

	ROSENBERG POLICE DEPARTMENT	
	General Order 6.01 Use of Force	
	Effective Date: 6-19-2020	Replaces: General Order 130
	<p>Approved: </p> <p style="text-align: center;">Chief of Police</p>	
	Reference: TBP: 2.25, 3.01, 3.02, 3.04, 6.01, 6.02, 6.03, 6.06, 6.07, 6.08, 6.09, 6.10, and 6.11.	

I. POLICY

This department values the protection and sanctity of human life. It is therefore the policy of this department that officers use only the force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and others. It is the policy of the department to prohibit the use of excessive force against any individuals engaged in non-violent civil rights demonstrations. The use of force must be objectively reasonable. The officer must only use that force which a reasonably prudent officer could use under the same or similar circumstances. The officer’s actions will be reviewed based upon the information known to the officer at the time the force was used. Information discovered after the fact will not be considered when assessing the reasonableness of the use of force. Officers are prohibited from using any force as a means of punishment or interrogation.

II. PURPOSE

The purpose of this policy is to provide law enforcement officers of this agency with guidelines for the use of deadly and non-deadly force. This policy does not set forth a higher standard of care with respect to third party claims.

III. DEFINITIONS

A. Deadly force

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

B. Non-deadly force

Non-deadly Force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.

C. Objectively Reasonable

1. Objectively Reasonable: This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to themselves and the community.
2. In evaluating the reasonable application of force, officers may consider their own age, size, strength, state of health, and the number of officers opposing the number of suspects.

IV. PROCEDURES

A. Use of Non-Deadly Force

1. Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable and necessary to bring an incident under control. (TBP: 6.01)
2. Officers are authorized to use department-approved, non-deadly force techniques and issued equipment when one or more of the following apply:
 - a. To protect the officer or others from physical harm.
 - b. To lawfully restrain or subdue a resistant individual.
 - c. To bring an unlawful situation safely and effectively under control.

B. Use of Deadly Force

Law enforcement officers are authorized to use deadly force when one or both of the following apply:

1. To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm. (TBP: 6.02)
2. To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others. Where practicable prior to discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

C. Deadly Force Restrictions

1. Warning shots shall not be fired. (TBP: 6.09)

2. Firearms shall not be discharged at a moving vehicle in an attempt to disable the vehicle.
3. Because of the low probability of penetrating a vehicle with a handgun, officers threatened by an oncoming vehicle should attempt to move out of its path, if possible, instead of discharging a firearm at it or any of its occupants. However, if an officer reasonably believes that a person is immediately threatening the officer or another person with deadly force by means of a vehicle, an officer may use deadly force against the driver of the vehicle.
4. Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured, when the officer reasonably believes that deadly force can be used without harm to the officer or others. In these circumstances, a supervisor shall be contacted prior to the use of deadly force if time permits.
5. Use of flashlights as batons. An officer may use a flashlight or other object designed for a use other than as a weapon only to defend himself or herself or another from imminent serious bodily injury or death and then only if departmentally sanctioned methods are not available or are impractical. The use of a flashlight or other alternative weapon under such circumstances, depending on the manner of use, may be deemed an application of deadly force.

V. UNAUTHORIZED USE OF FORCE

The Rosenberg Police Department does not allow any of its employees and officers to use choke holds or carotid artery neck restraints. The only exception to the use of a choke hold or a carotid artery neck restraint could be when the officer involved is justified in the use of deadly force. Any officer using such force will cease immediately upon control of the subject (normally when the person has been handcuffed or no longer actively resisting) and begin the application of an appropriate medical response if needed. Officers are required to report these incidents through the process outlined in this agency's use of force reporting policy. (TBP:6.11)

VI. DUTY TO INTERVENE

Any employee, regardless of rank, has a duty and responsibility to intervene with any other employee's use of force that clearly exceeds agency directives and training regarding what is objectively reasonable under the circumstances. All employees, regardless of rank, have a duty and responsibility to prevent the use of excessive force, and to report, in writing, any use of excessive force to a supervisor. This directive shall be included in the annual Use of Force training and applies to both sworn and non-sworn. Examples of force that would require an officer's intervention may include, but are not limited to: use of choke holds [in any situation where deadly force would not be authorized]; using force against a restrained or subdued suspect;

leaving a secured suspect in a prone position in any fashion that restricts breathing or blood flow; any use of force in violation of this department's policy. The obligation to report remains in place even if the officer is successful in intervening in the use of excessive force. Any failure to intervene and/or a failure to report improper use of force shall be grounds for discipline. (TBP:2.25)

VII. DE-ESCALATION

Policing requires that at times an officer must exercise control of a violent or resisting subject to make an arrest, or to protect the officer, other officers, or members of the community from risk of imminent harm. Clearly, not every potential violent confrontation can be de-escalated, but officers do have the ability to impact the direction and the outcomes of many situations they handle, based on their decision-making and the tactics they choose to employ.

