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Chief of Police

Police Department General Order 7.1 Use of Force *-High Liability-*

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1. PURPOSE:

1.1. The purpose of this General Order is to provide guidelines to select effective, objectively reasonable, and legal options when responding to resistance in a verbal or physical encounter.

2. DISCUSSION:

2.1 All members show act in good faith when using force and conform to the provisions a Florida Statue and this General Order. Section 776 of Florida statue, defines and authorizes law enforcement officers in the justifiable response to resistance.

3. POLICY STATEMENT:

3.1. It is the policy of the Florida Atlantic University Police Department (FAUPD) to value and preserve human life. Officers shall use only the force that is objectively reasonable to affectively bring an incident under control, while protecting the safety of the officers and others. Officers may use the amount of force which is reasonably necessary to affect lawful objectives. When determining a reasonable amount of force, officers should evaluate the totality of the circumstances. Officers shall use only the reasonable amount of force that is necessary to effect an arrest, apprehension, or physically control a violent or resisting person. All officers will perform their duties in accordance with state statutes, judicial interpretation, and institutional policy thereby ensuring that the rights of individuals and the public are protected.

4. DEFINITIONS:

- 4.1. BODILY INJURY: Physical pain, illness, or any impairment of physical or mental condition.
- 4.2. DEADLY FORCE or LETHAL FORCE: Any force that is likely to cause death or great bodily harm including, but not limited to, firing a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and the firing of a firearm at a vehicle in which the person to be arrested is riding. Deadly force does not include the discharge of a firearm by a law enforcement officer during and within the scope of his/her duties which is loaded with a less –lethal munition. A law enforcement officer is not liable in any civil or criminal action arising out of the use of any less - lethal munition in good faith during and within the scope of his /her official duties that is loaded with a less than lethal munition. (F.S.S. 776.06)
- 4.3. CONDUCTIVE ENERGY WEAPON (CEW): A weapon primarily designed to disrupt a subject’s central nervous system by means of deploying electrical current sufficient to cause uncontrolled muscle contractions and override an individual’s voluntary motor responses.

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- 4.4. **EXCITED DELIRIUM**: State of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength, and endurance without apparent fatigue.
 - 4.5. **FORCE**: Physical contact more than the mere touching of an individual. It may also include the use of Oleoresin Capsicum spray to compel compliance.
 - 4.6. **FORCIBLE FELONY**: Means treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual. (F.S.S. 776.08)
 - 4.7. **GREAT BODILY HARM**: A bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.
 - 4.8. **IMMINENT DANGER**: Circumstances or conditions exist that pose a danger which could reasonably be expected to cause death or serious physical harm immediately before such danger can be eliminated.
 - 4.9. **LESS LETHAL or NON-DEADLY FORCE**: Any force, action, or weapon which produces a result that is necessary to control the actions of another and is not likely to cause death or great bodily harm.
 - 4.10. **LESS LETHAL MUNITION**: A projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person's body.
 - 4.11. **OFFICER REASONABLY BELIEVES**: Means what a reasonable person in the same or similar circumstance would believe, based upon his/her knowledge of the facts surrounding the event as they existed at the time of the event.
 - 4.12. **OLEORESIN CAPSICUM**: An organic extract of cayenne pepper, which acts as an inflammatory agent to the eyes and the mucous membranes.
 - 4.13. **SIGNIFICANT THREAT**: An indication of impending danger or harm likely to have a major effect.
5. **PROCEDURE:**
- 5.1. Use of physical force shall be discontinued when resistance ceases for when the incident is under control.
 - 5.2. **Justified Use of Force**:
 - 5.2.1. FSS Chapter 776 governs the use of force by law enforcement officers. The statute identifies two general areas in which an officer's use of force is justified: to apprehend a subject and make an arrest; or to defend him/herself or others.
 - 5.2.1.1. FSS Section 776.05 addresses the issue of an officer using force to make an arrest:

A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance—or threatened resistance to the arrest. The officer is justified in the use of any force:

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(1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;

(2) When necessarily committed in retaking felons who have escaped; or

(3) When necessarily committed in arresting felons fleeing from justice. However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

(a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or

(b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

5.2.1.2. FSS Section 776.012 addresses the issue of an officer using force in defense of self or others.

(1) A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using a threatening to use such force.

(2) A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

5.2.1.2.1. Note: FSS Section 776.013 references home protection and/or "Stand Your Ground" and does not apply to this General Order.

5.2.1.3. Conducted Energy Weapons - use electrical energy to affect the signaling mechanisms used by the human body to communicate. This electrical output overrides and controls the central nervous system of the body.

5.2.1.4. The Taser is deployed as an additional police tool and is not intended to replace firearms or self-defense techniques. The Taser may be used to control a dangerous or violent subject when deadly physical force does not appear to be justified and/or necessary; or attempts to subdue a subject by other conventional tactics have been, or will likely be, ineffective; or there is reasonable expectation that it will be unsafe for officers to approach within contact range of the subject.

