

WEST PALM BEACH POLICE DEPARTMENT

III-13 USE OF FORCE

EFFECTIVE: 01/01/2005

CALEA Standards: 1.3.1 thru 1.3.6

CFA Standards: 4.01, 4.04,

I. POLICY: West Palm Beach Police Officers will use only the degree of force that is necessary to accomplish their lawful objectives. Officers must be reasonable in their actions when using any type of force. In situations involving non-lethal force, an officer should attempt to exhaust all alternatives before resorting to physical force. West Palm Beach Police Officers are authorized to use lethal force when there is reason to believe that such force is necessary to protect life and prevent or minimize great bodily harm. Officers must always bear in mind that the use of lethal force will be limited to situations where there is a imminent threat of death or great bodily harm.

II. DEFINITIONS:

- A. Non-Lethal Force - Force that is not likely to cause death or great bodily harm.
- B. Lethal Force - Force which is likely to cause death or great bodily harm.
- C. Non-Lethal Weapons - Weapons, approved by the Department, that, when used consistent with training procedures, should not cause death or great bodily harm.
- D. Force Continuum - A term that is used to designate appropriate conduct for an officer when using force to establish control of a resisting subject. The level of force necessary to establish control is directly related to the level of resistance an individual is exerting.
- E. Control - Force used by an officer to influence or overcome the unlawful or physical actions of a subject.
- F. Resistance - The subjects attempt to evade an officer's attempts to control.
- G. Great Bodily Harm - A condition which creates a substantial risk of death or serious injury or disfigurement to the officer or another person.
- H. Probable Cause (Reasonable Belief) - The facts and circumstances that the officer knows or should know, based on reasonable trustworthy information sufficient to warrant a prudent person to act or think in a similar way.

III. USE OF FORCE CONTINUUM:

- A. The officer's levels of Control -
 - 1. Officer presence- Identification of authority.
 - 2. Verbalization skills - Commands of direction or arrest.
 - 3. Soft Control Techniques - Techniques that have a minimal chance of injury to the officer and subject(s) involved but have a high probability of control. Examples include:
 - a. Escort position,
 - b. Pressure points,
 - c. Empty hand joint locks,
 - d. Assisted empty hand arm locks using impact weapons, and
 - e. Handcuffing and/or supplemental restraints.
 - 4. Aerosol Subject Restraint (ASR)/OC. ASR and TASER can be used:
 - a. When soft control techniques in all likelihood will fail, or

b. When hard control techniques in all likelihood will lead to injury.

5. Hard Control Techniques - Techniques that have a probability of injury to the officer and/or subject(s) involved and a high probability of control. Examples include:

- a. Punches and kicks,
- b. Impact weapon strikes,
- c. Less-lethal force, and
- d. Canines (K-9).

6. Lethal Force - Force that is likely to cause death or great bodily harm.

IV. LEVELS OF RESISTANCE:

A. Subject's Actions:

1. Psychological Intimidation - Nonverbal cue indicating subject's attitude, appearance, and physical readiness.
2. Verbal noncompliance - Verbal responses indicating unwillingness or threats.
3. Passive resistance - Physical actions that do not prevent the officer's attempt to control and no attempt is made to harm the officer (example: protest sit-in).
4. Defensive resistance - Physical actions which attempt to prevent the officer's control, but no attempt is made to harm the officer, (example: a person simply clutches his or her arms tightly to the chest to prevent the application of handcuffs).
5. Active aggression - Physical actions of assault.
6. Aggravated active aggression - Lethal forces encounter.

B. Officer's Perception of Danger and Level of Resistance:

1. When an officer determines that he or she must use force, the level of force used would be dependent upon the officer's perception of the resistance and/or whether the resistance is placing the officer or others in jeopardy of serious injury or death.
2. If the officer's presence and verbal direction are not successful in establishing control, the officer is trained to escalate the level of control. Escalating the level of control is accomplished by using the "One Plus One Theory" of escalation and only escalating to the next level of force that is justified and/or necessary considering the amount of resistance given and the potential for injury to the subject by using that type of control.

