



## VILLAGE OF HOMER

### DEPARTMENT OF POLICE GENERAL ORDER

**G.O. # 118**

**SUBJECT:** Use of Force

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**AUTHORITY:** Chief Robert H. Pitman *RHP* **EFFECTIVE DATE:** 09/30/2019

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**RESCINDS:** All Previously Issued Directives **REFERENCE STANDARD(S):** 20.2  
20.3, 20.6 & 43.5

#### **I. Purpose**

To define the parameters under which officers are authorized to use reasonable and legitimate physical force to control a subject in specific circumstances and to establish the procedures for the reporting of the use of physical force against another person.

#### **II. Policy**

Officers may use force which is necessary and reasonable to effect the arrest or prevent the escape thereof of a person who the officer has reasonable cause to believe has committed an offense or to defend himself or a third person from what he/she believes to be the use or eminent use of physical force against himself or a third person. The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape, or in defense of themselves or others. (As the Supreme Court has recognized, this reasonableness inquiry embodies "allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving —about the amount of force that is necessary in a particular situation." This policy is written in recognition of 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 a careful balancing of all interests.) The use of deadly physical force shall be governed by General Order # 120.

#### **III. DEFINITIONS**

- A. Objectively Reasonable – An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.

- B. Deadly Physical Force - Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
- C. Physical Injury – Impairment of physical condition or substantial pain.
- D. Serious Physical Injury – Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

#### **IV. USE OF FORCE**

- A. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one’s self or another.
- B. Under the 4<sup>th</sup> Amendment, a police officer may use only such force as is “objectively reasonable” under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.

#### **V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE**

- A. When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
- B. Factors that may be used in determining the reasonableness of force include, but are not limited to:
  - 1. The severity of the crime or circumstance;
  - 2. The level and immediacy of threat or resistance posed by the suspect;
  - 3. The potential for injury to citizens, officers, and suspects;
  - 4. The risk or attempt of the suspect to escape;
  - 5. The knowledge, training, and experience of the officer;
  - 6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;
  - 7. Other environmental conditions or exigent circumstances.

#### **VI. DUTY TO INTERVENE**

- A. Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.
- B. An officer who observes another officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.

## VII. USE OF DEADLY PHYSICAL FORCE (further governed by General Order # 120)

- A. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death
- B. Deadly physical force may be used to stop a fleeing suspect where:
  - 1. The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,
  - 2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
  - 3. Where feasible, some warning should be given prior to the use of deadly physical force.

## VIII. PROHIBITED USES OF FORCE

Force shall not be used by an officer for the following reasons:

- A. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
- B. To coerce a confession from a subject in custody;
- C. To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required;
- D. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

## IX. AUTHORIZED NON-LETHAL WEAPONS

- A. Oleoresin Capsicum spray (O.C.5.5). The use of Oleoresin Capsicum spray is governed by General Order 119.
- B. Expandable baton or Impact Weapon
  - 1. Only those officers who have received certified training in the use of the expandable baton are authorized to carry same.
  - 2. The expandable baton or impact weapon will only be utilized as a defensive weapon only. In the event an expandable baton or impact weapon is deployed, no intentional strikes by an officer shall be delivered to a subject's head, neck, groin or joints, unless the use of Deadly Physical Force is authorized.
  - 3. Electronic Control Devices (Taser). The use of an Electronic Control Device (Taser) is governed in General Order Number 118.
  - 4. No officer shall carry or possess on duty any:
    - a. Black jacks
    - b. Weighted gloves
    - c. Brass knuckles
  - 5. An officer's flashlight is **NOT** to be utilized as an offensive or defensive weapon except in the extreme case when **NO OTHER** means of **DEFENSE** is readily available.

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## **X. REPORTING THE USE OF FORCE**

- A. Officers involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a Use of Force Report and an Incident Report.
  - 1. Use of force that results in a physical injury.
  - 2. Use of force incidents that a reasonable person would believe is likely to cause an injury.
  - 3. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
  - 4. Displays, uses or deploys oleoresin capsicum or pepper spray
  - 5. Incidents where a conducted energy device (CED) was displayed or intentionally discharged or accidentally discharged after being displayed.
  - 6. Brandishes, uses or deploys an impact weapon, including an extendable baton
  - 7. Incidents where a firearm was brandished or discharged at a subject
- B. A Use of Force Report Form should be used to document any reportable a use of force incident.
- C. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.

## **XI. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS**

- A. Any officer engaging in reportable use of force pursuant to his/her duties or any off-duty shall notify a supervisor of the incident.
- B. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.
- C. A supervisor that is made aware of a force incident shall ensure the completion of a Use of Force Report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.
- D. A supervisor shall attempt to locate and identify any witnesses and document their statements.
- E. In the case of off-duty incidents, the officer shall immediately; if outside the Village; notify the appropriate police agency of jurisdiction and complete the proper reports and a departmental supervisor.
- F. The chief of his designee shall receive the use of force report and conduct an investigation all incidents involving the use of force.

## **XII. INJURIES**

- A. Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party

- B. Persons taken into custody and who refuses medical treatment must be transported to an appropriate medical facility OR be evaluated by an authorized provider of emergency medical services (TLC Ambulance, Homer Rescue, etc.) where the refusal will be witnessed by hospital or ambulance personnel and noted in the incident report.
  - 1. Officers shall obtain a copy of the Patient Care Report (PCR) or refusal form executed by the refusing party,
  - 2. Persons who are to be released should be encouraged to seek medical attention, but they can not be compelled to do so unless they are unable to make a rational determination themselves. Subject's acceptance or refusal of medical attention will be noted in the Incident Report.

## **XII. TRAINING**

- A. All officers should receive training and demonstrate their understanding on the proper application of force.
- B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.
- C. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.