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The Taser is a less-lethal Conducted Energy Weapon that utilizes compressed nitrogen to propel two small probes up to 15 or 21 feet, depending on the cartridge installed. These probes are connected to the weapon by a high-voltage insulated wire. When the probes make contact with the target, the Taser transmits electrical pulses along the wires and into the body of the target through up to two inches of clothing.

5.2.1.5. **Training** - Only sworn members will be trained and authorized to use the Taser.

a. All Taser training will be conducted by a Taser certified instructor.

b. Refresher training will be conducted annually.

2. Carrying the Taser. While on duty, each sworn member will have the issued Taser, holster and two (2) cartridges available for use at all times. The Taser shall be kept in an “operational ready” state by ensuring the Taser batteries are charged and the cartridge(s) are in good condition.

a. Supervisors are responsible for ensuring the Taser is ready for use and a functionality test is conducted during roll call or at the beginning regularly assigned shift.

3. Spare Taser - A spare Taser will be stored in the safe located in the Sergeants office. All associated equipment will be stored in the Armory of the police department for those occasions when an issued Taser is inoperable or otherwise unavailable.

a. The Supervisor will log out the Taser on the appropriate log form FAUPD 2019- 165, which can be located in Power DMS, for those occasions when an issued Taser is inoperable or otherwise unavailable.

b. The spare Taser must be returned at the end of the Supervisors tour of duty. When returning the Taser, the Taser, battery magazine and Taser cartridge(s) must be accounted for. If unaccounted for, the reason for such will be documented and a written incident report will be completed. Additionally, the Sergeant shall ensure that the Taser is in proper working condition and any defects, damage, etc., noted appropriately.

4. The Taser is a costly, sensitive electronic product, which shall be encased in its protective holster when not in use. Care will be taken to avoid dropping the Taser.

5. Storage of the Taser- While being stored, the battery pack will be left out of the Taser housing. Members will ensure that the batteries are properly charged prior to installing the battery magazine.

a. Depress the battery cover pin.

b. Slide cover out.

b) Load battery magazine.

c) Insert with the contacts properly aligned.

d) Slide cover in place.

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- e) Review battery level indicator.
6. Whether using the spare or the Department issued Taser, the members issued the Taser shall:
- a. Ensure that the Taser and the Taser Cartridge is not defective or damaged. When the Taser battery level reaches 20 percent, the officer shall notify their supervisor immediately and the supervisor shall notify the Training Coordinator to arrange for a replacement battery.
 - (1) Replacement Taser Cartridge(s) and batteries will be obtained from the Training Division Commander.
 - (2) Spent Taser cartridge(s) will be submitted to Evidence.
7. Procedures for Use- The Taser is a defensive weapon listed in the Use of Force continuum. The decision to use the Taser depends on the actions and the critical distance of the threat.
- a. Each discharge, including accidental discharge, of a Taser shall be investigated and documented utilizing the Use of Force form and a written report.
 - (1) Accidental discharges that do not involve a suspect will be reviewed by the supervisor of the involved member.
 - (2) The Bureau of Investigations commander shall be notified and will determine whether further review of the incident, either by Administrative Inquiry or Internal Affairs Investigations, is necessary.
 - b. Members who discharge a Taser will immediately notify their supervisor, or the next higher-level supervisor.
 - c. Person(s) who have been subjected to the Taser, or it's probes, shall be treated as follows:
 - (1) Once in custody, the arresting officer shall advise Communications to have EMT/paramedics respond to the scene.
 - (2) The officer will inform the EMT personnel that the person has been subjected to the Taser and relate the approximate time the action occurred.
 - (3) If the probes penetrate the skin, the puncture sites shall be brought to the attention of the EMT.
 - (4) Only EMT's or the emergency room staff shall remove Taser probes. The probes will be disposed of in a Sharp's Container in accordance with biohazard regulations. The cartridge and remaining high voltage wires will be packaged and sealed in a paper bag and submitted to Evidence.
 - (5) After examining the affected person, the EMT's will make the determination if the person should or should not be transported to the hospital.

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6) Members must be aware that one easily overlooked aspect of injury in shooting a subject with the Taser is that of falling from a standing position. A thorough physical examination with particular emphasis on injuries resulting from the fall should be performed by the EMT's

8. Carrying the Taser Off Duty. The Taser is not authorized to be carried off duty.

5.3. Authority to Use Force:

5.3.1. Much litigation against law enforcement officers is not about the amount of force used, but whether the use of force was permitted at all. Though the law grants law enforcement officers the right to use force, this right is conditioned on their official authority.

5.3.2. A law enforcement officer's authority to use force is established by the officer's reasonable belief that a crime has been, is being, or is about to be committed. Absent this belief, known as reasonable suspicion, a law enforcement officer has no authority over a subject, and thus no permission to use any amount of force at all.

