CLAYTON
MISSOURI

Police Department

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DEPARTMENT GENERAL ORDER 20-13

OFFICE of the CHIEF OF POLICE
REPLACES: General Order 11-08 and 11-08A

DATE: July 6, 2020

USE OF FORCE

I. PURPOSE.

The purpose of the policy is to provide members of the Clayton Police Department with the guidelines for the use of less-lethal and deadly force.

II. POLICY.

As each human life is endowed with special and unique value, it is the policy of this department to value and preserve human life. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.

The decision to use force "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, whether the subject is actively resisting arrest or attempting to evade arrest by flight."

In addition, "the 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers' action are 'objectively reasonable' in light of the facts and circumstances confronting them." (Graham v. Connor, 490 U.S. 386 (1989)

The excessive use of force, or misuse of force, is strictly forbidden.

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III. DEFINITIONS.

Accountability - The state of being responsible to higher authority for specified job-related actions.

Administrative Reassignment - A temporary, on or off-duty, change of assignment resulting from the use of force, as determined by the Chief of Police.

Choke Hold - A physical maneuver that restricts an individual's ability to breath for the purpose of incapacitation.

Deadly Force - Any use of force that creates a substantial risk of causing death or serious bodily injury.

De-Escalation - Taking action or communicating verbally or non-verbally during a potential use of 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. This may include the use of such techniques as command presence, advisement, warnings, verbal persuasion, and tactical repositioning.

Excessive Force - Force in excess of what an objectively reasonable police officer believes is necessary.

Immediate Threat - Imminent or impending peril.

Internal Memorandum - A written document that is generally used to clarify, inform, or inquire.

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.

Lethal Weapon - Any weapon that has the capability of and was designed to cause death.

Less-Lethal Weapon - Any weapon designed not to cause death when properly used.

Police Officer - A sworn, commissioned member of a law enforcement agency.

Objectively Reasonable - The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation considering the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

Serious Physical Injury - A bodily injury that creates a substantial risk of death; causes serious permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

Substantial Risk - The possibility that a certain, and undesirable, outcome may result from a chosen course of action.

Vascular Neck Restraint - A tactic that restricts blood-flow to the brain which causes an individual to be rendered unconscious.

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

IV. GENERAL.

While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would be clearly ineffective under the circumstances which exist at the time of the incident. Therefore, officers shall use only that level of force which appears reasonably necessary to effectively bring an incident under control, or to protect their lives and/or well-being or that of another.

The contents of this order are intended for internal departmental use only and should not be construed as establishing a higher legal standard of safety or care in an evidentiary sense with respect to third party civil claims. In addition, the contents of this order will form the basis for the administrative review of qualifying "Use of Force" incidents and may serve as a foundation for disciplinary action concerning conduct allegedly performed without regard to the policy and procedures established herein.

It should be noted however, that established policy and procedures governing the "Use of Force" are not intended to force sworn officers to assume unreasonable risks. In assessing the need to use physical force, and lethal force, the paramount consideration should always be the safety of the officer and general public.

The use of physical force should be discontinued when resistance ceases or when the incident is under control. Physical force shall not be used against an individual in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, another person, or property damage. In these

situations, only the minimal amount of force necessary to control the situation shall be used.

A. Use of Force Continuum

Officers shall use an escalating scale of force. The force used by the officer shall be determined by the level of resistance encountered, or the threat of physical resistance or interference by a suspect or other individual. This escalating scale of force, identified as a "Use of Force Continuum" contains the following stages:

