



WEST PALM BEACH POLICE DEPARTMENT

Standard Operating Procedure III-13

USE OF FORCE/ INJURED PERSON INCIDENT

Revised: December 28, 2020

I. POLICY:

West Palm Beach Police Officers will use only the degree of force 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 use physical force only when no other reasonably effective alternatives appear to exist before resorting to physical force. West Palm Beach Police Officers are authorized to use lethal force only when there is reason to believe such force is necessary to protect life or prevent or minimize great bodily harm.

The decision to use force "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." In addition, "the 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them."

Graham V. Connor, 490 U.S. 386 (1989)

II. DEFINITIONS:

De-escalation- Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

Control - Force used by an officer to influence or overcome the unlawful or physical resistance of a subject.

Deadly Force - Force which is likely to cause death or great bodily harm.

Force Continuum - A term 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.

Great Bodily Harm - Physical injury suffered by the victim of a violent act that creates a substantial risk of death, extended loss or impairment of a body part or function, or permanent disfigurement.

Injured Person Incident – When a person is injured prior to police contact and is subsequently arrested, Baker Acted or otherwise taken into custody without any use of force; or, is injured as a result of flight from police presence without any use of force; or, is injured while in police custody without any use of force.

Non-Deadly Force - Force that is not likely to cause death or great bodily harm.

Non-Deadly Weapons - Department approved weapons which, when used consistent with training procedures, should not cause death or great bodily harm.

Objectively Reasonable - The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in the light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

Probable Cause (Reasonable Belief) – A reasonable belief a person has committed a crime. It is the standard that must be met for an arrest warrant to be issued, for an individual to be searched, or for an individual to be taken into custody by the police.

Resistance - The subject's attempt to evade an officer's attempts to control them.

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 used to overcome resistance which offer a minimal chance of injury to the officer and involved subject(s) but offer 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
 - E. Handcuffing and/or supplemental restraints
4. Aerosol Subject Restraint ASR/OC and the Electronic Control Device (ECD) may be used:

- A. When soft control techniques in all likelihood will fail
 - B. When hard control techniques in all likelihood will lead to injury
5. Hard Control Techniques – Techniques used to overcome resistance which when used, have a higher probability of injury to the officer and/or subject(s) involved and offer a higher probability of control. Examples include:
- A. Punches, strikes, and kicks
 - B. Impact weapon strikes
 - C. Non- Deadly force
 - D. Canines (K-9)
6. Lethal Force - Force likely to cause death or great bodily harm.

IV. LEVELS OF RESISTANCE:

A. Subject's Actions:

- 1. Psychological Intimidation - nonverbal cue indicating the subject's attitude, appearance, and physical readiness to resist or fight.
- 2. Verbal noncompliance - verbal responses indicating unwillingness to comply, 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 from gaining 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 force encounter.

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

- 1. De-escalation
 - A. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
 - B. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

2. When an officer determines he or she must use force, the level of force used is 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.
3. When an officer's presence and verbal direction are not successful in establishing control, the officer is trained to escalate the level of control.
 - A. 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 which 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-DEADLY FORCE:

- A. All force used by any member, whether it is deadly or non-deadly, will be only the force necessary to accomplish lawful objectives. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- B. Non-Deadly force may be used by a member, when necessary:
 1. To effect an arrest
 2. To overcome resistance to an arrest
 3. In self-defense
 4. To prevent an escape
 5. To perform other official duties
- C. Any member applying non-deadly force as defined in this policy is prohibited from using a lateral vascular neck restraint. The use of lateral vascular neck restraint can only be utilized when deadly force is authorized, and all other reasonable means of defense have been exhausted.
- D. When any type of non-deadly force is used or any action is taken resulting in the injury or death of a person, the member using the force immediately or immediately after the situation or person is brought under control, notifies a supervisor to respond to the scene.
- E. Dispatch Operations and a Supervisor are contacted immediately to summon medical aid when the use of force results in injury which requires immediate medical care.
- F. Non-Violent Civil Rights Demonstrations: use of lethal force or any force beyond which is necessary for officers to accomplish their lawful objectives is prohibited against any individuals engaged in nonviolent civil rights demonstrations.
 1. Applicable state and local laws prohibiting physically barring entrance to, or exit from, any facility or location that is the subject of a nonviolent civil rights demonstration will be enforced.

- G. **Handcuffed individuals:** Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
- H. **Duty to Intervene:** An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so.

