

CAMBRIDGE POLICE DEPARTMENT

Title: *USE OF FORCE*

Procedure: 2.000

Date Issued:

Revised: January 29, 2014

PURPOSE:

To establish Department guidelines on using both lethal and less lethal force.

To provide for the proper documentation and investigation of incidents involving the use of force.

POLICY:

It is the policy of the Police Department to provide clear procedures to sworn members regarding the use of lethal force in the performance of their duties. The safety of innocent persons and officers is of paramount importance.

The use of less lethal weapons is classified as a use of force and is governed by this policy. The officers of this agency are authorized to carry less lethal weapons so that they may successfully defend themselves and others from combative, resisting and/or violent individuals. A less lethal weapon is not necessarily a replacement or substitute for other authorized weapons, devices and/or techniques and therefore should be used when, in the officer's opinion, it is the best choice of weapon in a use of force situation. A less lethal weapon is another tool that can be used at the discretion of the officer when the decision is made that the use of force is necessary and reasonable under the circumstances. As with any use of force, the officer is accountable to this agency for the use of a less lethal weapon.

Only force reasonably necessary to defend a human life, effect an arrest or control a person shall be used by sworn officers of the Police Department. The force used by an officer shall only be that which is necessary to overcome the resistance being offered by an offender and to effect lawful objectives.

All sworn personnel must be issued copies of, and instructed in the Department's Use of Force

procedure before carrying any firearm or other police weapon.

LAW:

Certain state statutes form the reference on which this Department's use of force policy is based. Employees must be aware of prohibitions and restrictions in this procedure that place a higher standard on the use of force than are contained in state statute.

A peace officer.... need not retreat or desist from efforts to make a lawful arrest because of resistance to the arrest. He is justified in the use of any force which he **reasonably believes** to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using **force likely to cause death or great bodily harm** only when he **reasonably believes** that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he **reasonably believes** both that:

Such force is necessary to prevent the arrest from being defeated by resistance or escape; and,

The person to be arrested has committed or attempted a **forcible felony** which involves the **infliction or threatened infliction of great bodily harm**, or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

DEFINITIONS:

"Reasonable Belief or Reasonably Believes" means that the person concerned, acting as a reasonable man, believes that the described facts exist.

"Force which is likely to cause death or great bodily harm"

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

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

Great Bodily Harm is serious bodily injury that creates a substantial risk of death, causes serious or permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

"Forcible felony" means treason, first degree murder, second degree murder, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against an individual.

PROCEDURE:**LEVEL OF FORCE CONTINUUM:**

1. When the use of force is necessary and appropriate, members shall, to the extent possible, use an escalating level of force and will not employ a more forceful measure unless it is determined that a lower level of force would not be adequate, or such level of force is attempted and actually found to be inadequate.

LEVEL 1: Officer's Presence - An officer's appearance may be enough to dissuade some persons from engaging in resistive behavior. Factors which contribute to this level include perceptions of the officer's attitude, ability, and self-confidence.

LEVEL 2: Verbal Direction -

Dialogue used by an officer can serve to diffuse potentially violent confrontations. It is important to observe that this level concerns WHAT an officer says and HOW he says it. The factors involved in this level include the officer's language, tone of voice, and confidence and/or posture and body language.

LEVEL 3: Empty Hand Control /Soft Hand Techniques -

"Soft" techniques which have minimal chance of causing serious injury. These techniques include pressure point control techniques and joint manipulations.

Level 4: Chemical Agents -

The use of aerosol oleoresin capscum (OC) is authorized if, in the opinion of the officer, the use of empty hand techniques would pose an unnecessary risk of injury to the offender and or the officer or if empty hand techniques would be ineffective in gaining control of the offender. Chemical Agents that are deployed via the use of a fogger device, munitions and/or grenade will only be deployed by trained members of the department's Emergency Response Team.