Levels of Resistance	Response Options
Psychological Intimidation	Officer Presence/De-Escalation
Verbal Non-compliance	Voice Request/Command/ De-Escalation
Passive Resistance	Soft Empty Hand Control (Pain compliance only as needed)
Defensive Resistance (Physically resists/ non-assaultive)	Pepper Spray Taser Conductive Energy Weapon Hard Empty Hand Control (Joint locks, stun blows, motor dysfunction, take downs, etc.) Pepperball Deployment Area Saturation Smoke Munitions CS Smoke Munitions OC Vapor Munitions NFDD (Flash Bangs) Munitions
Active Resistance (Overt actions of assault)	Intermediate Weapons Pepper Mace Taser Conductive Energy Weapon. Physical Strikes with Baton (Stun blows, take downs, etc.) Pepperball Deployment - Direct Impact Direct Impact Munitions - 40 mm

Aggravated Active Aggression (Intent to cause death or serious physical injury)	Lethal force

B. Training and Qualification Requirement

All commissioned officers must successfully obtain the proper training/ certification in the safe and proficient use of departmentally authorized weapons and defensive tactics, and subsequently maintain the required levels of proficiency with same. Firearms training, defensive tactics training, and training in the use of less lethal weapons shall be conducted by certified weapons/tactics instructors. As such, the department shall schedule regular training and qualification sessions through in-house training, the St. Louis County and Municipal Police Academy and other training providers.

Qualification and training sessions in both on-duty and off-duty firearms shall be conducted on an annual basis. Qualification and training sessions in regard to special weapons usage shall be conducted as frequently as necessary, but at least once every calendar year. Qualification and training sessions in the use of less-lethal weapons, such as pepper spray, baton, Taser, and defensive tactics shall be graded on a pass/fail basis.

All firearms and/or other formal "Use of Force" training shall be properly documented with the training certificates and entered each officer's personnel file. In addition, quarterly training can be documented with this department's In-Service Training Form.

Should an officer fail to achieve a required qualification score, they shall receive remedial training as soon as possible after the initial failure and be re-tested on the same day, if feasible. Should the officer again fail, they shall be reassigned to administrative duty while undergoing an intensive program of remedial firearms training. If the officer does not successfully qualify with the firearm within a reasonable period of time as determined by the Chief of Police, the officer may not carry a weapon or serve as a commissioned officer of this department.

C. Accountability and Responsibility for Use of Force

In being vested with the legal authority to employ lethal and less lethal force to protect the public welfare, the Police Department, and the individual members which comprise same, bear a clear responsibility to utilize such authority in a responsible and prudent manner.

1) Command and Supervisory Responsibility

Department commanders and supervisors have a responsibility to closely monitor the day-to-day performance of employees under their supervision. Command and supervisory personnel must maintain an awareness of any subordinate experiencing difficulties in dealing with the public and make recommendations for specific remedial action, training, or counseling. Commanders and supervisors are also accountable for the compliance of their subordinates with the provisions of this General Order.

2) Individual Responsibility

Sworn and non-sworn employees of the department are required to uphold the standards of conduct established for the proper and legitimate use of lethal and less lethal force. An officer has the duty to intervene to prevent or stop the use of excessive force when it is safe and reasonable to do so. Should any employee witness or become aware of an incident involving the excessive "Use of Force" as described in this order, it shall be that employee's responsibility to immediately report same to the appropriate First Line Supervisor for investigation.

Any employee who fails to report physical or verbal abuse against a citizen by another member of the department shall be subject to disciplinary action.

D. Off-duty Use of Force

Any officer of this department who becomes involved in a serious injury or deadly force incident while off-duty, either within the City of Clayton or another jurisdiction, shall be required to adhere/comply with the policy and procedural guidelines presented in this General Order.

1) Notification Process

An officer involved in an off-duty "Use of Force" incident shall be required to notify the on-duty Watch Commander or First Line Supervisor at the earliest possible opportunity. They, in turn, will notify the appropriate Bureau Commander, the Commander of the Criminal Investigations Division, and the Chief of Police.

Once the requisite notifications have been made, the Watch Commander will proceed to the scene of the off-duty "Use of Force" incident.

