



Rules and Regulations # 2000-01

Use of Force

Date Issued
4/3/2000

Effective Date
4/3/2000

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Use of Force Policy

Policy Statement

Members are expected to only use force in a lawful and justifiable manner. This means the unnecessary use of force or the use of force in an excessive or unreasonable amount or the use of force in a cruel manner is an unjustified use of force and violates this policy and the law.

Members may never use deadly force to effect the seizure, custody or apprehension of a person unless the employee can establish probable cause to believe the person has the ability and opportunity to seriously injure or take a person's life. In such cases, deadly use of force may be permitted provided it is used in a justified manner.

Nothing in this policy is to be construed to hold a member to a higher standard of care when reacting to a life-threatening situation than allowed in the principles of the emergency response doctrine.

Members are expected to justify their use of any force in any criminal, civil or administrative proceedings. Members who cannot or will not comply with this policy will subject themselves to disciplinary action up to and including termination as well as the possibility of criminal and civil liability.

Discussion

To aid members' understanding of the explicit meaning as well as the intent of this policy, members are expected to study the discussion, definitions, listing of examples of violations and non-violations and the Use-of-Force Continuum provided in the following sections. **SPECIAL ATTENTION: The examples of violations and non-violations provided in this discussion are not exclusive of all possible examples; others may apply.** If after reading these examples you still have doubts about their intent, contact a supervisor immediately.

Force is defined as any power an employee uses in motion or in action, constraining power, compulsion or strength directed to an end. An employee's force may be physical or verbal if it stops, restricts or directs another person's motions or actions.

However, not all actions taken by an employee in the pursuit of duties are considered force. Examples of non-force:

- Requesting information from another in such a manner that a reasonable person would not feel compelled to provide.

- Seeking answers to questions in a manner that would be construed common interviewing procedures to complete an investigation, incident report, or field interview resulting from reasonable suspicion.
- Providing physical assistance in a time of need such as at the scene of an accident, emergency, civil disturbance or gathering of a large crowd.

Examples of Force

- A command or order with which a reasonable person would feel obligated to comply.
- The physical or constructive seizure or search of another person.
- An attempt to physically or constructively seize, search, constrain or contain another person.

Two distinct restrictions are placed on employees who use force. First, force must not be used in an unlawful manner; that is, contrary to statute. Second, the manner in which it is used must be justified. Justified means it must comply with administrative directives, training and practices.

Examples of Unjustified Force

- Using language (verbal or physical gestures) on a suspect or prisoner that could be reasonably construed to be inflammatory, insulting, derogatory or degrading.
- "Baiting" (through physical or verbal actions or gestures) another person to resist an arrest or apprehension in an attempt to justify the use of physical force.
- Continuing in any phase of a high-speed pursuit or pursuit operations in violation of departmental policy.
- Using force in an unusual manner such as carrying, possessing or using unauthorized weapons, firearms, ammunition or tactics.
- Firing a weapon at or from a moving vehicle when the risk of a stray or missed shot may reasonably be inferred to endanger another.
- Using force in excess of that expressed in our Use-of-Force Continuum.

Employees' use of force must be aligned with the concepts and principles of the Department's Use-of-Force Continuum. The Continuum is a conceptual model that depicts the dynamic relationship between a suspect's level of resistance to apprehension and the employee's level of force used to overcome such resistance.

The Use-of-Force Continuum

The continuum will assist use-of-force decision-making. Three variables interact:

- The level of suspect resistance.
- The level of force used by the employee to overcome the suspect's level of resistance.
- The tactics and/or weapons used by the employee to overcome suspect resistance.

As the suspect's resistance escalates, so may the employee's level of force increase. If the suspect's resistance de-escalates, the employee's use of force must de-escalate as well.