LEVEL 5: Conducted Electrical Weapon (CEW) / Impact Weapons / Hard Hand Techniques -

The CEW is an electromuscular disruption device that interrupts brain impulses to the central nervous system and controls skeletal muscles, causing temporary motor skills dysfunction.

The officer may utilize the CEW when the use of soft hands or the use of oleoresin capiscum has failed. The CEW may be used when LEVEL 4 Use of Force would be inadequate in certain circumstances, such as a subject actively assaulting the officer or another, or a suicide attempt with a weapon.

"Hard Hand" techniques have a probability of causing injuries. These

techniques include palm strikes, punches, elbow strikes and leg strikes. Hard Hand Techniques should normally be used when the opportunity to utilize chemical agents is not feasible, i.e. close proximity of suspect, or the use of OC has failed.

Impact Weapon: A weapon (i.e., straight baton, collapsible baton or PR24 baton) which causes blunt trauma upon striking the soft tissue or skeletal frame of the human body to impair an individual's mobility or motor functions. An officer may need to resort to the use of an impact weapon to control resistive behavior. These "hard" techniques have a probability of causing injuries. These techniques include impact weapon strikes.

LEVEL 6: Lethal Force - Lethal force can be realized through the application of a variety of measures. Although commonly related to an officer's use of a firearm, lethal force can also be applied by use of severe hard empty hand control or hard intermediate weapon control techniques.

NOTE: It is not the intent of this part of this procedure to direct officers to try each of the level options before escalating to the next. Each situation will dictate at which level a member will start.

DEADLY FORCE:

1. Members of the Police Department shall, when feasible, exhaust all reasonable alternatives before resorting to the use of deadly force.
2. The use of deadly force must be based upon **reasonable belief** by the officer that such force is necessary.
3. Deadly force must never be used against any person based on mere suspicion alone.
4. An officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's life, or in defense of any person in immediate danger of great bodily harm.

5. Deadly force may only be used against a "fleeing felon" when the officer reasonably believes that the action is in defense of human life, including the officer's life, or in defense of any person in immediate danger of great bodily harm.

6. This directive is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense concerning third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this Department and then only in a non-judicial administrative setting.

7. Use of deadly force against a fleeing forcible felony suspect is prohibited unless the officer has probable cause to believe that the use of deadly force is warranted based on the limitations as set forth in this procedure.

*United States Supreme Court decision U.S. 105 S. Ct. 1694 (1985) (Tennessee vs. Garner) ruled that the use of deadly force to prevent the escape of a suspected felon violates the Fourth Amendment prohibition against unreasonable seizure if used against an apparently unarmed, non-violent suspect (the case involved a burglary suspect). The Supreme Court further stated that deadly force may be used against an offender who has attempted or committed an offense involving the infliction or threatened infliction of great bodily harm. **Deadly force may not be used against an unarmed, non-violent, property crime offender.***

*The United States Supreme Court decision went on to state that when an officer is justified in the use of deadly force he will, **if feasible**, first give a verbal warning. (Example: "Police Officer, Halt").*

PROHIBITIONS

1. No shots will be fired from moving vehicles or at moving vehicles unless the situation becomes one of self defense or defense of other lives.
2. No warning shots will be fired.

3. No shots will be fired into buildings or through doors, windows or other openings unless the situation becomes one of self defense or defense of other lives.

LESS LETHAL FORCE:

1. Officers are justified in the use of force they reasonably believe necessary to effect an arrest. They need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest.

2. Officers are justified in the use of force against another when and insofar as the officer reasonably believes that such conduct is necessary to defend the officer or another person against the imminent use of unlawful force.

3. Only the amount of force reasonably necessary to effect an arrest or control a person shall be used.

4. Force shall not be used punitively and officers will always discontinue the use of force when the offender stops resisting.

5. A Department specified and approved police baton, CEW or chemical agent are the only authorized, issued, less lethal weapons. Officers are prohibited from using or carrying blackjacks, saps, weighted gloves, etc.