2) Documentation

Should an incident occur outside of the City's jurisdiction, the Watch Commander or First Line Supervisor shall be responsible to compile a memorandum of the facts surrounding the incident. A copy of the complete incident report shall then be requested from the agency having legal jurisdiction over the incident. The incident report and memorandum shall then be forwarded through the chain of command to the Chief of Police.

Off-duty "Use of Force" incidents which may occur within the City shall be handled in accordance with the same procedures established for on-duty incidents.

E. Authorized Weapons

The department shall specify the type of weapons and ammunition authorized for use by sworn personnel during both on-duty and off-duty status periods. Refer to the appropriate General Order for specific requirements/restrictions and policy guidelines.

V. DE-ESCALATION.

A. Officers shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.

B. Whenever possible and when such delay will not compromise the safety of the officer and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, the officer shall allow an individual and opportunity to submit to verbal commands before force is used.

C. De-Escalation tactics can include using distance and cover, requesting additional resources, using verbal persuasion, tactical repositioning, and "slowing down" situations to allow more time for resolution.

VI. LESS LETHAL FORCE.

Where deadly force is not authorized, officers should assess the incident in order to determine which less lethal weapon or technique will best de-escalate the incident or bring it under control in a safe manner. Only the appropriate amount of force necessary to establish control is authorized. In making an arrest, no more force shall be used than is necessary to take a subject into custody, overcome any resistance that may be offered, and to ensure the prisoner is safely delivered to intake.

A. Parameters for use of Less Lethal Force

Police officers are authorized to employ less lethal force, including the use of department approved less lethal weapons for the resolution of conflict and confrontational incidents as follows:

1) To protect themselves or another from physical harm.

2) To restrain or subdue a hostile/combative individual.

3) To bring an unlawful situation safely and effectively under control.

In the event the application of less lethal force is necessary, officers shall not employ neck restraints which include choke holds, vascular neck restraints, or other drastic tactics with a potential for serious physical injury, except in those situations where the officer deems that they are in such imminent physical danger as to justify the use of such techniques to preserve their life, or otherwise protect themselves against immediate serious physical injury.

B. Less Lethal Weapons

The department permits the use of either the department issued baton, Taser, or aerosol pepper spray. Police officers may utilize these weapons individually or in combination against a person or animal in self-defense or after all reasonable means of subduing the subject have failed.

A flashlight may be used only when an officer is in imminent peril of serious physical injury and no other defensive resources are available.

C. Procedures to be Followed when Less Lethal Force is Utilized

1) Whenever a police officer is involved in an incident where less lethal force is used, the Watch Commander and appropriate supervisor must be notified at the earliest practical opportunity.

2) In those situations where less lethal force is used which results in personal injury, either claimed or apparent, for either a private individual or employee of this department, the Watch Commander and First Line Supervisor shall respond to the scene.

a. Upon arrival at the scene, the Watch Commander will be responsible for ensuring:

1. A thorough investigation is conducted and a complete area canvas is immediately undertaken to locate, identify, and interview all witnesses to the incident.

2. Medical attention is immediately obtained for any private individual or department employee who may have been injured in the incident.

   When possible, anyone arrested as a result of such an incident, and who requires medical attention, be accompanied in an ambulance or police vehicle by an officer not directly involved in the incident.

3. A complete and accurate police report is prepared and warrant application, if necessary, occurs while the suspect is still in custody and within twenty-four (24) hours of the incident.

4. Prepare appropriate documentation (Use of Force Report) through the Guardian Tracking System and forward same through the chain of command to the Chief of Police. This shall accompany a copy of the required incident report. The documentation will contain a conclusion, supported by facts, as to whether the use of force was justified, or found to be in violation of the provisions of this order.

   In the event the Watch Commander is unavailable, the Responsibility for documentation shall reside with the First Line Supervisor.

5. Ensure appropriate notifications are initiated and that a copy of the completed incident report is forwarded through the chain of command to the Chief of Police for review.

VII. LETHAL FORCE.

After all other reasonable means of apprehension or control have been weighed, deadly or lethal force may be used under such circumstances that comply with the guidelines established herein.