V. USE OF NON-LETHAL FORCE:

A. All force used by any member, whether it is non-lethal or lethal, will be only that force necessary to affect lawful objectives.

B. Non-Lethal force may be used by a member, when necessary, to effect an arrest, to overcome resistance to an arrest, for self-defense, to prevent an escape, or to perform other official duties.

1. Non-lethal force will be used only when necessary, and then, only the necessary force to control the situation will be used.
2. Any member applying non-lethal force as defined in this policy will be prohibited from using a lateral vascular neck restraint (i.e., "choke hold").

3. Whenever any type of non-lethal force is used or any action is taken that results in the injury or death of a person, the member using the force will, immediately or immediately after the situation or person is brought under control, notify a supervisor to respond to the scene.
4. Dispatch Operations will be contacted immediately to summon medical aid whenever the use of force results in injury which requires immediate medical care.

VI. USE OF LETHAL FORCE:

- A. Members of this Department are authorized to use lethal force when there is reason to believe that such force is necessary.
- B. When using lethal force to protect life, the element of effecting an arrest need not be present.
- C. The following are circumstances in which the use of such force is the only reasonable option:
 1. To prevent the imminent threat of death or great bodily harm to the member and/or to another person.
 2. When a member has probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of great bodily harm and continues to present a imminent threat of death or great bodily harm to others.
 3. When a member has probable cause to believe that a fleeing felon poses a imminent threat of death or great bodily harm to the officer or others.
 - a. Lethal force is not used against a felon simply because of the crime he or she committed. Lethal force is used because of the imminent threat the fleeing felon poses to the member's or public's safety if allowed to remain at large.
 4. When retaking a felon who has escaped, the member has probable cause to believe that if the apprehension is delayed, there would be an imminent threat of death or great bodily harm to persons in the community.
- D. When feasible, the member will give a verbal warning prior to the application of lethal force.
- E. Officers using force will use only the degree of force necessary to effect their lawful objectives.
- F. Dispatch Operations will be contacted immediately to summon medical aid whenever the use of force results in injury which requires immediate medical care.

VII. USE OF FIREARMS:

- A. Members are not justified in the use of a firearm against a misdemeanor offender unless a misdemeanor arrest escalates to the point that the officer must defend himself or herself or another from death or great bodily harm.
- B. A member may use a firearm to destroy an animal for self defense or to prevent substantial harm to another.
 1. If an animal is injured or killed, the member will contact his or her supervisor immediately and notify them of the situation. Palm Beach County Animal Regulation will be requested to respond and handle the injured animal. The member will make a concerted effort to contact the owner.
 2. When an animal is destroyed by a member, a review will be conducted by the member's Section/Shift Commander as described in SOP # IV-22.
- C. Members are prohibited from shooting a firearm when it appears likely that an innocent person may be injured, except in a situation that is life threatening to the member or another.

D. Members should not shoot a firearm at or from a moving vehicle except in a situation that is life threatening to the officer or another.

E. Revolvers will be fired double action at all times.

F. Nothing in this procedure will preclude a member from un-holstering and displaying his or her firearm when the possibility of danger to anyone exists.

G. Under no circumstances will a warning shot be fired by a West Palm Beach Police officer.

H. Whenever a member discharges a firearm on or off duty, other than for training or recreational purposes, the member will notify a supervisor of the incident. This will include all incidents involving accidental or unintentional discharge of any firearm registered with the department as a primary firearm, secondary or back up firearm, shotgun, or off-duty firearm. A supervisor will respond to the scene of the incident.

1. The member will, as soon as possible after the incident, complete a report of the circumstances surrounding the discharge so an investigation may be completed (SOP # IV-22).

I. Dispatch Operations will be contacted immediately to summon medical aid whenever the use of force results in injury which requires immediate medical care.