6. The baton may also be used as a barricade or repelling device in crowd control situations, or a temporary restraining device.

7. Officers will provide for appropriate medical attention to any subject injured as a result of an officer's use of physical force or a lethal or less lethal weapon.

Chemical Agents

1. Oleoresin Capsicum deployed via aerosol devices. (O/C Spray is considered to be a less lethal weapon and will be issued to all officers)

An officer need not attempt empty-hand control before using O/C Spray. The officer need only justify that empty-hand skill would not be sufficient or practical to safely and effectively place an offender under control.

O/C Spray is generally useful against drug abusers, emotionally disturbed persons, intoxicated persons, violent individuals who have reduced sensitivity to pain, and animals.

O/C may be used to effect the removal of a person(s) from a locked vehicle who refuses to exit when lawfully ordered to do so by an officer.

O/C may be released into a building to effect the removal of a person(s) who refuses to voluntarily exit the building and may also be used when a forced exit is necessary.

Officers should avoid the use of O/C Spray in situations where the use of O/C could reasonably cause panic (e.g., hospitals, dark crowded theaters, etc.).

2. Officers who employ the use of O/C Spray should do so as a means of obtaining control of an individual and shall never be used for any other unlawful purpose, such as a means of dispensing punishment.

Only that amount of O/C Spray reasonably needed to obtain control of an individual should be used. Once the desired results have been achieved, the officer will stop dispensing O/C.

Primary targets of O/C Spray are the face, eyes, nose and mouth.

3. Officers should consider the following, in addition to specific officer subject factors, when deciding whether or not to use O/C Spray in a use of force situation:

Distance from the individual to be sprayed (generally recommended to be between 3 and 12 feet);

Environmental conditions (e.g., wind, rain, snow, etc.);

Potential hazards to the individual after being sprayed with O/C that could cause injury (e.g., walking into traffic, falling off elevated surfaces or stairs, etc.);

The presence of infants (birth to two years of age). If infants are in the immediate area the use of O/C Spray should be avoided if possible.

4. After spraying an individual with O/C, and control of that person has been obtained, the officer will make reasonable efforts to allow the individual relief from the discomfort associated with the application of O/C. Reasonable decontamination or relief efforts may include (as is practical under the circumstances of a situation);

Calming the individual;

Removing the person from the affected area to an area of fresh air or other form of ventilation;

Instructing the individual to blow his nose;

Allowing the individual to flush affected areas with clear water;

Allowing the individual to wash exposed skin with soap and water;

Allowing the individual to remove contact lenses;

Advising the individual not to rub affected areas or to apply any type of salve to affected areas;

Transport to the emergency room if the person complains of injury, or if the officer reasonably believes that the person needs medical attention.

5. When an officer is attacked by an offender who is threatening the use of O/C Spray (or any other chemical agent), the officer should try to avoid being sprayed. Should an officer need to use force on an individual who is threatening the use of O/C Spray, such force should be necessary and reasonable.

6. Chemical Munitions, Grenades, and Fogging devices that are capable of deploying OC/CS/CN

will only be used by trained members of the department's Emergency Response Team and follow the same criteria as set forth in the deployment of OC via aerosol devices.

Chemical munitions, grenades, and fogging devices may be utilized to effect the removal of a person(s) who refuses to voluntarily leave an external or internal area, after warning has been given to cease their action.

7. A departmental Incident Report and the department Use of Force report shall be completed whenever an officer deploys any chemical agent.

USE OF Conducted Electrical Weapon (CEW)

1. The use of the CEW is an incapacitating technique that is considered a less lethal weapon. The decision to use the CEW is dependent upon:

- The severity of the crime.
- Critical distance of the threat
- Whether the suspect poses an immediate threat to the safety of the officer or others if not apprehended. (Does the suspect have a history of violent behavior?)
- To prevent the commission of a suicide or self inflicted serious physical injury, with a weapon.