A. Parameters for use of Deadly Force

1) To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious physical injury.

2) To effect an arrest or prevent an escape when the officer has reasonable cause to believe that a suspect has committed or is attempting to commit a felony involving the use or threatened use of

deadly force, and that the officer has reasonable cause to believe that there is an immediate risk that the suspect will cause death or serious physical injury if apprehension is delayed.

3) Where feasible, the officer shall identify themselves as a law enforcement officer and warn of their intent to use deadly force. (Tennessee v. Garner, 471 U.S. 1 12 (1985)). Feasibility must be based on the considerations of the officer on the scene and if issuing a verbal warning presents a heightened risk to the safety of the officer or another person, the officer may employ deadly force without delay.

4) Deadly force should not be used against persons whose actions are a threat only to themselves or property.

B. Other Sanctioned Discharge of Firearms

1) Officers may use firearms to give alarm or to call for assistance in an emergency situation when no other means can reasonably be used, and where such use can be done in a safe manner.

2) To destroy an animal which presents a substantial risk of harm to the officer or others, or when an animal is so badly injured that it should be destroyed to prevent additional suffering.

3) For target practice at an approved firing range, to compete in shooting competitions, and for legal recreational purposes.

C. Restrictions on Discharge of Firearms

1) Firearms shall not be discharged to fire a warning shot.

2) Firearms shall not be discharged at or from a moving vehicle unless the occupant(s) of the vehicle represent a direct and immediate threat to the life and safety of an officer or other person, and then only as a last resort. Further, all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

3) Firearms shall not be discharged when there is a clear risk to the safety of innocent persons.

D. Procedures to be Followed when a Firearm is Discharged (Gunshot Wound Inflicted)

1) When a police officer has discharged a firearm causing a gunshot wound to be inflicted to any person, or when a police officer has been shot, the Criminal Investigation Division shall investigate the circumstances of the shooting incident. However, contingent upon the situation, the Chief of Police reserves full authority to request an outside agency investigate any officer-related shooting, or to supplement internal investigative efforts with that of an independent law enforcement agency or coalition.

2) When an officer has been shot, or inflicts a gunshot wound upon another person, Communications shall be notified immediately either by the police officer involved in the incident, or the first additional officer on the scene. Communications shall then make the required notifications.

3) The Watch Commander shall respond to the scene and assume command and control of same until the arrival of supervisory/command personnel from the Criminal Investigations Division. Once command has been relinquished, the Watch Commander will assist as necessary in the investigation of the incident and arrange to have a uniformed officer prepare an original incident report.

4) The officer(s) involved shall, if possible, complete a preliminary statement regarding the shooting incident and be immediately reassigned to administrative duty or leave.

5) A copy of the completed incident report along with supplemental investigative reports shall be forwarded to the Chief of Police by the Criminal Investigative Division.

6) The Watch Commander or First Line Supervisor (if the former is unavailable) will prepare appropriate documentation (Use of Force Report) and forward same through the chain of command to the Chief of Police. This will accompany the incident report, and will contain a conclusion, supported by facts, as to whether the use of deadly force was justified or found to be in violation of the provisions of this order.

7) The incident report and attachments shall then be reviewed by the Chief of Police. Should a question exist as to the appropriateness of an officer(s) "Use of Force", an Internal Affairs investigation shall be implemented in accordance with existing General Orders.

E. Procedures to be Followed when a Firearm is Discharged (No Gunshot Wound Inflicted or Unknown if Wound Inflicted)

1) When a firearm is discharged by a police officer, or a firearm under their control is discharged by another person, the officer shall:
   a. Immediately notify Communications.

   b. Notify the on-duty Watch commander as soon as time and circumstances permit, but no later than one hour after the discharge of the firearm.

   c. Prepare a police report detailing the circumstances surrounding the discharge. A copy of the police report shall then be forwarded through the chain of command to the Chief of Police.

