



**THE CITY OF SHAKER HEIGHTS
DEPARTMENT OF POLICE**



GENERAL ORDER: 0401

SUBJECT: Response to Threats

EFFECTIVE DATE: November 25, 2020

REVIEW: Annually

AMENDS/SUPERSEDES: Amended January 24, 2020

CALEA: 1.2.2, 4.1.1, 4.1.2, 4.1.3, 4.1.5, 4.1.6, 4.1.7, 4.2.1, 4.2.2, 4.2.4, 4.2.5, 4.3.4

PURPOSE

To establish guidelines for personnel of the Shaker Heights Police Department when responding to a known or a perceived threat in furtherance of their sworn duties.

POLICY

The Shaker Heights police department respects and values the sanctity of human life and is deeply committed to the preservation of the life and dignity of all persons without prejudice or bias in the performance of our duties.

Officers will only use reasonable force to accomplish lawful objectives and apply de-escalation techniques when possible. All responses to threats by our officers, which are found to be reasonable, shall be considered within policy, whether or not the specific response/action is addressed in this policy.

The legal authority for Shaker Heights Police Officers to carry and use weapons in the performance of their duties can be found in Ohio Revised Code 715.05.

DEFINITIONS

For the purpose of this General Order, the following definitions apply:

Physical Harm: Physical damage to a person's body. Black's Law Dictionary (9th ed. 2009).

Serious Physical Harm: Serious physical impairment of the human body; esp., bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement or protracted loss or impairment of the function of any body part or organ. Black's Law Dictionary (9th ed. 2009).

Less Lethal Force: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain or overcome the resistance of another.

Deadly Force: Violent action known to create a substantial risk of causing death or serious bodily harm. Black's Law Dictionary (9th ed. 2009).

Graham v. Connor: 490 U.S. 386 (1989), The Officer must only use that force which a reasonably prudent Officer would use under the same or similar circumstances.

Imminent Danger: 1. An immediate, real threat to one's safety that justifies the use of force in self-defense. 2. *Criminal law*, the danger resulting from an immediate threatened injury sufficient to cause a reasonable and prudent person to defend himself or herself. Black's Law Dictionary (9th ed. 2009).

Objectively Reasonable: The determination that the necessity for using force and the appropriate level of force is based upon the officer's evaluation of each situation in light of the totality of the circumstances known at the time the force is used and based upon what a reasonably prudent officer would use under the same or similar circumstances. These circumstances include, but are not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

Reasonable: (*adj.*): 1. Fair, proper, or moderate under the circumstances <reasonable pay>. 2. According to reason <your argument is reasonable but not convincing>. 3. (Of a person) having the faculty of reason <a reasonable person would have looked both ways before crossing the street>. Reasonableness, *n.* Black's Law Dictionary (9th ed. 2009).

Totality of the Circumstances: All facts and circumstances known to or perceived by the officer(s) at the time of the event, taken as a whole, including the conduct of the officer(s) and the subject.

De-escalation: Taking action or communication verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary.

Choke Hold: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

Vascular Neck Restraint: Pressure applied to the sides of an individual's neck, which restricts blood flow to the brain causing the subject to lose consciousness.

Warning Shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

Exigent Circumstances: Circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect or some other consequence improperly frustrating legitimate law enforcement efforts.

GENERAL:

The Shaker Heights Police Department is cognizant that in tense, uncertain, and/or rapidly evolving incidents, a trained Officer(s) may have to use technique(s)/tactic(s), weapon(s), and/or objects that can be modified/used as weapons, that are not part of the Department's formal training program; as well as may not have been identified, nor even contemplated, in this policy to be used as weapons, but must be used to reasonably respond to a real and/or perceived threat.

PROCEDURES:

I. Responding to Threats

- A. Officers will use only the amount of force, which is reasonable, through the use of authorized less lethal force techniques and/or weapons to affect an arrest, overcome a subject's resistance to arrest, prevent escape and/or to defend themselves or another person(s) from harm and/or injury.
- B. The response to threats by Police Officers, whenever possible, should be progressive in nature.

- C. A Police Officer must weigh the individual facts and circumstances known collectively, and use that amount of force, which is reasonable to control, and/or gain compliance from the individual(s).
 - 1. Facts unknown to a Police Officer at the time the force was used, no matter how compelling will NOT be considered, at a later date, to justify or condemn the Response to Threat.
 - 2. When it is objectively reasonable to believe that a subject is fully under control, then the use of force must terminate immediately.