When reasonable under the totality of circumstances, officers should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response. In their interaction with subjects, officers should use advisements, warnings, verbal persuasion, and other tactics as alternatives to higher levels of force. Officers should recognize that they may withdraw to a position that is tactically more secure or allows them great distance in order to consider or deploy a greater variety of Force Options. Officers shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.

The prospect of a favorable outcome is often enhanced when supervisors become involved in the management of an overall response to potential violent encounters by coordinating resources and officers' tactical actions. Supervisors should possess good knowledge of tactics and ensure that officers under their supervision perform to same standards. As a good practice, supervisors will acknowledge and respond to incident in a timely manner where police use of force is probable.

VIII. TRAINING

- A. All officers shall receive training in the use of their firearms, all non-lethal weapons authorized by the department, hands-on arrest and defensive tactics, as well as the Use of Force policy prior to performing any law enforcement duties.
- B. All officers shall be trained and qualified with their firearms at least annually. (TBP: 3.01, 3.02)
- C. All officers shall receive training in the department's Use of Force policy at least annually. (TBP: 3.02)

- D. All officers shall receive hands-on arrest and defensive tactics training at least every two years. (TBP: 3.06)
- E. Officers shall receive training in all non-lethal weapons issued or used by the department and demonstrate proficiency with those weapons at least every two years. (TBP: 3.04)
- F. All Use of Force training shall, at a minimum, comply with the standards established by TCOLE.

IX. REPORTING USE OF FORCE(TBP: 6.03, 6.06)

- A. Officers shall document any application of force except for those arising in training, departmental demonstrations, or off-duty recreational activities.
- B. If officers have employed any use of physical force (other than the routine use of handcuffs or use of a firm grip to direct the movements of a subject) or used any impact, electrical, or chemical weapons, or discharged any firearm, they shall first provide for appropriate medical aid for the subject (TBP: 6.07) and then:
 - 1. Immediately notify the on-duty supervisor or the Division Commander (if the on-duty supervisor is unavailable) of any use of force or discharge of a weapon. The supervisor shall determine if an immediate investigation is required.
 - 2. Photographs of the subject will be taken as soon as possible after the use of force to document any injury or lack of injury.
 - 3. Submit a Use of Force form to the immediate supervisor prior to the end of shift describing the incident, the force used, and any medical aid rendered. The Use of Force form shall be in addition to any other required reports.

X. DEPARTMENTAL REVIEW

- A. Review
 - 1. The officer's supervisors shall review all reported uses of force to determine whether:
 - a. Departmental orders were violated.
 - b. Relevant departmental policy was clearly understandable and effective to cover the situation.
 - c. Departmental training was adequate.

- d. Departmental equipment operated properly.
2. The Chief of Police may appoint a Review Board to review and investigate any shooting or assault by a Rosenberg police officer. If so, the board will report their findings and make recommendations to the Chief of Police. The Chief makes the final determination on acceptable performance and justification of use of force.
3. At least annually, the Chief of Police, or designee, shall conduct an analysis of use-of force incidents and to determine if additional training, equipment, or policy modifications may be necessary. (TBP: 6.10.)

B. Internal investigations

1. An internal investigation will be conducted on any firearms discharge (other than training), and any other use of deadly force by members of the department. An internal investigation may be conducted on other uses of force incidents if a violation of law or department policy is suspected. In addition to the internal investigation, a criminal investigation shall also be conducted in any firearms discharge or other use of force incident where an officer or other person is injured or killed and in any other circumstances where a violation of law is suspected. The criminal investigation may be conducted by another law enforcement agency with concurrent jurisdiction and the results may be presented to the grand jury for review.

C. Assignment

Pending administrative review, any officer whose actions have resulted in the death or serious bodily injury of another person, either through the intentional use of force or by accident involving a use of force or vehicle accident, shall be removed from line-duty assignment. This action protects both the officer's and the community's interest until the situation is resolved. This re-assignment is not considered punitive in nature. (TBP: 6.08)