



CLEVELAND DIVISION OF POLICE

GENERAL POLICE ORDER



EFFECTIVE DATE: JULY 1, 2019	CHAPTER: 2 – Legal	PAGE: 1 of 3	NUMBER: 2.01.01
SUBJECT: USE OF FORCE – DEFINITIONS			
CHIEF: <i>Calvin D. Williams, Chief</i>			

Substantive changes are italicized

PURPOSE: To define terminology used in the Cleveland Division of Police Use of Force policies.

DEFINITIONS:

Canine Apprehension: When a canine is deployed and plays a clear role in the capture of a person. The mere presence of a canine at the scene of an arrest or use of a canine solely to track a subject will not count as a canine apprehension.

Critical Firearm Discharge: *Discharge of a firearm by a member including, but not limited to accidental discharges, discharges at animals, other than to euthanize, and discharges at individuals where no one is struck, as well as discharges by officers employed by an outside law enforcement agency within the jurisdiction of the Division of Police.*

De Minimis Force: Physical interactions meant to guide and/or control a subject that do not constitute reportable force (e.g., use of control holds that do not cause pain and are not reasonably likely to cause pain; using hands or equipment to stop, push back, separate, or escort a person in a manner that does not cause pain, and is not reasonably likely to cause any pain).

De-escalation: The process of taking action to stabilize the situation, reduce the immediacy and level of a threat so that more time, options, and resources are available to resolve the situation and gain voluntary compliance. De-escalation techniques may include, but are not limited to, gathering information about the incident, assessing the risks, verbal persuasion, advisements and warnings, and tactical de-escalation techniques, such as slowing down the pace of the incident, waiting out subjects, creating distance (reactionary gap) between the officer and the threat, repositioning, and requesting additional resources (e.g., specialized CIT officers or negotiators).

Deadly Force: Any action that is likely to cause or does cause death or serious physical harm. It may involve a critical firearm discharge, but also includes any force or instrument of force (e.g., vehicle, edged weapon) capable of causing death or serious physical harm. Deadly force includes firing at or in the direction of a subject, head and/or neck strikes with any hard object, and any action that restricts the blood or oxygen flow through the neck.

FIT (Force Investigation Team): A team within the Internal Affairs Unit comprised of personnel who possess training and expertise from various specialized units. FIT membership shall be tailored to the circumstances of each investigation, but normally includes one or more FIT detectives, the FIT Sergeant, an Office of Professional Standards investigator, an Internal Affairs investigator, and a Homicide Unit supervisory officer, who will serve as the Team's leader. OPS investigators will not participate in criminal investigations.

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Force: Means the following actions by an officer: any physical strike, (e.g., punches, kicks), any intentional contact with an instrument, or any physical contact that restricts movement of a subject. The term includes, but is not limited to the use of firearms, beanbag shotgun, Conducted Electrical Weapon (CEW- e.g., Taser), ASP, chemical spray, hard empty hands, or the taking of a subject to the ground. Reportable force does not include escorting or handcuffing a subject, with no more than minimal resistance.

Intermediate Weapons: Weapons that interrupt a subject's threatening behavior so that officers may take control of the subject with less risk of injury to the subject or officer than posed by greater force applications, including but not limited to ASP batons, and Conducted Electrical Weapons (CEWs), Oleoresin Capsicum (OC) Spray and the beanbag shotguns.

Law Enforcement Officer: Includes, without limitation, all City of Cleveland police officers and any other law enforcement officers (including federal agents, state and county enforcement officers, and any other police officer of a foreign agency).

Levels of Force:

Level 1 Use of Force: Force that is reasonably likely to cause only transient pain and/or disorientation during its application as a means of gaining compliance, including pressure point compliance and joint manipulation techniques, but that is not reasonably expected to cause injury, does not result in an actual injury and does not result in a complaint of injury. It does not include escorting, touching, or handcuffing a subject with no or minimal resistance. Un-holstering a firearm and pointing it at a subject is reportable as a Level 1 use of force.

Level 2 Use of Force: Force that causes an injury, could reasonably be expected to cause an injury, or results in a complaint of an injury, but does not rise to the level of a Level 3 use of force. Level 2 includes the use of a CEW, including where a CEW is fired at a subject but misses; OC Spray application; weaponless defense techniques (e.g., elbow or closed-fist strikes, kicks, leg sweeps, and takedowns); use of an impact weapon or *beanbag shotgun*, except for a strike to the head, neck or face with an impact weapon or *beanbag shotgun*; and any canine apprehension that involves contact.

Level 3 Use of Force: Force that includes uses of deadly force; uses of force resulting in death or serious physical harm; uses of force resulting in hospital *confinement* due to a use of force injury; all neck holds; uses of force resulting in a loss of consciousness; canine bite; more than three applications of a CEW on an individual during a single interaction, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers; a CEW application for longer than 15 seconds, whether continuous or consecutive; and any Level 2 use of force against a handcuffed subject.

Levels of Resistance:

Active Resistance: Refers to instances in which a subject takes physical actions to defeat an officer's attempts to place the subject in custody and/or take control, but is not directed toward harming the officer. Active resistance may include but is not limited to pushing away, hiding from detection, fleeing, tensing arm muscles to avoid handcuffing or pulling away from an officer who

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is using force in the lawful performance of their duties. Verbal statements alone do not constitute active resistance.

Aggressive Physical Resistance: Refers to instances in which a subject poses a threat of harm to the officer or others, such as when a subject attempts to attack or does attack an officer; exhibits combative behavior.

Passive Resistance: Refers to instances in which a subject does not comply with an officer's commands and is uncooperative but is nonviolent and prevents an officer from placing the subject in custody and/or taking control. Passive resistance may include but is not limited to standing stationary and not moving upon lawful direction, falling limply and refusing to move (dead weight), holding onto a fixed object, linking arms to another during a protest or demonstration, or verbally signaling an intention to avoid or prevent being taken into custody.

Necessary: Officers will use physical force only when no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.

Neck Hold: A hold around the neck that may restrict the flow of oxygen or blood through the neck.

Reportable Force: Refers to force that officers must document and report in the manner outlined by the Use of Force Reporting Policy, GPO 2.01.05. Cleveland Division of Police uses of force are divided into three levels of response. The three levels for reporting, subsequent inquiry, and review of uses of force correspond to the level of force used and/or the outcome of the force.

Proportional: To be proportional, the level of force applied must reflect the totality of circumstances surrounding the immediate situation, including the presence of imminent danger to officers or others. Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to be applied. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater level of force that may be proportional, objectively reasonable, and necessary to counter it.

Serious Physical Harm: Any physical harm that carries a substantial risk of death; any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity; any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement; any physical harm that involves acute pain of such duration as to result in substantial suffering or involves any degree of prolonged or intractable pain. (ORC 2901.01)