The CEW **will not** be used:

- On a passive subject.
- On any subject that is restrained unless the subject poses an imminent threat of physical harm.
- Is on an elevated or unstable surface.
- On a subject that is running, in motion or moving under momentum.
- On a subject who is operating or riding on any mode of transportation.
- On a subject located in water, mud or marsh environment if the ability to move is restricted.

- Near flammable liquids or gases or if the subject has been in contact with any flammable liquids.
 - On any subject that is merely fleeing apprehension.
 - When the subject is in a position that a fall may cause serious injury or death.
 - For punishment or coercion.
 - As a Prod or escort a subject.
 - To awaken an unconscious or intoxicated subject.
 - A subject that is visibly pregnant or has visible health issues.
 - On any subject at an extreme age (young / old) or small in stature.
 - On a subject who is physically infirmed.
 - On persons with known heart conditions.
 - On persons in mental/medical crisis, to include excited delirium.
2. In cases involving multiple applications the officer must show the same acts of resistance or aggression, by the subject, that were met with the first application with the CEW
 3. The officer should refrain from discharging the CEW at the subjects chest, face or soft tissue areas. In an ideal scenario the preferred target area should be the back when practical.
 4. The CEW is not a replacement to the officer's firearm and should not be used without firearm's back-up where there is a lethal threat towards the officer involved in the threat.
 5. The CEW will be issued to and used by officers who have completed departmental training.
 6. Uniformed officers will be issued the the CEW, associated cartridge, and a departmental issued holster, at the beginning of their shift. The CEW will be worn in a support position and away from the officers duty weapon.
 7. The CEW should be inspected to ensure it is fully operational prior to the officer's tour of duty.
 8. The CEW shall be stored in the arsenal when not in use.
 9. Verbal commands/warnings will be given by the officer prior to CEW deployment.
 10. The CEW has three reportable applications:
 - **Spark Display** – a non-contact demonstration of the CEW's ability to discharge electricity. This is conducted only when the cartridge has been removed from the weapon and is for the purpose of convincing the subject to obey a lawful order and avoid contact through a Drive Stun or deployment of the probes.
 - **Drive Stun** – contact is made by pressing the front of the CEW, without the cartridge, into the body of the subject and activating the weapon. Drive Stuns are typically performed when; cartridge fails to discharge or other cartridge failure, close proximity of subject or a scenario presents itself to be more advantageous to use a drive stun verses deploying probes.
 - **Probe** – contact is made with the subject, utilizing the CEW, with attached cartridge, and deploying the probes into the body of the subject.
 11. A departmental Incident Report, Taser Deployment Form and the department Use of Force report shall be completed whenever the CEW has been discharged.
- PROBE RECOVERY AFTER DEPLOYMENT**
1. After the subject is in custody the on duty Supervisor will ensure that aid has been rendered to the subject for primary and /or secondary injuries.
 2. All subjects, upon whom a CEW has been discharged will be transported to a hospital for medical evaluation and treatment.
 3. Photographs will be taken of the probe wounds and held for evidence.

4. The probes will be collected, placed back in the spent cartridge (sharp side down). The cartridge will be taped to secure the probes and placed in a biohazard / evidence bag. The bag will be labeled and placed in evidence.
5. First aid, probe disposal, and evidence collection will be included in the officer's initial report and any supplementary report.

RESPONSIBILITIES OF ADMINISTRATION:

1. Review any incident involving the CEW and ensure that the incident is documented.
2. Ensure that departmental approved training on the CEW is provided by a certified instructor. This training will include departmental approved basic certification and annual recertification.
3. Complete annual CEW Use Report to the Governor's Office of Crime Control and Prevention, before March 31, of each year beginning 3/31/2013.