VIII. PROCEDURE FOR CONTROL OF PERSONS REPORT:

A. The incidents which require a Control of Person's Report are:

1. Whenever a person is injured as a result of using a police canine for apprehension.
2. Whenever physical force is used on any person including, but not be limited to;
 - a. When a person is charged with resisting arrest as a result of physical contact with an officer;
 - b. When there is any observable injury or complaint of injury to any subject(s) or police member(s) as a result of physical contact between the subject(s) and member(s);
 - c. Whenever a member strikes a subject with an impact weapon or any object; and
 - d. Whenever a member applies force through the use of lethal or less-than-lethal weapons.
3. Whenever a firearm is discharged on or off-duty other than for training or recreational purposes.
 - a. If the discharge of a firearm is accidental and no control of persons is involved, the officer's Section/Shift Commander will complete a report in memorandum form. A copy will be forwarded to the Training Section/Range Master for review.
 - b. If there is a discharge of a firearm, intentional or accidental, during a control of person's incident, the Section/Shift Commander will notify the Critical Incident Team (CIT) Commander of the incident immediately. The CIT Commander will determine who will investigate the incident.
 - c. The IAU Commander will be notified any time a weapon is discharged by sworn personnel of the Department, excluding training or recreational activities. IAU Investigator(s) will respond to police shootings where injury is involved.
4. When a death results from a control of person's incident, the Criminal Investigations Division/Critical Incident Team will be called to investigate the incident.
 - a. The IAU Commander will be notified any time an in-custody death occurs. IAU Investigator(s) will respond to all police in-custody death cases.

B. It is the responsibility of the member involved in a Control of Persons incident (using any force) to report it to his or her supervisor immediately after the incident is brought under control. The supervisor and/or involved member will notify the Section/Shift Commander. Any time a member uses force or takes any action which results in alleged or actual injury or death, he or she is required to submit a written report documenting the incident. It will be the responsibility of the Shift Commander to assure that the IAU and the chain of command, up to and including the Chief of Police, are notified whenever a police officer is involved in a shooting incident or an in-custody death occurs.

C. It will be the responsibility of the Section/Shift Commander of the involved member to complete the Control of Persons Report. In the absence of a supervisor from the involved member's Division, the Shift Commander for the district the incident occurred in will complete the report.

1. If the Control of Persons Report is written by a Section/Shift Commander who is not in the same Division as the member involved, the report will be submitted through the chain of command of the Division in which the member works.

D. All Control of Persons Reports and accidental discharge memorandums will be forwarded to Internal Affairs when completed.

1. If an Internal Affairs Investigation is requested, the request will be forwarded along with the Control of Persons Report to the IAU Commander.

2. The aggregate of all Control of Persons Reports (Use of Force) are submitted to the Chief of Police and staff for review on a semi-annual basis.

IX. REFERENCES:

- SOP # III-14 Weapons and Ammunition.
- SOP # III-15 Aerosol Subject Restraint.
- SOP # III-16 Less-Lethal Launched Ammunition and Ordnance System.
- SOP # III-25 Vehicle Pursuits.
- SOP # IV-22 Internal Affairs Function.
- SOP # IV-28 Canine Team Function.
- Chapter 776 of Florida State Statutes Justifiable Use of Force.
- Tennessee vs. Garner, 105 S.Ct. 1694,1701 (1985) provides sufficient justification for limiting use of deadly force to those instances where a suspect poses an immediate and imminent threat of serious physical harm to the officer or others. Particularly, the court stated as follows: "Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failure to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify killing the suspect."

Delsa R. Bush, Chief of Police

Original issue: 02/04/89
Revised: 01/01/2005
I.D. # 1491

History: sop # changed to III-13 on 01/01/2005
Old SOP #: 4.01, 4.050.021, 6.050.002
Revision Dates: 08/19/92, 09/15/98, 12/15/98, 12/15/1999, 04/15/2002, 09/01/2002, 01/01/2005

Job Title Task Files: Supervisor, Dispatch Operations, Shift/Section Commander