Example One

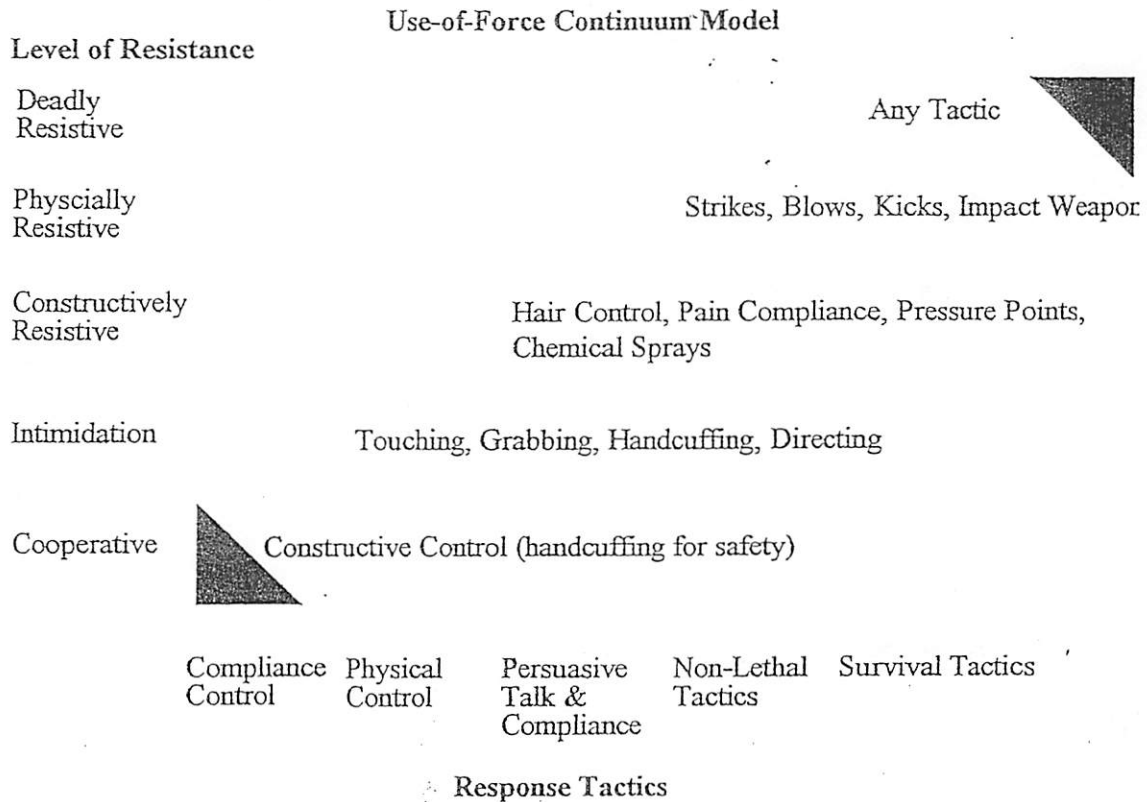
The suspect fully cooperates, allowing the employee to use the lowest levels of force in the model (i.e., Verbal Commands and Physical Control). Appropriate tactics would be - -Constructive (e.g., directing, controlling, handcuffing).

Example Two

The suspect suddenly escalates from being cooperative to being deadly resistive (e.g., grabs for the employee's sidearm). The Continuum permits the employee to use any survival tactic he or she is capable of using to reduce the threat until the threat is diminished.

Example Three

The suspect physically assaults the employee (Physically Resistive). The employee defends with an impact weapon (Non-lethal Tactics). Resistance is overcome and the suspect becomes fully cooperative. The member reduces force to a level of physical control.



Definitions

The following definitions describe the level of resistance described in the Continuum.

Levels of Resistance:

- **Cooperative.** The suspect willingly complies with the reasonable directions of the employee who is attempting to accomplish a lawful and safe arrest or custody. No resistance is offered.
- **Intimidation.** The first level of resistance. Intimidation inflames and creates a possibility of resistance if left unchecked. Resistance may take several different forms to include verbal taunting, attempts to distract the employee, threats of injury, making racial slurs and using profanity or vulgarity of the nature that would tend to inflame another.
- **Constructively Resistive.** Walking away from an employee's commands, failing to comply with the employee's verbal commands or any other attempts on the employee's part to gain control of the situation are examples. Physical attempts to pull or jerk away from the employee are at this level. No physical force is directed towards the employee.

- **Physically Resistive.** Includes grabbing, pushing, punching, kicking, biting, and throwing objects at the employee. In short, the person has committed an unlawful battery on the employee.
- **Deadly Resistive.** The highest level of resistance and includes demonstrated intentions to seriously injure the employee or render him/her unconscious or incapable of self-protection. Such things as attempts to grab the employee's sidearm, high-velocity strikes and blows at the employee's head, throat, or vital organs and any action that if successfully completed would have a high probability of causing serious lasting or permanent injury or death.

Levels of Force in Response to Resistance

- **Compliance Control.** This includes all lawful commands. Verbal orders as well as physical gestures are included here. Their purpose is to establish physical control or to complete an arrest or investigatory or custodial procedure.
- **Physical Control.** Includes physically touching, grabbing, knocking off balance, or holding of the arrestee or suspect for the purpose of accomplishing a lawful frisk, arrest, handcuffing, search, investigatory or custodial procedure.
- **Persuasive Tactics & Compliance Commands.** Included are the uses of pressure points, pain compliance holds, physical takedowns with the intent to overcome and control the suspect's physical resistance. There is no expectation of causing lasting, serious or permanent injury or death.
- **Non-Lethal Tactics.** Deliberate use of any physical skills, tactics or impact weapons to defend against an arrestee's or suspect's physical assault is included here. The intent is to overcome and stop physical resistance while minimizing the risk of serious injury or death.
- **Survival Tactics.** Any tactic, including lethal force, to prevent or mitigate a deadly assault is permitted at this level. The employee must be able to support such actions with probable cause. **Notice:** This chart is not exclusive of all possible situations or responses.

