

BATON ROUGE POLICE DEPARTMENT

General Order
No.131

Effective Date
11-01-1994

Revised Date
10-24-2006

Subject: Use of Deadly Force

POLICY

The protection of human life is the first priority of the Department. It is the responsibility of all employees to use reasonable judgment in all circumstances where deadly force may be employed. The capture of any violator is secondary to officer safety and the welfare of innocent citizens who may accidentally become involved in a police action.

Employees shall never employ unnecessary force or violence, and will use only such force in the discharge of duties as is reasonably necessary in all circumstances. Employees shall use force in accordance with law and established Department procedures.

The purpose of this order is to inform members of the rules of the Baton Rouge Police Department regarding the use of deadly force. Additional procedural guidelines regarding this area are found elsewhere in the Manual.

PROCEDURES

I. Use of Force to Arrest or Maintain Custody

- A. Employees may use reasonable force to effect a legal arrest or detention, and also to overcome any resistance or threatened resistance of the person being legally arrested or detained.
- B. Only the amount of force necessary to effect the arrest may be used.

II. Deadly Force Defined

Deadly force shall be defined as that level of force which a reasonable and prudent person would consider likely to cause death or great bodily harm.

III. Use of Deadly Force

- A. Employees shall employ deadly force only in defense of their own lives or in defense of the life of another person. It is essential that the employees reasonably believes that he or some other person is in immediate and apparent danger of suffering death or great bodily harm and that the use of deadly force is the only prudent preventative measure available to him.
- B. Deadly force shall not be justified merely in the protection of property, nor in the prevention of escape by a prisoner or felon, unless the standard set forth above is met.
- C. A report shall be submitted whenever an employees takes an action that results in (or is alleged to have resulted in) injury or death of another person.

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IV. Internal Investigations

- A. The Internal Affairs Division shall conduct an administrative investigation of all incidents where injury requiring treatment or death occurs as the result of an action on an employee's part.
- B. All discharges of firearms, other than in training or for recreational purposes, whether intentional or accidental, on or off duty shall be investigated by this unit.
- C. The focus of the investigation shall be whether all applicable Department policies, procedures, rules and regulations were followed by the officer involved.
- D. The investigation shall be conducted in compliance with all Department guidelines pertaining to internal administrative investigations.

V. Criminal Investigations

- A. The Criminal Investigation Division shall conduct a criminal investigation of all incidents where a death occurs as the result of an action on an employee's part.
- B. Depending on the circumstances, the Chief of Police may order criminal investigations of any incident involving employees.
- C. Investigations shall be conducted in compliance with all Department guidelines pertaining to criminal investigation of employees.
- D. In such cases, the District Attorney shall also be notified, and it shall be at his discretion to present the case to a grand jury.

VI. Officer Leave

- A. Any employee engaged in an incident where a death occurs shall be immediately relieved of his regular duties for a minimum of two (2) working days. During this time, the employees shall be considered on administrative leave, and may be required to make himself available to investigators for questioning.
- B. At the end of two (2) working days, the Chief of Police shall take one of the following courses of action:
 - 1. Return the employee to his regular assignment.
 - 2. Temporarily reassign the employee to duties other than his regular assignment.
 - 3. Extend the administrative leave.
 - 4. Approve additional other leave (sick, injury, vacation, compensatory).
 - 5. Suspend the employee without pay.
 - 6. Dismiss the employee.

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- C. Extension of administrative leave or approval of sick or injury leave may be contingent upon the employee agreeing to undergo counseling or other medical evaluation prior to returning to duty.

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Subject: Less-Lethal Force *(Rescinds General Order No. 137, Aerosol Subject Restraint)*

POLICY

It is the policy of the department that the use of force will be limited to situations involving resistance to arrest, defense against physical assault or to perform official duties, and that only force which is reasonable and necessary may be used to achieve these objectives.

It is the responsibility of each employee to become knowledgeable of the provisions of this article and to guide his actions based on this policy and his training.

This directive is limited in scope to incidents requiring the use of non-lethal force or restraint and will not apply in any criminal or civil proceedings.

The use of force should follow a prescribed continuum: physical presence, verbal direction, aerosol subject restraint; soft empty hand control, hard empty hand control, TASER, intermediate weapons and finally when appropriate the use of deadly force.