RESPONSIBILITIES OF THE ON DUTY SUPERVISOR

1. Ensure that only properly trained officers are issued the CEW.
2. Ensure that all cartridges and the CEW are functional and accounted for at the end of the assigned shift.
3. Ensure that the CEW is properly unloaded and stored upon completion of the shift.
4. Ensure that the CEW is properly charged and operational prior to starting the shift.
5. Ensure that a departmental incident report, Taser Deployment Form and department Use of Force report is completed after the weapon has been deployed.
6. The supervisor will photograph, as soon as practicable, the CEW probe impact site, "Drive Stun" site and any injuries related to the CEW use. The supervisor will ensure the photographs

- are printed and attached to the Use of Force report.
7. The supervisor will, as soon as practicable, download the internal memory of the unit utilized. A memory report will be printed and attached to the Department's Use of Force Report.
8. Complete an incident report if weapon is damaged.
9. When the CEW is carried in the patrol vehicle ensure that it is secure and has no contact with direct sunlight or extreme heat.
10. The supervisor in-charge of the CEW's will complete a monthly inspection of all Departmental in-service CEW's. The inspection will include an internal memory download and printed report. The report will be forwarded to the Operations Commander.
11. The supervisor in-charge of the CEW units will download the internal memory and store it in a data base when a CEW is retired or replaced, to include, the date the weapon is taken out of operation.

USE OF IMPACT WEAPONS

1. Impact weapons are considered to be less lethal weapons.

An officer need not sequentially escalate the force continuum before using an impact weapon. The officer need only justify that empty-hand control, the use of O/C Spray, or CEW would not be sufficient or practical to safely and effectively place an individual under control.

2. Officers who employ an impact weapon should do so with the intent to temporarily disable an individual and not to cause permanent injury or dispense punishment.

Primary targets of a strike from an impact weapon should be an individual's

major muscle groups, motor points, abdomen, limbs and/or joints.

Striking an individual with an impact weapon in the groin, any part of the body above the shoulders, or the back is permitted **only** in situations where deadly force would be justified.

3. After striking an individual with an impact weapon, and control of the person has been obtained, the officer will afford the individual medical treatment should, in the officer's judgment, medical treatment be required or if requested by the person himself.

4. Impact weapons are permitted to be used for other lawful purposes during an officer's duties (e.g., gaining entry to vehicles, gaining entry to residences, destroying animals, etc.).

5. If there is an emergency, other objects or pieces of equipment may be used as an impact weapon "of necessity" (e.g. flashlights, tree branches, metal or plastic pipes, or tubes).

6. A departmental Incident Report and the department Use of Force report shall be completed whenever an officer has used any type of impact weapon.

REPORTS AND INVESTIGATION:

1. A departmental incident report will be submitted by any officer who discharges a firearm, in any manner, other than training. An Incident Report and a department Use of Force report will be submitted when an officer:

takes any action that results in, or is alleged to have resulted in, injury or death of another person;

applies force through the use of lethal or less lethal force Level 3 – Level 7; and

utilizes any level of the Force Continuum to control or destroy an animal.

2. The Incident Report and a department Use of Force report will fully document the incident and be submitted to the officer's

immediate supervisor, within a reasonable amount of time, for review.

3. The Incident Report and department Use of Force report documenting the use of force will be reviewed by the on duty Supervisor, Command Staff and the Chief of Police.

4. Accidental discharges will be documented by the officer and investigated by the supervisor in charge at the time. The officer's report should fully explain the circumstances surrounding the discharge and the supervisor's report should include recommendations for disciplinary action or training.

5. When shots are fired the on duty Supervisor will immediately respond to the scene and, as soon as possible, notify the Chief of Police through the appropriate chain of command.

6. In instances where use of force results in death, an allied agency will conduct an independent investigation at the direction of the Chief of Police. The Criminal Investigation Division will assist if requested.