If-Then Chart for Interpreting the Appropriate Use of Force

IF RESISTANCE ENCOUNTER IS:	THEN THIS LEVEL OF FORCE:	APPROPRIATE TACTICS:
Cooperative	Compliance Control	Words and actions that amount to a constructive seizure or arrest. (Note: handcuffing may occur when safety is a concern.)
Intimidation	Physical Control, plus above	Above, plus Handcuffing, Touching Grabbing, Directing Tactics
Constructively Resistive	Persuasive Tactics, plus above	Hair Control, Pain Compliance, Pressure Points, Chemical Sprays, plus above
Physically Resistive	Non-Lethal Tactics, plus above	Strikes, Kicks, Impact Weapons, plus above
Deadly Resistive	Survival Tactics, plus above	Any tactic or instrument to stop the attack, plus above

Force is divided into two categories, deadly and non-deadly. Deadly force is defined as any force that the employee uses, either intentionally or without intent that has the result of causing or creating a substantial risk of causing death or serious bodily harm. It is that degree of force that can be reasonably expected to be the proximate cause of a life-threatening injury or death of a person. Non-

deadly use of force is every other use of force not defined as deadly. Examples of the use of deadly force:

- Drawing, pointing and firing a weapon at another person with the intent to stop another person's actions. This includes warning shots.
- Directed or aimed blows to the head with instruments or equipment that has the capacity to cause concussions or to break the skull.
- Directed or aimed blows to vital body regions (e.g., throat, sternum, kidneys, heart) with instruments or equipment that has the capacity to cause serious bodily injury or death.
- Intentional firing into a crowd, through any opaque objects such as a door, into bushes or darkened areas where the target is not directly visual or firing at or from a moving vehicle or object.
- While engaged in a high-speed pursuit, intentionally ramming a fleeing vehicle in an attempt to get it to stop or to terminate pursuit.

Examples of Non-deadly Uses of Force

The uses of non-deadly force in a lawful manner where the employee would not reasonably expect force to contribute to a person's death or cause serious injury. Such as:

- Physically arresting a resisting suspect that results in the suspect suffering a non-predictable fatal heart attack.
- Having to physically wrestle a resisting suspect to the ground and the suspect falls, striking his head in a death-resulting blow or serious injury.
- Displaying or discharging a firearm when no real or constructive intent is evidenced that the discharge was other than accidental.

Emergency Response Doctrine

This section reaffirms an employee's right to use any level of force deemed necessary to protect the employee's life, or the life of another, when faced with a bon-a-fide life-threatening situation. This is the basic doctrine of emergency response. This doctrine provides for a lower standard of care in these cases when the following four conditions are satisfied:

- The employee did not create the emergency situation.
- The employee was acting under an immediate and direct threat.
- The level and amount of force used was reasonable given facts and circumstance at the time.
- A reasonable and prudent person might have been expected to react similarly under similar conditions.

The administration does not wish to second-guess employees' decisions in true emergency response situations. To do so creates policy that in effect holds them to a higher standard of care than required by law under these situations. The right to use deadly-force is well established in the law and is based on the employee's knowledge of the facts and circumstances at the time of incident, not later. The proper body to judge the adequacy of such a defense is the court system, which makes its decisions on a case-by-case basis. However, employees are cautioned they will always be expected to provide probable cause to believe that their use of force was permitted by law and this policy.

All uses of force are subject to legal and/or administrative review. Employees must cooperate fully with all civil, criminal or administrative proceedings associated with any use of force situation or face disciplinary action up to and including termination. This applies to employees who are the subjects of the proceeding as well as any employee who the Department believes can provide useful information necessary to the proceedings.

The level of proof that will be used to support discipline or termination decisions in an administrative proceeding will be "substantial." This means that level of proof necessary to logically persuade a

reasonable mind to believe that the evidence is true. Employees are cautioned that it is a dismissive offense to refuse to provide information requested in any administrative hearing if the request is given as a direct order from a superior command, is narrowly and directly related to the nature of the inquiry and the employee is forewarned of the probability of termination for refusing to provide the requested information.

Good intentions do not justify a use-of-force situation. The result of the employee's use of force is equally decisive in administrative decision making. Not all circumstances will permit the retention of an employee who has used force improperly, regardless of intent.