II. Responding to Deadly Threats

- A. A Shaker Heights Police Officer's use of deadly force, in response to a deadly threat, is considered reasonable when:

- 1. The Police Officer(s) believes deadly force is necessary to defend him/her against death or imminent danger of serious physical injury.
- 2. The Police Officer(s) believes deadly force is necessary to defend another person from death or imminent danger of serious physical injury.
- 3. The use of deadly force is necessary to prevent the escape of a suspected fleeing felon and the Police Officer believes that the suspected felon poses an immediate threat of death or imminent danger of serious physical injury to the Police Officer or others if their apprehension is delayed.

- B. Recommendations

- 1. Where reasonable, appropriate, and not prevented by physical environment, distance or other situational circumstances, officers should provide warning prior to the use of deadly force.

- C. Restrictions

- 1. Shaker Heights Police Officers are prohibited from firing warning shots.
- 2. Chokeholds and or vascular neck restraints shall not be used for the purpose of gaining control over a subject unless deadly force would be considered reasonable.
- 3. Firearms shall not be discharged at a moving vehicle unless:
 - i. A person in the vehicle is threatening the officer or another with deadly force by means other than the vehicle; or
 - ii. The vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical) including moving out of the path of the vehicle.
 - iii. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.

III. Rendering Post-Threat Aid

- A. Medical aid shall be provided, as quickly as *reasonably* possible, when response to threats have caused visible injury, or the subject requests medical attention.
- B. Mandatory Activations of the Emergency Medical System shall be utilized in the following circumstances:
 - 1. Severe Injuries have occurred
 - 2. Medical Distress is Apparent; or
 - 3. The Individual is Unconscious
- C. Appropriate medical aid may include, but is not be limited to, the following:
 - 1. Increased observation to detect obvious changes in condition;
 - 2. Applying first aid;
 - 3. Evaluation by medically trained/certified individuals;
 - 4. Immediate aid by medical professionals for more serious or life-threatening incidents.

IV. Reporting Procedures

- A. A Written Report and a Response to Threat Report (Form 0401-A) are required from any employee who, in the course of their duty:
 - 1. Discharges a firearm in reaction to a Response to Threat;
 - 2. Takes an action that results in, or is alleged to have resulted in, injury or death of another person;
 - 3. Applies force through the use of lethal or less lethal weapons;
 - i. Includes pointing a firearm, less lethal munitions launcher or CEW at a person.
 - 4. Applies less-lethal physical force or techniques against a subject greater than the minimal level of force used to place someone in handcuffs.
- B. When multiple Officers are engaged in the same Response to Threat incident, the “Primary Officer” will complete the form which will include reporting on each of the assisting officers’ responses to threats. Each assisting officer will be responsible for initialing the form in the appropriate box affirming what the primary officer has reported.
- C. When a Police Officer’s actions amount to, result in, and/or are alleged to have resulted in injury or death to another person, the Police Officer’s actions will be documented in accordance with GO 0106, Critical Incidents.

V. Review/Investigations

A. Response to Threats

1. Each incident shall be reviewed by the Officer's supervisor and the Training Unit for his/her review. The report shall also be administratively reviewed by the chief or his designee. Exemplary performance, training needs and suspected policy violations will be forwarded to the appropriate Bureau Commander for additional review.
2. Final copies of all Response to Threat incidents are maintained by the Police Information Unit.

B. Deadly Force

1. Each incident shall be assigned to the following for review and/or investigation:
 - i. Investigation Unit
 - ii. Internal Affairs Unit
 - iii. Prosecutor's Office
2. Upon the completion of the review/investigation, the incident shall be forwarded to the Administrative Review Committee as outlined in GO 0106, Critical Incidents.

C. Annual Analysis

1. The Training Unit shall conduct an analysis of response to threat activities, policies and practices and submit findings to the Chief of Police. The analysis shall include a review of assaults on Police Officers and identify the following:
 - i. Date and time of incidents;
 - ii. Types of encounters resulting in the use of force;
 - iii. Trends or patterns related to race, age and gender of subjects involved;
 - iv. Trends or patterns resulting in injury to any person, including employees;
 - v. Impact of findings on policies, practices, equipment and training.

VI. Training

- A. All personnel of the Department, who are authorized to carry Department issued weapons, will be instructed in ALL General Orders covering Use of Force and Deadly Force (Response to Threat) and issued copies of these orders prior to being authorized to carry a weapon and to maintain that authorization.
- B. Annually, Department personnel, who are authorized to carry department issued weapons, shall be trained and tested on the Department's Response to Threat policy, de-escalation techniques and shall also demonstrate proficiency with any departmentally approved

weapons. Records shall be documented and maintained in the Office of the Training Unit.

VII. Distribution and Policy Training

- A. Following the release of a revision to this policy, all department personnel, who are authorized to carry Department issued weapons, shall be assigned this policy for review and electronic read and sign.

Approved by the order of

(Signature on file in The Office of Professional Standards)

Jeffrey N. DeMuth
Chief of Police