a) Warning Shots
- (b) Firing at subjects whose actions are only a threat to themselves (e.g., attempted suicide)
- (c) Firing solely in defense or protection of property.
- (d) Firing into crowds. However, this prohibition does not preclude the use of deadly force directed at a specific person who is near or among other people, if such force is objectively reasonable to prevent death or serious physical harm to the sworn member or to another person and no reasonable alternative exists.
- (e) Firing into buildings, through doors, windows, or other openings when the person lawfully fired at is not clearly visible unless directed at a specific location and such force is reasonably necessary to prevent death or serious physical harm to the officer or to another person e.g., providing cover fire.

#### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

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To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

#### **300.5.1 NOTIFICATIONS TO SUPERVISORS**

Supervisory notification shall be made to the sergeant or officer in charge (OIC) as soon as practicable following the application of force, or an alleged application of force. The officer will also document in the incident report which OIC was notified. The OIC listed in the report is responsible for creating and submitting the use of force packet in a timely manner. Situations requiring the notification of the OIC include, but are not limited to the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

#### **300.6 MEDICAL CONSIDERATIONS**

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel, at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a

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description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

#### **300.7 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
  1. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports for policy compliance.
- (f) Determine if there is any indication that the individual may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

##### **300.7.1 WATCH COMMANDER RESPONSIBILITY**

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

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#### **300.8 RELIEF FROM DUTY**

- (a) When death or serious physical injury has resulted from any employee's actions or Use of Force in an official capacity, that employee will, as soon as practical, be released from field-duty by a supervisor pending an administrative review into the incident by the police department.
- (b) During the period of time, an investigation into the incident is being conducted, the Chief of Police may, at his/her option, assign the officer involved to desk duty. Such relief from duty will not be considered a disciplinary action, but an administrative course of action. This will allow the time to conduct an objective investigation into the matter.
- (c) The Chief of Police will determine the period of time spent on administrative leave or desk duty.
- (d) In all cases where any person has died as a result of any departmental action, the involved officer will be required to undergo a debriefing with a department-approved and provided psychologist as soon as possible, but within 48-hours of the incident. The purpose of the debriefing will be to allow the officer to express his/her feelings and to deal with the moral, ethical, and/or psychological after-effects of the incident. The debriefing shall not be related to any department investigation of the incident and nothing discussed in the debriefing will be reported to the department. The debriefing session will remain protected by the privileged physician-patient relationship.

#### **300.9 TRAINING**

Officers will receive annual training on this policy and demonstrate their knowledge and understanding, including use of deadly force, use of force and use of deadly force reporting, and use of force and use of deadly force reviews/investigations.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

##### **300.9.1 POLICY ACKNOWLEDGEMENT AND TESTING**

Annually, applicable department members will read, sign, and be tested on this policy.

#### **300.10 USE OF FORCE ANALYSIS**

At least annually, the Patrol Operations Division Commander should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.