2) The Watch Commander shall:

   a. Respond to the scene and ensure that the officer preparing the incident report identifies all known witnesses to the incident.

   b. Prepare appropriate documentation (Use of Force Report) and forward same through the chain of command to the Chief of Police. This shall accompany a copy of the required incident report. The Use of Force Report will contain the observations and conclusions of the Watch Commander regarding whether the discharge was justified and in compliance with the provisions of this order.

      In the event the Watch Commander is unavailable, the responsibility for documentation shall rest with the First Line Supervisor.

   c. Should a question(s) arise as to the justification surrounding the discharge of a firearm, an Internal Affairs investigation shall be implemented in accordance with the appropriate General Order.

3) The procedure as outlined above will not be required when a firearm is discharged in accordance with Paragraph B, Sub-section 3 of this section.

F. Psychological Support Program

The use of deadly force or exposure to such an event may cause an officer to suffer from a variety of stress related symptoms. As such, in the event of an officer involved shooting, the department will arrange for counseling in post critical incident stress management via the City's Employee Assistance Program. This referral shall be for support purposes only, allowing the officer(s) to discuss any problems arising from the incident. The contents of such sessions shall be confidential and may not be used by the department in any subsequent proceedings. In addition, there shall be no stigma or other penalties attached to any employee who may attend one or more of these sessions.

Upon the completion of counseling, and contingent upon the employee's behavior, the department may additionally elect to refer an officer to a psychologist to determine if the employee is psychologically fit to return to full duty. Information discussed during these interview sessions, along the psychologist's recommendation, while treated in a confidential manner, will be provided to the department in a verbal or written report.

Participation in this program is mandatory for any commissioned employee who is involved in an officer-related shooting where the officer's actions results in a death. The Police Department/City shall be financially responsible to cover those costs which exceed available insurance/program coverage.

The Chief of Police may also authorize participation in this program for employees involved in other critical incidents.

VIII. WARNING SHOTS.

The discharge of a warning shot(s) while pursuing or attempting to arrest a criminal suspect is forbidden under any circumstances.

IX. PROVISIONS FOR MEDICAL AID.

Once the scene is safe and as soon as practical, officer(s) shall provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured or requests medical attention.

This may include, but not be limited to rendering first aid, requesting the assistance of paramedics at the scene, the transport of the victim/suspect to a medical facility/hospital, or having a medical professional examine the individual in a controlled environment such as a correctional institution.

X. DOCUMENTATION REQUIREMENTS.

Each instance where force is employed by a sworn member of this department (the utilization of lethal/less lethal weapons and/or actual physical conflict including pain compliance) shall be documented via an incident report and Use of Force Report in Guardian Tracking. Minor incidents where an officer may threaten the use of force or initiate physical contact of a lesser nature (Ex. grabbing/holding a person, handcuffing, come-along holds) will generally be excluded from the above provision, contingent upon surrounding circumstances unless an injury occurs and then a Use of Force Report should be completed.
Bureau Commanders shall maintain a file of each incident report involving the use of force. These shall then be reviewed during the first quarter of each calendar year, if possible, for trends and/or weaknesses in training, policy or operational procedures.

A. Incident Report

Incident reports initiated regarding the use of force against an individual or animal shall contain the following, in addition to normal report information:

1) The number of officers involved in the incident, their names and Department Serial Numbers, their method of arrival (marked or unmarked vehicle), and whether the officers were in uniform or plain clothes.

2) A description of the scene upon arrival and the verbal commands initially given the suspect (if appropriate).

3) The subject's reaction to the officer(s).

    a. Verbal responses.

    b. Body language.

    c. Physical actions.

4) The subject's condition, i.e., influence of drugs, alcohol, mental impairment, highly agitated, etc.