5.4. Objective Reasonableness:

5.4.1. The courts have used the term objective reasonableness to describe the process for evaluating the appropriateness of an officer's response to a subject's resistance. Appropriate force is the amount of force reasonably necessary to make an arrest. The U.S. Supreme Court said in *Graham v. Connor*, 490 U.S. 386 (1989), that the reasonableness of a use of force must be judged from the perspective of how a reasonable officer on the scene would respond, rather than from the 20/20 perspective of hindsight. To determine if an officer's actions were objectively reasonable, the courts look at the facts and circumstances the officer knew when the incident occurred. Courts recognize that criminal justice officers must make split-second judgments about the amount of force needed in a situation under circumstances that are tense, uncertain, and rapidly evolving.

5.4.2. The officer's reasons for using force must be consistent with constitutional and statutory law, as well as agency policy and training guidelines. The Supreme Court has made clear that use of force is a seizure under the Fourth Amendment.

5.5. Escalation, De-Escalation, and Disengagement:

5.5.1. Force decisions may escalate and de-escalate rapidly in relation to the perceived threat. An officer's goal is to achieve subject compliance. Compliance is the verbal and/or physical yielding to an officer's authority without apparent threat of resistance or violence.

5.5.2. Escalation, de-escalation, and disengagement are important concepts in making legally and tactically sound, reasonable responses to resistance.

5.5.2.1. Escalation is increasing the use of force or resistance.

5.5.2.2. De-escalation is decreasing the use of force or resistance.

5.5.2.2.1. 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.

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5.5.2.3. Disengagement is discontinuing a command or physical use of force, for example, by breaking away from a subject.

5.5.3. Officers are legally permitted to escalate their use of force as the subject escalates his or her level of resistance. The officer's choices are determined by the subject's actions and the risk of physical harm posed to the officer or others.

5.5.4. Once the officer achieves control or compliance, he or she must de-escalate the use of force.

5.5.5. Under certain circumstances, disengagement may be the best tactical option, for example, when the officer is waiting for backup, when the officer is injured or outnumbered, or when the suspect has superior firepower.

5.6. Use of Force Guidelines:

5.6.1. The Use of Force Guidelines provide a framework for making decisions involving the reasonable use of force by law enforcement officers. The structure of the Force Guidelines is based on constitutional considerations and case law and describes appropriate decision making in a fluid and dynamic situation. The Guidelines consider the relationship between subject resistance and various situational factors in determining the officer's response options.

5.6.2. Subject Resistance Levels:

5.6.2.1. Passive Resistance:

5.6.2.1.1. A subject's verbal and/or physical refusal to comply with an officer's lawful direction causing the officer to use physical techniques to establish control.

5.6.2.1.2. Some examples of passive resistance include the following:

5.6.2.1.2.1. The subject refuses to move at the officer's direction.

5.6.2.1.2.2. The subject peacefully protests at a political event in a public location.

5.6.2.1.2.3. The subject refuses to take his hands out of his pockets or from behind his or her back.

5.6.2.2. Active Resistance:

5.6.2.2.1. A subject's use of physically evasive movements directed toward the officer such as bracing, tensing, pushing, or pulling to prevent the officer from establishing control over the subject.

5.6.2.2.2. Some examples of active resistance include the following:

5.6.2.2.2.1. The subject physically anchors himself to a person or object to prevent himself from being removed.

5.6.2.2.2.2. The subject braces or pulls away from the officer when the officer grips the subject's arm.

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5.6.2.2.2.3. The subject attempts to run when the officer touches or attempts to grab the subject's arm or shoulder.

5.6.2.3. Aggressive Resistance:

5.6.2.3.1. A subject's attacking movements toward an officer that may cause injury but are not likely to cause death or great bodily harm to the officer or others.

5.6.2.3.2. Some examples of aggressive resistance include the following:

5.6.2.3.2.1. The subject balls up his fist and approaches the officer.

5.6.2.3.2.2. The subject pushes the officer back as the officer tries to take the subject into custody.

5.6.2.3.2.3. The subject grabs any part of the officer's body.

5.6.2.4. Deadly Force Resistance:

5.6.2.4.1. A subject's hostile, attacking movements with or without a weapon that create a reasonable perception by the officer that the subject intends to cause and has the capability of causing death or great bodily harm to the officer or others.

5.6.2.4.2. Some examples of deadly force resistance include the following:

5.6.2.4.2.1. A subject refuse to drop a knife when ordered to by the officer and moves toward the officer.

5.6.2.4.2.2. A subject shoot or points a gun at an officer or other person.

5.6.2.4.2.3. A subject try to run an officer down in a vehicle.

5.6.3. Officer Response Options:

Officers should try to resolve a situation with the least amount of force necessary. Command presence and verbal communication often will defuse many volatile situations. Sometimes, however, these are not enough, or officers may not have an opportunity to use them. An officer may have to use physical force to gain control of the situation. Physical force includes physical control, the use of nonlethal weapons, and deadly force. Officers need not apply force in gradually increasing steps to justify physical control or even deadly force. Instead, officers need to respond with all the force reasonably necessary for the circumstances in each specific situation.

5.6.3.1. Physical Control:

5.6.3.1.1. Achieving compliance or custody using empty-hand or leverage-enhanced techniques, such as pain compliance, transporters, restraint devices, takedowns, and striking techniques.

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5.6.3.2. Non-Lethal Weapon:

5.6.3.2.1. A weapon that is not fundamentally designed to cause death or great bodily harm.

5.6.3.2.2. The following less-lethal force techniques tools or weapons shall be authorized reused by an employee when he or she is properly trained and has proven proficiency in their use:

5.6.3.2.2.1. Conducted Energy Weapon (CEW), dart-firing stun guns such as a TASER®, expandable batons, flashlights, and chemical agent sprays.

5.6.3.3. Non-Lethal weapon guidelines

5.6.3.3.1 Employees shall maintain OC spray canisters and less-lethal weapons in an operational condition.

5.6.3.3.2 Replacement for damaged, inoperable, or expended OC canisters, expandable batons, less-lethal weapons, and less-lethal ammunition are the responsibility of the employee to whom they are issued.

5.6.3.3.3 Unexplained depletion of less lethal ammunition shell required documentation in a memorandum to the Department armorer via chain of command by the officer.

5.6.3.4 Inspections:

5.6.3.4.1 A supervisor shall conduct an annual inspection of weapons as defined in General Order 7.2 Weapons Management.

5.6.3.4.2 Less-lethal weapons shall be inspected monthly by a supervisor utilizing the Monthly Personnel Inspection Report form to confirm that they are maintained in a clean and operational condition. This inspection shall also confirm that expiration dates are not exceeded on any of the weapons. Monthly Personnel Inspection Report forms shall be retained by the supervisor. A copy shall be emailed to the Deputy-Chief and to the accreditation manager to upload into PowerDMS.

5.6.3.5 Off-duty sworn employee shall not deploy or utilized department issue Less-Lethal weapons unless exigent circumstances arise as defined by law.

5.6.3.6 Deadly Force:

5.6.3.6.1 Force that is likely to cause death or great bodily harm.

5.6.3.6.2 Prior to the use of deadly force, law enforcement officers shall identify themselves and provide a warning any chance to comply if tactically feasible.

5.6.3.6.3 Some examples of deadly force include use of a firearm, eye gouges, empty-hand strikes to the throat, and impact-weapon strikes to the side of the neck.

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5.6.3.6.4 FSS Section 776.06 states:

(1) The term “deadly force” means force that is likely to cause death or great bodily harm, and includes, but is not limited to:

(a) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and

(b) The firing of a firearm at a vehicle in which the person to be arrested is riding.

(2) (a) The term “deadly force” does not include the discharge of a firearm by a law enforcement officer or correctional officer during and within the scope of his or her official duties which is loaded with a less-lethal munition. As used in this subsection, the term “less-lethal munition” means a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person’s body.

(b) A law enforcement officer or a correctional officer is not liable in any civil or criminal action arising out of the use of any less-lethal munition in good faith during and within the scope of his or her official duties.

5.6.4 Factors for Deciding the Use of Deadly Force

5.6.4.5 Officers use three criteria for making deadly force decisions: ability, opportunity, and intent.

5.6.4.5.1 Ability refers to the subject having the means to carry out his or her intent to cause death or great bodily harm. An officer must determine whether the subject has the necessary means to cause death or great bodily harm to the officer or others. A weapon is not required; a subject must only have the apparent ability to carry out his or her intention. If the subject seems physically able to cause death or great bodily harm, then he or she has the ability. For example, a 6’4”, 250-lb. muscular man threatening to do bodily harm to an officer does not necessarily need a weapon. By his size and physical condition, he has the apparent ability.

5.6.4.5.2 Opportunity means the subject can carry out an intention to cause death or great bodily harm to the officer or others. The subject’s weapon often determines opportunity. For example, a suspect armed with a knife may not be an immediate threat to an officer standing far away. However, the same person standing closer or carrying a firearm certainly can carry out his intent to cause death or great bodily harm.

5.6.4.5.3 Intent is a reasonably perceived, imminent threat to an officer or another person based on the subject’s actions, behaviors, words, or other indicators. It is a perception derived from the totality of the circumstances.

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5.6.5 Totality of Circumstances:

5.6.5.5 Totality of circumstances is a term the court uses to refer to all facts and circumstances known to the officer at the time or reasonably perceived by the officer as the basis for a use of force decision. The courts will look at the totality of circumstances in determining whether the decision was objectively reasonable and, therefore, legally justified. The totality of circumstances includes consideration of the subject's form of resistance, all reasonably perceived factors that may influence the situation, and the response options available to the officer.

5.6.5.6 Some situational factors may include the following:

5.6.5.6.1 The severity of the crime

5.6.5.6.2 The subject is an immediate threat

5.6.5.6.3 The subject's mental or psychiatric history, if known to the officer

5.6.5.6.4 The subject's violent history, if known to the officer

5.6.5.6.5 The subject's combative skills

5.6.5.6.6 The subject's access to weapons

5.6.5.6.7 The innocent bystanders who could be harmed

5.6.5.6.8 The number of subjects versus number of officers

5.6.5.6.9 The duration of confrontation

5.6.5.6.10 The subject's size, age, weight, and physical condition

5.6.5.6.11 The officer's size, age, weight, physical condition, and defensive tactics expertise

5.6.5.6.12 The environmental factors, such as physical terrain, weather conditions, etc.

5.6.5.7 The Force Guidelines (see figure below) recognizes that officers make use of force decisions based on the totality of circumstances at the time of the incident. Circumstances are fluid and dynamic Formulating a valid response requires continual assessment as the situation changes.

5.7 Prohibited Actions: Discharging a firearm is prohibited if it presents an unreasonable risk to the officer or others. Based on the totality of the situation, and absent exigent circumstances, an unreasonable risk may include:

5.7.3 Deadly force shall not be used against misdemeanants and traffic violators,

5.7.4 Shooting into a crowd,

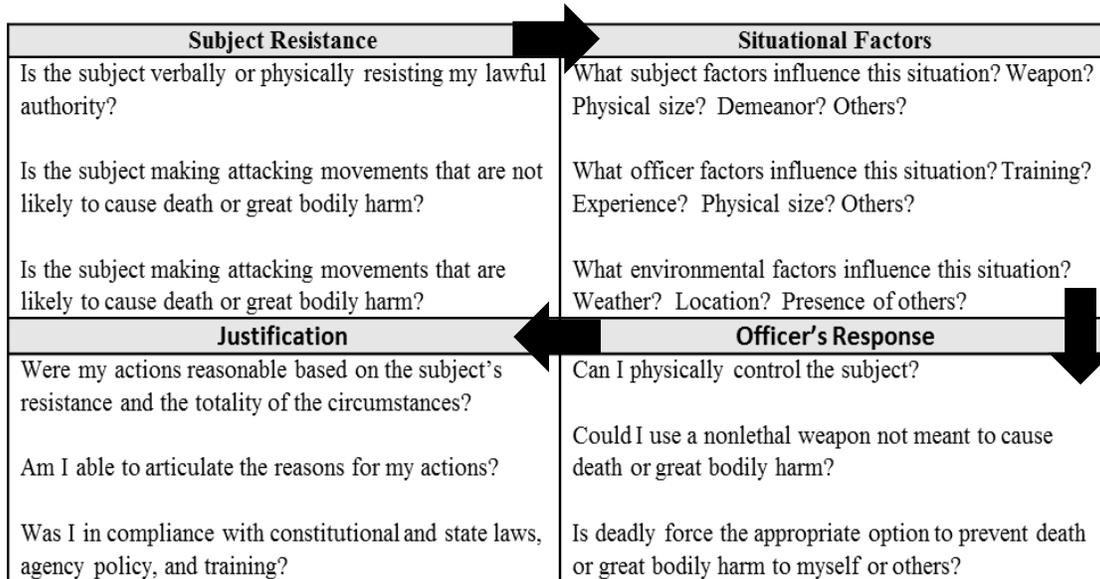
5.7.5 Shooting through doors, windows, or buildings without clear target identification,

5.7.6 Shooting a subject who only posed a threat to themselves such as suicidal subject,

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- 5.7.7 Shooting from moving vehicles.
- 5.7.8 Unless it reasonably appears that it would endanger officers or the public; officer shall move out of the path of any approaching vehicle. This is not intended to restrict an officer's right to use deadly force directed at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the officer or others.
- 5.7.9 Officers shall not intentionally place themselves in the path of an oncoming vehicle or vessel (while on foot or in their police vehicle or vessel)
- 5.7.10 The firing of any warning shots is strictly prohibited.
- 5.7.11 Due to the inherent risk of causing death or serious and permanent brain damage the Lateral Vascular Neck Restraint (LVNR), (sleeper chokehold) or any maneuver or tactic that prevents breathing or obstructs an individual's airway is prohibited except in cases where it is reasonably necessary to prevent death or great bodily harm.

FORCE GUIDELINES – THE DECISION-MAKING PROCESS (FDLE High Liability, 2010)



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5.8 Fleeing Felons:

- 5.8.3 In *Tennessee v. Garner*, 471 US 1 (1985), the United States Supreme Court ruled on the constitutionality of the use of deadly force to prevent the escape of an apparent unarmed suspected felon. The court concluded that such force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.
- 5.8.4 Officers of this Department shall not use deadly force to apprehend a fleeing felon unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

5.9 General Guidelines for Use of Force:

- 5.9.3 Sworn officers shall use only the amount of force that is reasonably necessary to effect lawful objectives in accordance with state law and Department policy; to protect officers or others from harm or to affect the lawful arrest of an individual.
- 5.9.4 Officers shall only use deadly force under a reasonable belief that the action is in defense of human life or in defense of any person in imminent danger or facing a significant threat of serious physical injury and in accordance with state law.
 - 5.9.4.5 A previously demonstrated threat to human life or wanton disregard for human life may be considered as constituting a threat; however, such a threat must be imminent in nature with potential and probability for imminent consequences. Long-term or long-range potential and probability for threat are not considered imminent.
- 5.9.5 The use of warning shots is prohibited. when practical a verbal warning will be given prior to engaging in the use of deadly force.
- 5.9.6 Whenever possible and when such delay will not compromise to safety of an officer or another and will not result in The destruction of evidence comics people the subject, or Commission of a crime, officer shot allowed individual time and opportunity is subject to verbal commands before forced is used.
- 5.9.7 Any time force is used appropriate medical aid must be provided as soon as practical.
- 5.9.8 Appropriate medical aid may include increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid, evaluation by paramedics, or for more serious or life-threatening incidents, immediate aid by medical professionals.
- 5.9.9 For the resolution of incidents, officers shall use appropriate defensive tactics and non-deadly weapons with which they are trained, qualified, and certified as determined by Departmental training procedures. However, if a confrontation escalates suddenly, an officer may use any means or device at hand to defend himself/herself, if the level of defensive action is reasonable given the existing circumstances.
- 5.9.10 To avoid injury to officers, hand to hand confrontations should be avoided whenever possible in situations where increased levels of force are justified.
- 5.9.11 The use of a motor vehicle to make deliberate contact with another vehicle or pedestrian is considered deadly force.

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5.9.12 Department policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third-party claims.

5.9.13 Violation of the provisions of this procedure will form the basis for Departmental administrative sanctions.

5.9.14 Destruction of Seriously Wounded or Diseased Animal:

5.9.14.5 As a humanitarian measure, an officer may discharge a firearm to safely destroy a seriously wounded or diseased animal which is suffering, and it reasonably appears to the officer that such animal is imminently near death from or cannot be cured or rendered fit for service. The officer must first, as according to FSS 828.05, make a reasonable and concerted effort to locate the owner, the owner's agent or a veterinarian. Additionally, prior to destroying the animal an attempt should be made to contact animal control. If unable to locate any of the above, the officer may destroy such animal by shooting only after receiving authorization from a command officer.

5.9.14.6 The destruction of vicious animals should be guided by the same considerations that apply for use of deadly force actions if the animal represents an immediate threat to the safety of the officer, other persons, or the public.

5.10 Handcuffs and Restraints:

5.10.3 The purpose of handcuffs, flex cuffs, the hobble restraint device or other transport restraints are to restrain the movement of a subject in a manner that allows a safe means for moving the subject. Restraining devices also can be used to prevent further physical resistance from a subject. Whatever the application, restraining devices should be considered temporary and as a means for safely achieving other goals.

5.11 Empty Hand Control:

5.11.3 Empty hand control is a physical contact technique that includes many different methods of subject control. Techniques that have minimal implications of injury are known as "soft" empty hand controls. Those techniques that have a higher probability of injuring a subject are known as "hard" empty hand controls.

5.11.3.5 "Soft" Empty Hand Controls: Touching, escort holds, pressure point controls, etc., are appropriate for use against passive physical resistance and some forms of active physical resistance.

5.11.3.6 "Hard" Empty Hand Controls: Techniques in this category include stunning and striking actions delivered to a subject's body with the hand, fist, forearm, leg or foot. Preferably, the target for these tactics will be major muscle structures such as the legs, arms, shoulders or side of the neck. Strikes delivered to such muscle structures will create muscle cramping, thus inhibiting muscle action and allowing the officer to bring the subject under control. In extreme cases of self-defense, the officer may need to strike more fragile areas of the body where the potential for injury is greater. However, the use of neck restraints or other similar weaponless control techniques that could cause potentially serious injury are prohibited.

5.12 Medical Attention:

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Persons subjected to any use of force must be provided with medical care if injury is apparent, or if medical care is requested by the affected person. If medical care is refused by an affected person, this refusal must be documented in the incident report. Persons complaining of or exhibiting signs of injury after any use of force exposure must be medically cleared before being transported to the County Jail or a Mental health facility.

5.13 Training:

- 5.13.3 Before an officer is authorized to carry an approved firearm or weapon, or is placed into a position where he or she may use lethal force (deadly force) or encounter a “fleeing felon,” the officer will:
 - 5.13.3.5 Be issued and electronically sign for a copy of the Use of Force General Order.
 - 5.13.3.6 Receive instruction in the use of force, lethal force, less lethal force and fleeing felons.
 - 5.13.3.7 Qualify with the Department’s primary handgun.
 - 5.13.3.8 Demonstrate proficiency with impact weapons, the Taser and ASR.
- 5.13.4 All officers shall, at least annually, receive in-service training on the Department's Use of Force policy.
- 5.13.5 All officers qualified in the use of firearms, will demonstrate their proficiency with such a weapon under the instruction of a certified weapons instructor annually and Taser, impact weapons, ASR and other control techniques shall be demonstrated at least biennially, under the instruction of a certified weapons instructor. The training and proficiency results will be documented in the training files.
- 5.13.6 All officers who fail to demonstrate the required proficiency with issued weapons shall receive remedial training.
- 5.13.7 An officer failing to demonstrate proficiency with a weapon shall not return to duty with that weapon until proficiency is demonstrated and documented. Only officers demonstrating proficiency in the use of agency-authorized weapons shall be approved to carry such weapons.

5.14 Reporting Use of Force:

- 5.14.3 The Bureau of Investigations Commander shall be notified as soon as practical after a use of force incident as listed below.
- 5.14.4 A Use of Force Addendum, FAUPD 2014-76, and an incident report will be completed by all officers and/or supervisors involved in any of the following Use of Force incidents that occur on or off duty while acting under the color of employment:
 - 5.14.4.5 Use of “Hard” empty hand control techniques as defined in this General Order. (stunning or striking techniques);
 - 5.14.4.6 Use of leg restraints on a subject(s);
 - 5.14.4.7 Use of weaponless force or engages in action(s) upon another to the extent it is likely to cause or lead to injury, claim of injury, or allegations of excessive force.

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- 5.14.4.8 Application of force using any lethal or Less-Lethal weapon;
 - 5.14.4.9 Discharge of a firearm(s), intentionally, negligently, or accidentally other than in training, recreation; or to euthanize an animal.
 - 5.14.4.10 Any action that results in or is alleged to have resulted in injury or death of another person.
 - 5.14.5 This Directive does not require the reporting of drawing or pointing of weapons or using weaponless, hand to hand control techniques that have little or no chance of producing injuries when gaining control over or subduing non-compliant or resisting persons. These techniques include, but are not limited to; physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, transporters, handcuffing, or other custodial procedures.
 - 5.14.6 The report shall explain in detail, the level of physical resistance by the suspect, and officer/suspect factors that necessitated the use of force or display of weapon(s), the effect of the force upon the suspect, the extent of any injuries inflicted on the officer or the suspect and the subsequent actions taken by the officer.
 - 5.14.7 Officers and or supervisors shall photograph any observable physical injury sustained by the officer and or suspect. The photographs shall be placed into evidence.
 - 5.14.8 The officer will complete a Use of Force Report as soon as it is reasonably practical following the incident. The Use of Force Report must describe in detail, the resistance and the use of force utilized in the incident. Specific injuries should also be described in detail, as well as what caused them.
 - 5.14.9 The incident report and the Use of Force Addendum will be completed prior to the end of the officer(s) tour of duty.
 - 5.14.10 If unable to complete the form due to injury, etc., the officer shall verbally report his/her involvement to the appropriate supervisor and or investigator.
 - 5.14.11 The officer's supervisor shall then complete the Use of Force Addendum (FAUPD#2014-76).
 - 5.14.12 When multiple employees are engaged in the same use of force incident, those employees shall complete a supplement to the incident report.
- 5.15 Use of Force Review:
- 5.15.3 The Bureau of Investigations Commander will review all incidents involving the above listed use of force incidents. The review will evaluate the facts of the incident to determine whether the degree of the force was reasonable and necessary to affect the arrest, prevent escape, overcome resistance and/or to protect others or themselves from bodily harm. Reasonableness of the use of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident.
 - 5.15.4 The Bureau of Investigations Commander shall submit a written report of his or her findings to the Chief of Police's office within seventy-two (72) hours of the incident.
 - 5.15.5 The incident shall be thoroughly evaluated as to all circumstances surrounding the use of force and/or display of weapons.

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- 5.15.6 The review shall determine if the use of force and/or display of weapons followed Department policy, help identify trends, improve training and officer safety.
- 5.15.7 Officers who have used physical levels of force, or who discharge a firearm (other than training or for authorized recreational purposes) shall document the incident completely in an incident report or a supplement to an incident report. Such documentation shall include the level of physical resistance that was encountered, the level of force that was required to overcome the physical resistance, and a complete account of the incident.
- 5.15.8 When a subject is injured or complains of an injury as the result of the use of force by an officer, or when an officer uses deadly force, regardless of whether such action causes injury, the incident shall be documented by a supervisor in a supplement report and submitted for review via the chain of command to the Chief of Police. Attached to the supplement shall be any relevant documentation such as tape recordings, medical reports and photographs, etc.
- 5.16 Incidents Involving Use of Deadly Force:
- 5.16.3 The Department shall authorize criminal and administrative investigations into all incidents involving the use of deadly force. The criminal investigation shall be referred to another state certified law enforcement agency, Florida Department Of Law Enforcement (FDLE) while the administrative investigation shall be conducted by an investigator assigned to Internal Affairs unless ordered otherwise by the Chief of Police.
- 5.16.4 In all instances where deadly force is used, or the discharge of a firearm occurs (other than training or for authorized recreational purposes), including incidents involving the destruction of an animal, officers shall immediately notify their supervisor or the next available supervisor in their chain of command.
- 5.16.5 Anytime response to resistance occurs that involves a use of deadly force on a person by an officer, or the death of an arrestee well in the care, custody or control of the Department, the ranking supervisor on duty shall contact the On-Call Commander, who will then contact the Chief or designee. Chief or designee shall:
- 5.16.5.5 Determine officer safety before approaching the injured person. If safe to do so, determine the physical condition of any injured person, secure the person and render medical assistance;
- 5.16.5.6 Request emergency medical services through the Communications Section and if necessary, have the injured person transported to a medical facility;
- 5.16.5.6.1 Injured prisoners will be secured during EMS transport, unless unable to secure due to injuries or EMS policies.
- 5.16.5.6.2 An officer, other than the one involved in the situation, will accompany the prisoner to the hospital and if treatment can be rendered and the prisoner released, the officer will stand by with the prisoner until released or relieved by another officer. Once released by the hospital, the prisoner will be transported to the detention center.
- 5.16.5.6.3 If the prisoner is required to be hospitalized, the officer will notify his/her supervisor.