7. All findings, recommendations, and reports will be forwarded to the Chief of Police.

8. The following checklist may be used as a guide to ensure complete details of the incident:

time and date of incident;

place of occurrence; address and location;

officer involved; name, rank and badge/ID number

suspect involved; address, name, D.O.B., sex, race and telephone number;

person arrested; address, name, D.O.B., sex, race and telephone number;

place of arrest;

complainant's name, address, D.O.B., sex, race and telephone number;

type of offense and case number;

investigating supervisor, rank, star number;

original reason for contact with suspect by officer involved;

injuries; be specific as to nature, extent, and how it was inflicted (e.g. three inch laceration, right side of head), where & who treated;

witnesses to the fact; address, name, D.O.B., sex, race and telephone number; and

statement of witnesses should be made a part of this report but need not be incorporated in its entirety.

9. Upon completion of a use of force investigation, the Criminal Investigation Division Lieutenant will submit a report as to: propriety of action taken;

endorsement of action taken; and

outline corrective measures taken or suggestions, if deemed necessary.

10. This report shall be immediately routed as follows:

original to Chief of Police; and

copies to remaining staff officers

11. This report shall be submitted immediately. Necessary supplemental reports may be forwarded within a reasonable length of time.

12. Any officer whose use of force results in a death or serious physical injury will be immediately placed on administrative leave after the completion of the preliminary report of the incident. This leave shall be without loss of pay or benefits, pending the results of the investigation. The assignment to administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly. While on administrative leave, the officer shall remain

available at all times for official department interviews and statements regarding the incident, and shall be subject to recall to duty at any time.

13. An annual audit of all Use of Force reports filed will be conducted. This report will investigate any patterns or trends that could indicate training needs and/or procedure modifications necessary.

14. The Chief of Police will determine if a Firearm Use Committee shall be convened.

15. Four sworn members of the Department will comprise the Firearms Use Committee. One Commander, one Sergeant, one Patrol Officer/Range Officer, and one Patrol Officer. These members will be appointed by the Chief of Police to review and make recommendations concerning the use of firearms by Department personnel. Such members will be answerable only to the Chief of Police.

16. Whenever a member of the Department is involved in the Use of Force, of any kind, on or off duty, in another jurisdiction, he shall, as soon as possible, notify the on duty Supervisor and relay the details of the incident. The Supervisor shall notify the on duty Staff Officer who will notify the Chief of Police. The CID Commander will be assigned to investigate the incident.

17. A Use of Deadly Force Review Board shall convene and review circumstances attendant to each discharge of a firearm by a department member. The Board shall consist of a Captain or Above (Board Chairman), a Lieutenant, Sergeant of a Patrol Unit, and Two members of the same rank as the member who discharged his weapon. The Use of Deadly Force Review Board will evaluate, in explicit and fact-finding fashion, each aspect of an officer-involved shooting. Such evaluation shall include:

- a thorough review of the investigation report
- a thorough review of the officer's supervisor report
- a thorough review of the officer's

report.

- Hearing of direct testimony, if necessary, from officers and witnesses

18. The Use of DeadlyForce Review Board will develop findings and make recommendations to the Chief of Police in the following areas:

- whether the shooting was within policy, out of policy or accidental
- training considerations
- discipline considerations
- the post shooting investigative processes and quality

19. In all cases where any person has been Injured or killed as a result of firearm discharge by a police officer, the involved officer will be required to undergo a debriefing with the department psychiatrist as soon as possible after the incident. The purpose of this debriefing will be to allow the officer to express his feelings and to deal with the moral, ethical, and/or psychological after-effects of the incident. The debriefing shall not be related to any department investigation of the incident and nothing discussed in the debriefing will be reported to the department. The debriefing session will remain protected by the privileged physician-patient relationship. The involved officer and his family will also have available to them the services of the department Chaplain. The purpose of this offer is to provide the officer and/or his family with a source of professional consultation to aid them in dealing with the potential moral and ethical after-effects of a shooting incident. The Chaplain services shall not be related to any department investigation of the incident and nothing discussed will be divulged to the department. The consultation sessions will remain protected by the privileged relationship.