DEFINITIONS

Use of Force

That amount of effort required by police to compel compliance from an unwilling subject.

Excessive Use of Force

The application of an amount and/or frequency of force greater than that required to compel compliance from a willing or an unwilling subject.

DISCUSSION

The use of force continuum employed by this department is comprised of two segments; the resistive actions of the subject, and the levels of control action by the employee.

Subject Resistance

Subject resistance is cataloged into several levels, increasing in escalation as the threat to the employee or others increases. A basic description of the levels of resistance is as follows:

- Psychological Intimidation.** Threatening non-verbal body language such as clenching of the fists, assuming a fighting stance and increased muscle tone indicating readiness to fight.
- Verbal Non-Compliance.** Verbal responses which indicate unwillingness to comply with the employee's commands of arrest or a direct verbal threat to the employee.

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- Passive Resistance.** Passive physical actions such as going limp, refusing to place hands in a position to be hand-cuffed or what is commonly considered to be demonstrator resistance.
- Defensive Resistance.** Actions such as pulling or pushing away from the employee, but never attempting to harm the employee in any way.
- Active Aggression.** Actions which are directed at harming the employee such as striking with the hand or foot, wrestling the employee to the ground or any technique which attempts to control the employee physically.
- Deadly Force Assault.** Actions which can be construed as being a deadly force attempt on the employee's life.

Levels of Officer Control

The second half of the force continuum analyzes the employee's actions of control. The level of control used by the employee will be based upon the level of subject resistance encountered, and the amount of force necessary to overcome that resistance. The following is an example of the escalating levels of employee control:

- Officer Presence.** Considered to be a psychological deterrence; however, the officer's presence alone may not be sufficient to discourage escalation of subject resistance.
- Verbal Direction.** The employee issues a specific instruction to which the subject must lawfully comply (i.e. commanding subject to place their hands behind their back for arrest) and informs the subject of impending actions.
- Aerosol Subject Restraint.** An incapacitating chemical agent discharged by an aerosol projector.
- Soft Empty Hand Control.** Empty hand control techniques which do not have a probability of injury (i.e. - transport wrist locks, pressure points or simple strength techniques).
- Hard Empty Hand Control.** Empty hand control techniques which have a probability of causing bruising or minor lacerations to the skin (i.e. respiratory stuns and mental stuns).
- TASER.** An Electro Muscular Disruptor (EMD).
- Intermediate Weapons.** Weapons used for defensive or control measures such as the PR-24 or the extendable baton (ASP).

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PROCEDURES

I. Reporting Requirements

- A. This department will fully document and investigate any use of force by an employee. Furthermore, it is in the best interest of the law enforcement profession that these reports are impartial and complete.
- B. Only issued or approved equipment will be carried on duty and used when encountering resistance, except in emergency situations when an employee may use any means at his disposal.
- C. Any application of force used to compel compliance from an unwilling subject will be documented by means of a **Use of Force Report**, whether or not the subject is injured. Force should be construed in the broadest possible terms for reporting purposes. As a general rule uses of force that should be reported include any use of a weapon, electronic or aerosol restraint device; and any use of punches, hits, kicks or other physical efforts to seize, control, or repel a civilian (with or without a weapon or other implement). The mere placing on of handcuffs will not require a **Use of Force Report** unless they are used to exert pressure necessary to further control a suspect.
- D. Use of restraining devices is mandatory on all prisoners unless in the employee's judgment unusual circumstances exist which make their use unnecessary or impossible (the elderly, handicapped persons, etc.).

II. Notification of Supervisor

- A. When an employee is involved in an incident which meets the criteria set forth above, he will immediately notify a supervisor. If a subject is injured, unless exigent circumstances exist, the supervisor will respond to the scene. However, if such circumstances do prevent his responding to the scene, the supervisor will meet the reporting employee at the District or hospital, whichever is applicable, prior to booking the subject.
- B. When an employee is off duty or working an extra duty assignment and involved in an incident of this type, he will notify a supervisor on duty in the District in which the incident occurred. The supervisor will respond accordingly.
- C. The first concern is to provide medical attention to the injured. If the primary employee is hospitalized, the supervisor will make the appropriate assignments to carry on the investigation. If the subject is hospitalized, he will remain under guard until booked. Upon release, the employee booking the subject will obtain medical release forms and attach copies to the Use of Force Report. Any injured employee will make available to the department copies of his medical reports as needed.