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- 5.16.5.6.4 The supervisor shall contact the Sheriff's Office and request a corrections officer to stand-by with the prisoner. The officer will remain with the prisoner until relieved by the correctional officer.
 - 5.16.5.7 Secure the scene as well as time and available personnel permit.
 - 5.16.5.8 Contact the Florida Department of law enforcement (FDLE) to conduct an investigation.
 - 5.16.5.9 Initiate a "Staff Page" ensuring that all appropriate personnel are notified.
 - 5.16.5.10 Notified Department Armor, for purposes of coordinating the weapon(s) exchange.
 - 5.16.5.11 Remain at the scene (unless injured) until the arrival of the appropriate supervisor. If the circumstances are such that the scene might cause a more hazardous situation to develop (e.g. a violent crowd), the supervisor shall have the discretion to instruct the officer to respond to an alternate location. A supervisor may, if deemed necessary, transport the officer from the scene due to exigent circumstances.
 - 5.16.5.12 Protect his/her weapon for examination and keep the weapon holstered until instructed otherwise by the supervisor. The supervisor shall handle the weapon as evidence. The officer may be issued a replacement weapon until examination of the weapon is complete.
- 5.16.6 Upon arrival at the scene, the supervisor shall:
- 5.16.6.5 Ensure that the following are notified immediately:
 - 5.16.6.5.1 Chief of Police.
 - 5.16.6.5.2 Bureau of Investigations Commander.
 - 5.16.6.5.3 Shift lieutenant.
 - 5.16.7 Ensure that the scene is protected and secured.
 - 5.16.8 In all instances where deadly force is used or where a firearm is discharged (other than training or authorized recreational purposes), including incidents involving the destruction of an animal, the officer's immediate supervisor shall:
 - 5.15.8.1 Ensure that an incident report is submitted.
 - 5.15.8.2 Notify his/her supervisor as dictated by the circumstances.
 - 5.15.8.3 Notify The agency Legal Advisor.
- 5.17 Whenever an employee is a principal participant in an incident which results in death or great bodily injury, the employee shall:

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- 5.17.1 Undergo a debriefing with a Department provided psychologist within 48 hours of the incident. The purpose of this debriefing will be to allow the employee to express his/her feelings and to deal with the moral, ethical, and/or psychological aftereffects of the incident. The debriefing shall not be related to any Departmental investigation of the incident and discussion during the debriefing shall not be used in violation of the privileged physician-patient relationship.
- 5.17.1.1 Be placed on non-disciplinary administrative leave with pay pending review, for a minimum of three days upon completion of his/her preliminary report of the event. While on administrative leave, the employee shall be available for Internal Affairs and other administrative interviews and statements regarding the case. The employee shall remain subject to re-call duty at any reasonable time while on Administrative Leave. Authorization to return to former duty status must be authorized by the Chief of Police.
- 5.17.1.2 Not discuss the incident with anyone except appropriate Departmental personnel assigned to the investigation, the State Attorney's Office, the employee's psychologist, the employee's private attorney or union representative, the employee's chosen clergy, and the employee's immediate family.
- 5.17.2 Upon returning to duty, the employee may be assigned to "administrative duty" for a period deemed as appropriate by the employee, his/her mental health professional, and/or the Chief of Police, but no sooner than after an administrative review in the matter is concluded.

5.18 Final Disposition of Use of Force:

- 5.18.1 All reviews and investigations shall be forwarded to the Chief of Police or his designee for final disposition of the use of force incident.

5.19 Analysis of Use of Force Reports:

- 5.19.1 The Department shall conduct an annual analysis of the following:
- 5.19.1.1 Discharge of a firearm, other than during training or approved recreational purposes;
- 5.19.1.2 Officer actions that result in, or are likely to, result in death or injury of another person;
- 5.19.1.3 Application of the use of force using deadly or non-deadly weapons;
- 5.19.1.4 Application of physical force.

End of Policy

General Order 7.1 – Use of Force

THIS GENERAL ORDER RESCINDS ALL OTHER WRITTEN DIRECTIVES REGARDING THIS TOPIC.

Approved and issued by order of:

Sean Brammer
Sean Brammer
CHIEF OF POLICE

DATE: 07/10/2020

POLICY MAINTENANCE SECTION

Last Revision Date:	06/2020
Last Revision By:	Lieutenant M. Douglas
Next Review Due:	12/2020
Responsibility:	Accreditation Manager
IACLEA Standards:	1. 7.1 (all)
Standard Proofs of Compliance:	1. Use of Force Reports/Incident Reports
Time Sensitive Items:	1. Annual Response to Resistance Training
Replaces:	1. Portions of General Order 210