5) The officer(s)'s actions:

    a. Type of control methods used or attempted.

    b. The duration of the subject's resistance.

    c. Type of de-escalation methods used (immediate removal, etc.).

    d. Methods of restraint used (handcuffs, leg irons, etc.).

B. Use of Force Report

Qualifying "Use of Force" incidents shall, in addition to a police incident Report, be documented with a Use of Force Report through the Guardian Tracking System. These shall generally, be prepared by a Watch Commander or First Line Supervisor.

XI. ADMINISTRATIVE REVIEW.

Each "Use of Force" incident shall undergo an administrative review by a committee comprised of departmental command staff. The purpose of such review shall be to judge compliance with established policy and procedure, and to recommend internal affairs investigations, as necessary.

A. Review Committee

The review committee shall consist of the Chief of Police, the Commander of the Field Operations Bureau, and the Commander of the Criminal Investigations Division. At the Chief's discretion, an alternate commander can replace one of the committee members due to availability or other circumstances.

B. Disciplinary Action

In those instances where an internal affairs investigation, conducted in regard to a perceived violation of the department's "Use of Force" policy, renders a disposition of "sustained," where the facts support the allegation of misconduct, the officer(s) involved shall be disciplined in accordance with the provisions of the departmental General Order covering Administration of Discipline.

XII. ADMINISTRATIVE REASSIGNMENT.

Any employee (both sworn or non-sworn) whose actions or use of force results in a death or serious physical injury of a person shall be removed from line duty and reassigned to administrative duty or leave immediately following the completion of a preliminary report covering the incident. The purpose of such administrative reassignment will be to avoid potential conflict within the community, while permitting the employee to be available for official interviews and post-incident counseling sessions. The assignment to administrative duty/leave shall not be interpreted to imply or indicate that an officer or civilian employee has acted improperly and will entail no loss of pay or benefits.

Officer(s) involved in such situations shall be barred from discussing the incident except with their personal legal representation, the prosecuting attorney, internal affairs review officials, a selected clergyman, psychologist or mental health counselor, the staff of the critical incident management team, and the employee's immediate family.

The Chief of Police shall have full authority to reassign an employee to administrative duty or administrative leave for such a period of time as the Chief of Police may deem appropriate. The affected officer(s) will then remain on administrative assignment until notified by the Chief of Police to return to normal duty. Such decision will be based on the findings and results of the official investigation, and the physical, mental, and emotional status of the involved employee(s).

XIII. DISTRIBUTION AND TRAINING IN USE OF FORCE POLICY/WEAPONS.

A. Policy Distribution

Due to the necessity to ensure that the various requirements and restrictions which comprise this order are clearly understood, normal policy distribution guidelines will be suspended in regard to this General Order and a copy shall be issued to each sworn member of the Police Department by their immediate supervisor.

B. Lethal and Less Lethal Force Policy Training

Sworn officers shall receive biannual training in the department's "Use of Force and Weapons," policies. This may be conducted as part of Roll Call training for uniformed employees, or via another suitable avenue of review. Such training shall also include recent legislation and/or court decisions which may affect the "Use of Force."

1). Recruit Officers and/or Sworn Employees-in-Training

Newly hired sworn employees shall be issued a copy of this General Order at the earliest practical opportunity, and will subsequently receive thorough instruction on its contents prior to being authorized to carry a weapon in public. Such training shall be the responsibility of the First Line Supervisor and Field Training Officer to which the recruit has been assigned.

XIV. ANNUAL REVIEW OF USE OF FORCE.

The Office of the Chief of Police, in conjunction with assistance from the Field Operations Bureau Commander and the Commander of the Criminal Investigations Division, shall conduct an annual analysis of all official police reports detailing officer involved "Use of Force" incidents. The analysis shall be conducted in the first quarter of each calendar year, if possible, and will be fully documented via an internal memorandum. Should trends be identified indicating potential weaknesses in training or department policy, remedial action shall be implemented in a timely manner.

BY ORDER OF:

MARK J. SMITH
Chief of Police

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