VI. USE OF DEADLY FORCE:

- A. An officer is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply:
 - 1. To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury.
 - 2. To prevent the escape of a fleeing subject when the officer has probable cause to believe the person has committed or intends to commit a felony involving serious bodily injury or death and the officer reasonably believes there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended.
- B. Where feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.
- C. Officers using force will use only the degree of force necessary to accomplish their lawful objectives.
- D. Dispatch Operations is contacted immediately to summon medical aid when 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 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. When an animal is injured or killed, the member will contact his or her supervisor immediately and notify them of the situation.
 - 2. Palm Beach County Animal Control is requested to respond and care for the injured animal or dispose of the dead animal.
 - 3. The member will make a concerted effort to contact the owner.
 - 4. When an animal is destroyed by a member, a review is conducted by the member's Shift Commander as described in SOP # IV-22.

- C. Members are prohibited from shooting a firearm when it appears likely an innocent person may be injured, except in a life-threatening situation to the member or another.
- D. Firearms shall not be discharged at a moving vehicle unless:
 - 1. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle.
 - 2. The vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
 - 3. An employee will not create circumstances where the use of deadly force becomes necessary by intentionally standing and/or stepping into the path of a suspect's vehicle.
- E. Revolvers are fired double action at all times.
- F. Nothing in this procedure will preclude a member to un-holster and display 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. When 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.
 - 1. This includes 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.
 - 2. A supervisor will respond to the scene of the incident.
 - 3. The member will complete a report of the circumstances surrounding the firearm discharge so an investigation may be completed (SOP # IV-22).
- I. Dispatch Operations is contacted immediately to summon medical aid when 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. When an officer uses force, with or without an intermediate weapon to overcome a person's threatened or actual resistance. This includes but is not limited to strikes, tackles, takedowns, and balance displacement. This does not include simple touch for the purpose of guidance.
 - 2. When as a result of using a police canine for apprehension a person is injured.

3. When physical force is used on any person including, but not 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. When a member strikes a subject with an impact weapon, any body part or other object.
 - D. When a member applies force through the use of lethal or less than lethal weapons whether an injury occurs or not.
4. When a firearm is discharged on or off-duty other than for training or recreational purposes.
 - A. When the discharge of a firearm is accidental and no control of persons is involved, the officer's Shift Commander will complete a report in memorandum form. A copy is forwarded to the Training Section for review
 - B. When there is a discharge of a firearm, intentional or accidental, during a control of person's incident, the Shift Commander will notify the Critical Incident Team (CIT) Commander of the incident immediately.
 1. The CIT Commander will determine who will investigate the incident
 - C. The IAU Commander is notified any time a weapon is discharged by sworn personnel of the Department, excluding training or recreational activities.
 1. The 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 and FDLE is called to investigate the incident.
 - A. The IAU Commander is notified any time an in-custody death occurs.
 1. The 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.
 1. The supervisor and/or involved member will notify the Shift Commander.
 - A. Any time a member uses force or takes any action which results in alleged or actual injury, he or she is required to submit a written report documenting the incident.
 - B. The Shift Commander is responsible to assure the IAU and the chain of command, up to and including the Chief of Police, is notified when a police officer is involved in a shooting incident or an in-custody death occurs.

- C. The Shift Commander of the involved member is responsible for completing the Control of Persons Report on the current Department software program.
 - 1. The following steps are followed when completing the investigation:
 - A. The Shift Commander will respond to the scene and assume command and ensure medical treatment if necessary.
 - B. All subjects and identified witnesses are interviewed documenting the following:
 - 1. What they said occurred.
 - 2. Behavior of the subjects (Normal, irrational, intoxicated, etc.).
 - 3. Possible drug or alcohol use.
 - 4. Any visible or complaint of injury.
 - C. All of the involved officers complete a narrative report describing their involvement and the subject's resistance.
 - D. Any video evidence is collected.
 - E. Photographs are taken of the subject to include a full body photograph, front and back, depicting any and all injuries and any markings on clothing.
 - 2. In the absence of a supervisor from the involved member's Division, the Shift Commander for the division the incident occurred in will complete the report.
 - A. When the Control of Persons Report is written by a Section/Shift Commander not in the same Division as the member involved, the report is submitted through the chain of command of the Division in which the member works.
- D. When completed all control of persons reports and accidental discharge memorandums are forwarded to Internal Affairs.
 - 1. When an Internal Affairs Investigation is requested, the request is 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. PROCEDURE FOR INJURED PERSON INCIDENT:

- A. Should a person subjected to any use of force complain of any injury, any injury is observed, or there is any indication of injury, EMS will be immediately requested.
- B. Incidents which require an Injured Person Report are:

1. When a person is injured prior to police contact and is subsequently arrested, Baker acted or otherwise taken into custody without any use of force.
 2. When a person is injured as a result of flight from police presence without any use of force.
 3. When a person is injured while in police custody without any use of force.
 4. When a person is injured or alleged to have been injured as a result of police contact without any use of force.
- C. It is the responsibility of the member involved in an injured person incident to report it to his or her supervisor immediately after the incident is brought under control.
1. The supervisor and/or involved member will notify the Shift Commander.
- D. The Shift Commander of the involved member is responsible for completing the Injured Persons Report on the current Department software program.
1. The following steps are followed when completing the investigation:
 - A. The Shift Commander will respond to the scene and assume command and ensure medical treatment, when necessary
 - B. All subjects and identified witnesses are interviewed
 1. If there is a claim of a use of force, a Control of Persons Report is required in lieu of an Injured Person Report
 - C. All involved officers will complete narrative reports describing their involvement and the circumstances of the injury.
 - D. Any video evidence is collected.
 - E. Photographs are taken of the subject to include a full body photograph front and back, depicting any and all injuries and any markings on clothing.
 2. In the absence of a supervisor from the involved member's Division, the Shift Commander for the division the incident occurred in will complete the report.
 - A. When the Injured Persons Report is written by a Section/Shift Commander not in the same Division as the member involved, the report is submitted through the chain of command of the Division in which the member works.
- E. When completed all Injured Persons Reports are forwarded to Internal Affairs Unit.

X. USE OF FORCE REVIEW BOARD:

- A. The Use of Force Review Board shall review the following incidents:
1. At the direction of the Chief.
 2. At the direction of the Captain in command of the involved officer.
 3. That result in serious bodily injury, sutures, broken bones, or other excessive injuries.
 4. That involved use of force on a minor resulting in injury.
 5. Involving the discharge of any firearm, at any time other than firearms training.
 6. Resulting in any injury caused by a WPB Canine
- B. Exception Cases that meet the criteria for the Use of Force Review Board but are already assigned to Internal Affairs or Criminal Investigations for investigation shall not be forwarded to the Use of Force Review Board unless authorized by the Chief, or his designee.
- C. Board Composition: The Use of Force Review Board shall be a standing board consisting of the following nine members:
1. Legal Advisor
 2. Three members of the Training Division including the Sergeant and Range Master.
 3. Accreditation Officer
 4. A Field Training Officer/Sergeant
 5. A union representative
 6. Member of Command Staff
 7. Member of S.W.A.T.
 8. Alternate members, will be appointed by the Legal Advisor when an assigned board member is unavailable, or a conflict exists preventing an assigned member from serving on the Review Board.
- D. Board Responsibilities
1. The Use of Force Review Board will evaluate, in explicit and fact-finding fashion, each aspect of the response brought before them.
 2. The Use of Force Review Board shall review the actions of all members involved in the use of force incident, not just the actions of the member(s) who used force. The action(s) of the member(s) leading up to and following the use of force shall be reviewed to identify

commendable actions and/or conduct warranting corrective intervention by the WPBPD and, as appropriate recommend training.

3. The Use of Force Review Board shall review use of force incidents with respect to the following:
 - A. Compliance with WPBPD policies, procedures, directives, and training.
 - B. Whether proper tactics were used by the involved member(s).
 - C. Risk management issue(s).
 - D. Adequacy of related WPBPD training.
 - E. Whether the level of force used was appropriate for the incident.
4. The Chairperson shall determine the date, time, and location of the meetings.
5. The quorum for each Use of Force Review Board proceeding shall be four members.
- E. The Use of Force Review Board will develop findings and make recommendations approved by the majority vote in a report to the Chief as to the following:
 1. No further action is necessary
 2. The incident warrants further investigation by Internal Affairs
 3. Training is required for any person involved
- F. The Chief, or designee, shall make the final decision regarding any action to be taken against any officer involved in any Use of Force situation.

XI. 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-5 Critical Incident investigation
- SOP # IV-22 Internal Affairs Function.
- SOP # IV-28 Canine Team Function.
- Florida State Statutes Chapter 776 Justifiable Use of Force.

Approved:

Signature on file

Frank Adderley, Chief of Police

January 26, 2021

Date: