

# THE RALEIGH POLICE DEPARTMENT

1108-1

## USE OF FORCE AND WEAPONS

### PURPOSE

To provide guidelines governing the use of force and issued weapons of the Department.

### VALUES REFLECTED

This directive reflects our values of *Accountability* and *Preservation of Life*. By acting in concert with these instructions, we will demonstrate that we are accountable for our actions and that we have the highest possible regard for safeguarding life – the lives of those persons we come into contact with in stressful circumstances, of innocent people and of ourselves.

### UNITS AFFECTED

All Divisions/Sworn Personnel

### REFERENCES/FORMS

N.C. General Statute 15A-401(d) "Use of Force in Arrest"  
DOI 1108-3 "Prisoners and Restraints"  
DOI 1105-3 "Officer Involved Shootings and In-Custody Deaths"

## **GENERAL POLICIES**

Force should be used only when all other means of resolving a situation have been exhausted or are clearly inapplicable. Force will be used only to the degree reasonably necessary to control the situation. How much force, and the level of force, which may be used will vary according to the situation. The nature of the offense, the physical make-up of the parties involved, actions of third parties who may be present, potential for injury to officers, citizens or suspects, the risk of escape, the availability of alternatives and other exigent circumstances are factors to be considered.

Officers will be asked to make split second decisions in quickly evolving circumstances. Officers must continuously evaluate the need for force and be prepared to respond to changing circumstances which could include the need to escalate the force used, de-escalate the force used or to disengage from the use of force. It must be stressed that the use of force is not left to the unfettered discretion of the involved officer. This is not a subjective determination. The use of force must be objectively reasonable. The officer must only use that force which a reasonably prudent officer would use under the same or similar circumstances.

Agency personnel must demonstrate proficiency in the use of agency authorized weapons before they are approved to carry such weapons. Only authorized weapons will be carried by personnel.

## **OBJECTIVELY REASONABLE STANDARD**

This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

Nothing in this policy shall be construed as approving the unwarranted, reckless or excessive use of force.

It shall be the duty of every officer of this agency to attempt to prevent any other officer from using unwarranted or excessive force and the use by any officer of such unwarranted or excessive force shall be reported to a supervisor or the Internal Affairs Unit as soon as possible by the witnessing officer.

## **NON-DEADLY FORCE**

### **Justification for Using Non-Deadly Force**

Non-deadly force may be used by law enforcement officers in the performance of duty under the following conditions:

- In self-defense, or defense of another against unlawful violence, or to prevent suicide or self-inflicted injury.
- In overcoming resistance to a lawful arrest or search, or to prevent an escape from custody.

## DEADLY FORCE

### Deadly Force Defined

“Deadly force” means force likely to cause serious physical injury or death. “Serious physical injury” means bodily injury that causes serious permanent disfigurement, or which causes permanent or protracted loss, or impairment of the function of any bodily member or organ.

The premeditated use of non-lethal items may be considered a use of deadly force if death or serious physical injury occurs. For example, the deliberate ramming of another vehicle by a police vehicle could be considered a use of deadly force.

### Justification for Using Deadly Force

Although N.C.G.S. 15A-401(d)(2)(c) permits the use of deadly force to prevent the escape of a person from custody imposed upon him as a result of a conviction for a felony; it is the policy of our department that this authority is primarily intended to be exercised by prison guards, and that Raleigh police officers will use deadly force only as permitted under the following circumstances:

- In defense of himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.
- To arrest or prevent the escape of a person whom the officer reasonably believes is attempting to escape by the use of a deadly weapon.
- To arrest or prevent escape of a person who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay.

The use of deadly force against an animal is justified for self-defense or defense of a third person.

If feasible, an officer will issue a verbal warning before resorting to deadly force. If there is time and opportunity to provide a verbal warning the officer should try to identify themselves and inform the suspect that they are preparing to use deadly force. A verbal warning may not be possible in split second decisions or when the officer believes that giving a verbal warning would place the officer or others in jeopardy.

### Use of Force Continuum

Officers will assess the totality of the circumstances to determine the level of force that is reasonable in each case. Officers may consider the following use of force continuum as a guide when deciding when to use force and how much force to use. A continuum of force is a tool to assist an officer in understanding force options.

### A Linear Use of Force Continuum

The levels of force, progressing from lower to higher, are defined as follows:

- **Physical Presence:** In general, officers should strive for numerical superiority and mere presence to control low threat situations.
- **Verbal Commands:** Verbal commands must be given in a concise manner likely to be understood by the subject. The subject must be allowed an opportunity to comply with verbal commands unless violence or other circumstances are already occurring which would make total reliance on verbal commands inappropriate.
- **Restraining Techniques:** The use of restraining techniques consists of come-along holds or other grabbing techniques that do not involve an actual striking of the subject being controlled and where the risk of injury is minimal. A chokehold could be considered a use of deadly force; therefore, for the purposes of the force continuum, it is not considered a restraining technique. Officers should use restraining techniques that do not impair respiration.
- **Pepper Gas:** The use of pepper gas consists of the use of Departmental approved, handheld chemical aerosols that are not likely to cause injury (Refer to Pepper Gas Guidelines below). Pepper gas may be used in the officer's discretion at any point in the continuum at which the suspect begins to make aggressive actions toward or against the officer or when the suspect continues his/her refusal to comply with the officer's lawful efforts to effect an arrest.
- **Striking Techniques:** Striking techniques involve use of the police baton, riot baton, or parts of the body, such as the hands or feet. Striking techniques may be used both offensively and defensively. Striking techniques involve physical force where some risk of injury is to be expected. When possible, avoid striking the vital areas of the temples, eyes, and throat. (Refer to: Police Baton Guidelines below.)
- **Less Lethal Weapons:** The use of specialty impact munitions or conducted energy devices by authorized and trained personnel is acceptable when force is necessary to incapacitate or control an individual.

Specialty impact munitions, specifically the Exact Impact 1006, a foam projectile, may be used when it is not safe for an officer to leave cover and get close to a suspect. Examples of when specialty impact weapons may be utilized include subduing mentally ill persons who are dangerous to themselves or others, persons under the influence of drugs or alcohol who are dangerous to themselves or others, or crowd control when there is a threat to officer safety.

Officers need to be prepared to utilize deadly force prior to using a less lethal weapon to incapacitate an armed suspect in the event the suspect poses a threat of death to the officer or others.

Conducted energy devices may be used when it is necessary to incapacitate or gain compliance from a person that is actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves or others. (Refer to Conducted Energy Device Guidelines below.)

- **Deadly force:** That level of force that can cause death or serious physical injury.

## Pepper Gas Guidelines

Pepper Gas is a non-lethal weapon that shoots a pattern of tear gas like droplets that cause profuse watering of the eyes and nose. Pepper Gas does not render a subject powerless. Rather, it creates a sense of discomfort and disorientation that may cause the person to cease violent acts.

- Pepper Gas is not to be used unless less forceful means of control have failed or are clearly inapplicable.
- Pepper Gas is prohibited for crowd control or crowd dispersal of large organized crowds without prior approval by the Chief of Police or designee.
- The issuance and carrying of Pepper Gas is mandatory for all uniformed officers, detectives, and humane officers working in the field. It must be used according to prescribed training and procedures.
- A one-second burst that accurately encompasses the face area produces the most effective results. Additional bursts may be necessary if it becomes apparent from the subject's continued aggression that the face area has not been effectively targeted by the initial spray.
- A subject sprayed with Pepper Gas will be transported to the nearest fire station for post exposure cleansing. This cleansing consists of rinsing with large quantities of cold water as soon as possible. A non-oil-based soap will help remove the resin from the skin. The affected area should be patted dry with a cloth towel. DO NOT RUB dry since rubbing will worsen the discomfort. A wet towel or ice packs may be used to reduce inflammation.
- Further medical assistance must be summoned if the subject displays excessive symptoms, such as respiratory distress, bleeding from the nose, or excessive redness. Medical attention must also be sought if normal symptoms of exposure persist more than forty-five (45) minutes after exposure.
- A supervisor will be notified and a Use of Force Report filed whenever Pepper Gas is used. The owner of an animal sprayed with Pepper Gas should be notified if the owner is known.

## Police Baton Guidelines

While the courts have generally held that a police baton is not a deadly weapon, per se, it can be considered a deadly weapon depending on the manner and intent with which the baton is used.

- A police baton should not be used unless a situation is violent and injury to the officer or a third party is likely.
- When using the police baton to subdue a subject, an officer will avoid using a chokehold. Officers should only use a chokehold in those situations where it appears the officer would be authorized to use deadly force.

- Striking blows should be aimed at areas where pain and minor injury may result, but critical injury is unlikely. When possible, blows to the head will be avoided.
- When working in uniform officers shall carry a collapsible baton.

### Conducted Energy Device Guidelines

Conducted energy devices are less lethal weapons that use battery energy to affect the sensory and/or motor systems.

A conducted energy device will not to be used unless less forceful means of control have failed or are clearly inapplicable. It must be used according to prescribed training and procedures. No more than one officer should activate a conducted energy device against a person at a time.

When deploying conducted energy devices, officers should give warning to the suspect and other officers, if feasible.

Officers should avoid firing darts at a subjects head, neck and genital areas.

When activating a conducted energy device, officers should use it for one standard cycle (five seconds) and stop to evaluate the situation. If subsequent activations are necessary they should be restricted to no more than three (3) times and the duration necessary to place the subject in custody.

After activation of a conducted energy device, medical assistance will be provided for anyone who is subjected to the electrical discharge. Anyone exposed to device activation will receive on-scene medical attention by EMS. Darts that penetrate the skin should be treated as a biohazard. Law Enforcement officers who have been trained in barb removal will remove barbs unless barbs are in a vital area to include genitalia or eyes. Barb removal from the female breast area will be executed by a trained female officer if available or a trained male officer in the presence of a female officer.

A Use of Force Report will be completed whenever a conducted energy device is used. Supervisors are required to respond and will ensure that pictures of the activation area, cartridges/darts, and officer/suspect injuries are taken. If an animal is subjected to the electrical discharge the owner of the animal should be notified, if known. A Use of Force Report will be completed when the laser of a conducted energy device is directed on a person.

In the event that death or serious physical injury occurs, a supervisor will secure the device and ensure the scene is secure. The AFIS tags are not to be picked up or disturbed in any manner. Departmental procedures for a death or serious physical injury will be followed.

At all other times a conducted energy device is used the officer is required to bring the device to the Internal Affairs Unit by the next working day for device downloading. The used cartridge and AFIS tag will be turned in to the Evidence Control Unit. (In those cases where there is a death or serious physical injury, a supervisor will secure the device and provide it to Internal Affairs.)

Conducted energy devices should not be used:

- As punishment
- Against verbal threats alone
- Near potentially flammable, volatile, or explosive materials to include alcohol-based pepper gas
- On pregnant women, elderly persons, young children, or visibly frail persons unless exigent circumstances exist
- On handcuffed persons unless they are aggressively resisting, violent and likely to harm themselves or others
- When a subject is in physical control of a vehicle in motion/gear
- When a subject is in a location where a fall may cause serious physical injury or death
- Where the subject is only offering passive resistance
- To effect an investigative stop/detention
- Simply because a suspect is running away from an officer. Generally, an officer will not use a conducted energy device against a person who is running away. An officer could use a conducted energy device against a person who is running away when the person is subject to arrest for a serious crime and escape from the scene presents a threat of harm to the community.

#### Firearms Guidelines

Officers should use a firearm as a last resort, when other means have failed or are inapplicable.

- Officers may not discharge their firearms except where the use of deadly force would be justified, or during approved firearm training.
- Warning shots are not permitted.
- Firing a weapon from a moving vehicle is prohibited.
- Firing a weapon while running is prohibited except where the officer reasonably believes that there is an imminent threat of serious bodily injury or death for himself or for a third party if the officer does not use deadly force. Before discharging a firearm while running, an officer must believe that the only reasonable means of protecting himself and/or a third party is the use of deadly force.

Discharging a firearm at a moving vehicle involves a possible risk of death or serious injury to innocent persons. The safety of innocent people is jeopardized when a suspect is disabled and loses control of his or her vehicle. There may be a risk of harm to occupants of the suspect vehicle who may not be involved, or involved to a lesser extent, with the actions of the suspect creating the threat.

Due to the risks and considering that firearms are not generally effective in bringing a moving vehicle to a rapid halt, officers shall not fire at a moving vehicle unless the officer reasonably believes:

- The use or imminent use of deadly force other than the vehicle is being used against the officer or another person; or
- There exists an imminent danger of death or serious bodily injury to the officer or another person by an on-coming vehicle and no other means are available at that time to avoid or eliminate the danger because the vehicle is driving directly toward the officer or third person and there is no avenue of escape.

An officer should not intentionally position himself or herself into the path of an oncoming vehicle. Whenever possible, officers should take reasonable steps to get out of harm's way if a vehicle is moving toward them.

### Euthanization of Animals

If a domesticated animal is badly injured and requires relief from suffering, an Animal Control Officer should be notified. The animal will be transported to the after hours clinic.

If an undomesticated animal is injured badly and requires relief from suffering, the Watch Commander may authorize an officer (at or above the rank of First Class) to euthanize the animal with the officer's departmentally issued handgun. When euthanizing the animal, the officer will ensure a safe line of fire and take care to avoid the possible deflection of projectiles. The officer shall attempt to minimize civilian exposure to the euthanization.

### **DISCHARGE OF FIREARMS/CONDUCTED ENERGY DEVICE REPORT**

The discharge of any firearm or conducted energy device by an officer, either deliberate or unintentional, is to be reported immediately to a supervisor (except during approved firearms training). A Discharge of Firearms/Conducted Energy Device Report is to be forwarded to the Internal Affairs Unit, which will conduct an investigation for review by the Deputy Chief of Police.

If a firearm is discharged as a result of an undomesticated animal euthanization the officer will complete the field euthanization of undomesticated animal report (in lieu of the Discharge of Firearms/Conducted Energy Device Report) which will be reviewed by the Division Major and forwarded to the Internal Affairs Unit.

### **USE OF FORCE/COMPLAINT OF INJURY INCIDENTS**

#### Use of Force/Complaint of Injury Reports

- Incidents involving the use of force or complaint of injury by civilians are to be reported as soon as possible to a supervisor. An electronic, web-based Use of Force/Complaint of Injury report should be completed by the involved officer. Digital photographs should be attached to the report and should at a minimum depict the involved officer and the civilian. A supervisor, who was not involved in the use of force, usually a Sergeant, should

electronically review the report, make a recommendation, and forward the report through the chain of command utilizing the web-based reporting system. A Lieutenant or Captain may forward the report directly to the Division Commander. After review by the Deputy Chief, these reports will be maintained by the Internal Affairs Unit.

Use of Force/Complaint of Injury Reports are not public records, but instead are records used to document and evaluate employee performance. These reports will be evaluated to determine whether or not further investigation, either criminal or administrative, should take place, whether policies have been followed and whether there are training needs which need to be addressed.

### Completing Use of Force/Complaint of Injury Reports

Generally, Use of Force/Complaint of Injury Reports should be completed whenever there is a greater than normal amount of force required in subduing a subject. Use of Force/Complaint of Injury Reports should be completed for (but not limited to) the following occurrences:

- Whenever an officer discharges a firearm or points their weapon at a subject. Officers who unholster their firearm and maintain it in a low ready position or at their side in a non-threatening manner are not required to complete a Use of Force/Complaint of Injury Report.
- Whenever restraining techniques are used as permitted under this order that exceed the mere touching of a suspect in order to handcuff or to guide to a new location. For example, taking a suspect to the ground in order to complete an arrest will require a Use of Force/Complaint of Injury Report.
- Whenever pepper gas is used under this order.
- Whenever striking techniques are used on a subject under this order.
- Whenever, a conducted energy device is activated under this order or when the laser of the conducted energy device is directed on an individual.
- Whenever there is an injury or complaint of injury to a subject regardless of the level of physical force used. This includes inadvertent injuries caused by proximity exposure to noise and flash distraction devices and injuries caused by canines in situations, such as when protecting their handler and conducting off-lead building searches, even though they are not considered a use of force.

### Injuries Resulting from Use of Force

If injury to a subject occurs from the use of lethal or non-lethal force, the officer is responsible for seeing that medical attention is made available to the arrestee prior to his incarceration.

Bleeding, vomiting, unconsciousness, complaints of dizziness or blurred vision, are some of the apparent signs of injury that should prompt the officer to seek medical assistance. Officers should be attentive to signs of excited delirium and if observed seek immediate medical attention.

### Temporary Removal from Line-Duty

Any employee whose actions or use of force results in death or serious bodily injury will be temporarily removed from line duty pending the completion of administrative review (see 1105-3 "Officer Involved Shootings and In-Custody Deaths").