

# **PINEVILLE POLICE DEPARTMENT**

## **GENERAL ORDER**

### **SECTION 6: ENGAGEMENT STANDARDS**

#### **SUBJECT: 603 USE OF FORCE**

**EFFECTIVE: 06/05/2017**

1. **PURPOSE.** This policy provides officers with a source of reference on the use of force. The purpose of this policy is to provide police officers with guidelines on the use of deadly and non-deadly force.

2. **POLICY.** All employees who are authorized to carry weapons shall become familiar with the following guidelines dealing with the use of force continuum. This department recognizes and respects the value and special integrity of each human life. Investing police officers with the lawful authority to use force to protect public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this department that police officers shall use only that force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another. The amount of force used should be based on the officer's perception on what he/she is dealing with.

3. **CERTIFICATION.** Members of the Pineville Police Department designated by the Chief of Police shall be certified for the purpose of defensive tactics and police baton.

4. **ADHEREANCE TO POLICY.** The members will adhere to the departments current Use of Force Policy. Any violations of the Use of Force Policy will be forwarded in writing to the member's immediate supervisor or the appropriate Bureau Commander.

5. **NEW MEMBERS.** New members of the Department will be certified when time and instruction is available

6. **REMEDIAL TRAINING.** If the member does not ascertain the minimum requirements then the member will be required to take remedial training. When the member does not pass with minimum standards then the member will be assigned to administrative duties. The duties will be established by the Chief of Police or a designee. The member will be assigned a training regiment to assist in a successful certification. After the member fails twice during the remedial training a recommendation will be made by an Instructor of further action to be taken. This will be forwarded to the Bureau Commander of the member's respective Chain of Command. The Chief of Police will have the final decision of the appropriate course of action to resolve the failure of certification.

The Chief of Police, the Assistant Chief of Police, Bureau Commanders, and Division Commanders will not be required to attend training. The Chief of Police has authority to require or excuse members from attending training.

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7. EXAMS. Members will be given lecture and or training on the department's current use of force policy. The member will be required to pass a written exam as established by the departments training section.

#### 8. DEFINITIONS.

- A. Deadly force – Is that level of force that would lead a reasonable police officer objectively to conclude that its use poses a high risk of death or serious injury to its human target, regardless of whether or not death, serious injury, or any harm actually occurs.
- B. Non-deadly force – Is that level of force that is not likely to produce serious bodily injury or death to its human target.

#### 9. PROCEDURES.

- A. Parameters for use of deadly force as per outlined in RS 14:20:
  - 1. Police officers are authorized to fire their weapon in order to:
    - When committed in self-defense by one who reasonably believes that he is in imminent danger of losing his life or receiving great bodily harm and that the killing is necessary to save himself from that danger.
  - 2. When committed for the purpose of preventing a violent or forcible felony involving danger to life or of great bodily harm by one who reasonably believes that such an offense is about to be committed and that such action is necessary for its prevention. The circumstances must be sufficient to excite the fear of a reasonable person that there would be serious danger to his own life or person if he attempted to prevent the felony without the killing.
  - 3. When committed against a person whom one reasonably believes to be likely to use any unlawful force against a person present in a dwelling or a place of business, or when committed against a person whom one reasonably believes is attempting to use any unlawful force against a person present in a motor vehicle as defined in R.S. 32:1(40), while committing or attempting to commit a burglary or robbery of such dwelling, business, or motor vehicle. The homicide shall be justifiable even though the person does not retreat from the encounter.
  - 4. When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40), against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person committing the homicide reasonably believes that the use of deadly force is necessary to prevent the entry or to compel the intruder to leave the premises or

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motor vehicle. The homicide shall be justifiable even though the person committing the homicide does not retreat from the encounter.

- a. Protect the police officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm; or,
  - b. Prevent the escape of a fleeing felon whom the officer has probable cause to believe will pose a threat to human life should the escape occur.
5. Before using a firearm, police officers shall identify themselves and state their intent to shoot, where feasible.
6. A police officer may also discharge a weapon under the following circumstances:
- a. During range practice or competitive sporting events. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.
7. Police officers shall adhere to the following restrictions when their weapon is exhibited:
- a. Except for maintenance or during training, police officers shall not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance to this policy.
  - b. Warning shots are prohibited, unless summoning for aid.
  - c. Police officers shall not fire their weapons at or from a moving vehicle, unless the parameters for deadly force are present.
  - d. Firearms shall not be discharged when it appears that an innocent person may be injured.
- B. Parameters for use of non-deadly force:
1. Where deadly force is not authorized, officers should assess the incident in order to determine which non-deadly technique or weapon will best de-escalate the incident and bring it under control in a safe manner or when lesser alternatives are not likely to lead to safe control.
  2. Police officers are authorized to use non-deadly force techniques and equipment for resolution of incidents, as follows.
    - a. To protect themselves or another from physical harm; or,
    - b. To restrain or subdue a resistant individual; or,
    - c. To bring an unlawful situation safely and effectively under control.
- C. Training and qualifications
1. Deadly weapons:
    - A. While on and off duty, police officers shall carry only firearms and ammunition authorized by the department.
    - B. Authorized firearms are those with which the police officer has qualified and received departmental training on proper and safe usage,

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and comply with departmental specifications.

- C. The police department shall schedule regular training sessions for duty, off duty and specialized weapons, which will be graded on a pass fail basis.
- D. Police officers who fail to receive a passing score with their duty weapon(s) in accordance with department testing procedures may be placed on administrative leave until a qualifying score is posted.
- E. A police officer shall not be permitted to carry any firearm with which he/she has not been able to qualify during the most recent qualification period.
- F. A police officer who has taken extended leave or suffered an illness or injury that could affect his use of firearms ability will be required to re-qualify before returning to enforcement duties.

#### **D. Reporting written use of force.**

- 1. Any time a level of force is used on or applied to a subject a detailed report shall be written outlining the force utilized and the type of resistance that was met.
- 2. A supervisor will be immediately summoned to the scene and will comply with investigative procedures as required by the department in the following situations:
  - A. When a firearm is discharged outside of the firing range
  - B. When a use of force results in death or serious injury
  - C. When a subject complains that an injury has been inflicted.
  - D. Departmental Response: Anytime physical force is applied a Supervisor will make a determination for a medical evaluation.

#### **E. Deadly force incident**

- 1. Where a police officer's use of force results in death, the officer shall be placed on administrative leave while completing all internal investigative requirements.,
- 2. The department shall conduct both an administrative and criminal investigation of the incident.
- 3. If a mental health professional has been requested or seen, the officer will need clearance to return to duty.

#### **F. Administrative review of critical incidents:**

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1. All reported use of force will be reviewed by the appropriate departmental authority to determine whether:
  - a. Departmental rules, policy or procedures were violated;
  - b. The relevant policy was clearly understandable and effective to cover the situation.
2. All findings of policy violations or training inadequacies shall be reported to the appropriate unit for resolution and/or discipline.
3. There will be a regular review of use of force incidents by the appropriate departmental authority to ascertain training and policy needs.

The goal of this section is to discuss the area of accountability on the officer when it is necessary for an officer to use force to control a resistive/assaultive subject.

State and federal laws give law enforcement, corrections, security and military personnel the right to use physical force and deadly force in defense of themselves or another person(s), in making an arrest or preventing escape from custody, when they reasonably believe that that force is necessary. In most states, the crime of resisting arrest is defined as, “**anyone who knowingly and willfully resist, obstructs, or opposes an officer in the lawful execution of any legal duty**”.

It must be understood that the reasons for “use of force” by an officer is for defense, control and stabilization [DCS]. The level of force used by the officer is directly related to the level of resistance an individual is using against the officer and the totality of the circumstances. In the U.S. Supreme Court Case – Graham v. Connor, the court set the standards for use of **non-deadly force**. The officer’s perception as to the type and amount of resistance he/she is encountering will determine how much force he/she can use and should be reasonable under those circumstances. In this case, the court found as long as the officer’s actions are “objectively reasonable” in the light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. Reasonableness is judged from the perspective of a reasonable officer on the scene without “20/20 vision of hindsight.” Non-deadly force” is defined as: that level of force used that is unlikely to produce serious bodily injury or death to its human target.

In the U.S. Supreme Court Case – Tennessee v. Garner, the court set the standards for use of **deadly force**. “Deadly force” is defined as: that level of force that would lead reasonable police officer objectively to conclude that its use poses a high risk of death or serious injury to its human target, regardless of whether or not death, serious injury, or any harm actually occurs. In most states, you are justified to use deadly force to (1) to apprehend a fleeing felony suspect when the subject presents a threat of life (2) necessary to prevent a crime when human life is in jeopardy (3) to protect self or others from threat of death or great bodily harm. Whether a particular use of force is reasonably likely to cause death is a function of two factors: (1) the degree of force and

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(2) the accuracy with which it is directed at a vulnerable part of the human anatomy. The greater the force, the less accurately it need be directed to cause death. To justify the use of deadly force, three factors must be present at the moment deadly force is used: ability, opportunity and jeopardy.

There are many different charts, matrix or models explaining the types and degrees of resistance, and methods of control. *However, these charts, matrix or models are used as a visual aid only to help officers understand the degrees of force.* Generally we can classify subjects as either **compliant** or **non-compliant**. Non-compliant subjects can be either resistive [passive or active/defensive] or assaultive [bodily harm or great bodily harm/deadly force encounter. An officer's perception of a threat and the control of that threat are based on his/her perception [training and experience]. The levels of control used by an officer can vary from officer's presence, compliance techniques, control techniques, defensive tactics to deadly force. The response from the officer, in the level of force he/she uses, must be reasonable based on his/her perception of the amount of force he/she is dealing with and the totality of the circumstances. Misperceptions of a situation will usually result in either over reaction or under reaction by officers. Finally, subjects must be held accountable for their resistance to an officer's performance of duty.

Reasonable officer's response based on his/her perception of what type of force they are dealing with and taking in account the totality of the circumstances.

Note: The amount of force that one officer uses may be more or less than another officer may use on the same subject. The amount and/or kind of force used by an officer is based on that officer's perception as to what he/she thinks is needed to control the subject at that moment. The totality of the circumstances will always be a factor in the officer's decision making process. Totality of circumstances includes but not limited to the size, sex, age, physical strength, physical skills, mental status, training between the officer and the violator. The time of day, location, known prior history and number of subjects are also factors.

This directive is for departmental use only and does not apply in any criminal and civil proceedings. The departmental policy should not be construed as a creation of higher legal standard or safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions.

**By order of**

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Darrell Basco  
Chief of Police