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- D. The supervisor in charge of the incident will make a thorough investigation. He will evaluate and determine if photographs will be taken. He will evaluate and determine if witness statements, written or oral, will be taken. However, if the employee or subject is hospitalized or visibly injured, photographs will be taken of both. It should be noted photographs showing lack of injury may be as important as those showing injury.
- E. Any witnesses to the incident should be identified properly and noted in the report. If the primary employee is injured to the extent he cannot return to duty, the supervisor in charge will prepare or cause to be prepared all reports relative to the incident before the end of the shift.

III. Aerosol Subject Restraint

- A. ASR may be used in situations where verbal commands have been unsuccessful or appear unlikely to be effective.
- B. By the timely and appropriate use of an ASR, the escalation of force and the risk of injury to both employee and suspect may be greatly reduced. The basic procedural outline is as follows:
 - 1. No employee will carry any an ASR for which they have not had certified training.
 - 2. Those employees who have received ASR training from a source other than the Baton Rouge Police Department may present their certification to the Chief of Police for consideration. If the certification is satisfactory, the employee will be authorized to carry an ASR.
 - 3. ASR will be carried in an appropriate pouch (holster) and never displayed or pointed at another individual in the form of horseplay.
 - 4. At no time will an employee unnecessarily brandish, or use ASR as an intimidating device unless the employee is attempting to prevent further escalation of force.
 - 5. Application of an ASR against large groups of people will be at the command of the Chief of Police or the designated Incident Commander.
 - 6. Anytime an ASR is used for controlling an offender, the application of the ASR will end when the offender discontinues resistance or aggression.
 - 7. ASR's are irritating to the eyes, nose and skin. Emergencies that arise from ASR application develop rapidly. Employee(s) will monitor the subject until released to booking personnel. If the subject has a reaction that is other than normal, employees will notify EMS.
 - 8. Employees will use caution when transporting or booking a subject who has been subjected to the use of an ASR and appears to be under the influence of alcohol or narcotics, or is an emotionally disturbed person. These subjects will be considered a high-risk arrestee and all departmental procedures regarding the transportation of high-risk subjects will be followed.
 - 9. When an employee books a subject who has been exposed to an ASR, the officer will advise the jail personnel to prevent the unnecessary contamination of other jail occupants or custody person(s).

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10. All uses of an ASR will be documented in Use of Force Report.

- C. The ASR is not to be used as "punishment" or as a coercive tool once an individual is under control and in custody. Any improper use of the ASR will be considered an excessive use of force and will be subject to appropriate disciplinary measures.

IV. Use of Force Report

- A. The purpose of this report is to fully document the type and level of resistance encountered by employees who are required to use force to arrest, maintain custody or restore order in the performance of their duties. It is also designed to aid Training Services in the continual re-evaluation of techniques regarding their effectiveness.
- B. This report will be completed by the primary employee making the arrest unless he is unable due to injury. The supervisor at the scene will ensure that the report is completed before the end of the shift. If necessary, the supervisor or other employees may complete supplemental reports which will be attached to this report for clarification.
- C. It is necessary for the report to be accurate and complete. When used by Training Services, it can determine which techniques are effective and which are not. Therefore, there will be no deviation from this procedure without written explanation from the shift commander.
1. Use of force reports will be routed to the bureau commander through the chain of command with a paper copy of the incident report attached.
 2. The bureau commander will review and initial the use of force report before forwarding it to Internal Affairs.
 3. An Internal Affairs investigator will review and sign the report. He or she will determine if additional investigation is necessary.
 4. The original use of force report will be maintained in Internal Affairs for a length of time consistent with departmental policy, any applicable laws or ordinances and current union contracts. The remaining copies will be forwarded to the Training Academy.
 5. A training academy instructor will conduct an assessment of the force application and make appropriate notations on the colored copy. This copy will be maintained at the training academy for one calendar year. The information from each report will be entered in a database for a more broad analysis to be conducted as often as necessary, but at least annually.
 6. Periodic summaries of the department's uses of force will be submitted to the Chief of Police.