
Use of Force

200.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this Department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

200.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized Weapon- A weapon approved by Corpus Christi Police Department for official use by its officers. A firearm is not authorized unless it is registered with the Corpus Christi Police Department to a particular officer.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

Reasonable Force- A degree of force that is appropriate in a given situation and is not excessive. The minimum degree of force necessary to protect oneself, ones property, a third party, or the party of another in the face of a substantial threat.

Deadly force - Force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

Non-Deadly Force- Force which, under the circumstances, is not reasonably capable of causing death or serious bodily injury.

Physical Strength and Skill- Any physical actions by one or more officers (e.g., holding, restraining, pushing, and pulling) which may include special skills (e.g., come-along holds) but do not include the use of deadly force or any authorized or other weapon.

Serious Bodily Injury- Bodily injury that creates a substantial risk of death or causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Probable Cause- The total set of apparent facts and circumstances based on reasonably trustworthy information which would warrant a prudent person (in the position of and with the knowledge of the particular peace officer) to believe something, for example, that a particular person has committed some offense against the law.

200.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, shall use reasonable force in carrying out their duties.

Corpus Christi Police Department

Policy Manual

Use of Force

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

200.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law shall promptly report these observations to a supervisor.

200.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

200.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force to effect an arrest, search, prevent escape or overcome resistance. If it is not reasonably apparent to the person to be arrested, or it is not reasonably

Corpus Christi Police Department

Policy Manual

Use of Force

impracticable to do so, officers should make clear their intent to arrest or search the person and identify themselves as peace officers before using force (Tex. Penal Code § 9.51).

200.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

200.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

Corpus Christi Police Department
Policy Manual

Use of Force

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

200.4 FORCE APPLICATIONS

1. The amount and degree of force which may be employed is determined by the surrounding circumstances, including but not limited to:

- (a) The nature of the offense;
- (b) The behavior of the subject against whom force is to be used;
- (c) Actions by third parties who may be present;
- (d) Physical conditions;
- (e) The feasibility or availability of alternative actions.

2. Under no circumstances will the force used be greater than necessary and in no instance will deadly force be used other than as a last resort and only in the situations stated in 200.4.2 of this chapter.

3. Under normal circumstances, only the methods below may be used to apply force. These methods are listed in generally ascending order from the least severe to the most drastic. It is the officers responsibility to first exhaust every reasonable means of employing the minimum amount of force necessary:

- (a) Professional Presence- Entering a scene
- (b) Verbal Communications- Dialogue
- (c) Weaponless Strategies- Soft-Escorts, Takedowns, Come-a-longs, etc. Hard- Punches, Kicks, etc.
- (d) Intermediate Weapons- O.C. (Pepper) Spray, Taser, Baton or Impact weapons
- (e) Deadly Force- Any force in the manner of its use that is capable of causing death or serious bodily injury.

Officers must bear in mind that this order is not absolute. For example, severe striking with fists may involve greater force than blocking blows with a baton.

4. No weapon shall ever be displayed or brandished as a threat unless its actual use in the situation would be proper. However, weapons may be readied for use in situations where it is reasonably anticipated that they be actually required (for example, the search of a building for a burglar, a robbery in progress, or suspicion that the offender has a deadly weapon in his/her possession).

Corpus Christi Police Department

Policy Manual

Use of Force

5. No officer on duty shall carry, or in normal circumstances use, any weapon or ammunition unless it has been approved by the Department.

200.4.1 USE OF NON-DEADLY FORCE

1. Employees who use non-deadly force shall use the minimum force necessary. However, nothing in this rule shall be interpreted to mean that an employee is required to engage in prolonged hand-to-hand combat or struggle or use lesser methods which are impractical under the circumstances, rather than resort to the method that will most quickly and safely bring the actor under control.

2. When feasible, officers should call for backup rather than employ a degree of force which significantly increases the risk of bodily injury to any person.

3. No baton, flashlight, or any other object will be thrown at anyone unless the possible injury inflicted by such use of force would be justified by law and this policy.

4. Following the use of non-deadly force officers shall evaluate any visible or claimed injuries and when necessary, ensure the person receives proper medical attention.

200.4.2 USE OF DEADLY FORCE

(a) "Deadly Force" means force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

1. The discharge of a firearm is deadly force;
2. The use of a choke hold **calculated to induce immediate unconsciousness** is deadly force;
3. The use of baton or any other object as a weapon may be deadly force.

(b) Officers may use deadly force when immediately necessary to protect themselves or another person from death or serious bodily injury. It shall be incumbent on every officer to exhaust every reasonable means of employing the least amount of force to accomplish the purpose.

(c) When feasible, a warning shall be given to the offender prior to the use of deadly force.

(d) Once immediate danger of death or serious bodily injury to an officer or another person has passed, deadly force shall not be used.

(e) No officer will point a firearm at any person unless he/she reasonably believes that his/her or another's personal safety is in jeopardy and that the use of deadly force under the circumstances is or shortly will become justified under law and departmental policy. (Such a risk is assumed in inherently dangerous situations such as forcible entry to serve search or arrest warrants or felony traffic stops).

(f) To the extent an officer has reasonable time for consideration, he shall never use deadly force which creates a greater risk of death or serious bodily injury to themselves or others than if they did not use such force. This decision must reflect the circumstances, for example:

1. The nature and seriousness of the risk of injury;
2. The age, physical condition, and behavior of the suspect;

Corpus Christi Police Department

Policy Manual

Use of Force

3. Relevant actions by any third parties;
 4. Physical conditions (such as visibility) at the scene;
 5. The feasibility of alternative actions; and
 6. The opportunity and actual ability of the suspect to injure the officer or others.
- (g) Firearms shall not be discharged:
1. As a warning;
 2. Solely to protect property;
 3. To effect an arrest or prevent an escape, unless immediately necessary to protect the officer or another from death or serious bodily injury;
 4. From a moving vehicle or at a moving vehicle unless immediately necessary to protect the officer or another from death or serious bodily injury;
 5. Into buildings or other places where offenders are hiding unless immediately necessary to protect the officer or another from death or serious bodily injury.
- (h) Moving vehicles:
1. Officers shall avoid positioning themselves in the direct path of a moving vehicle.
 2. Officers in the direct path of a moving vehicle should attempt to take evasive action to avoid being struck by the vehicle.
 3. Officers may only discharge a firearm at a moving vehicle when:
 - i. There is imminent danger of serious bodily injury to the officer or another person and;
 - ii. No other reasonable means are available at that time to avoid or eliminate the danger.
- (i) Employees shall be familiar with the Texas laws governing the legal authority to use deadly force.
- (j) Following the use of deadly force officers shall evaluate any visible or claimed injuries and when necessary, ensure the person receives the proper medical attention.

200.4.3 USE OF VEHICLE IN THE APPLICATION OF FORCE

1. The intentional use of a police vehicle to ram, or to otherwise collide with, or to block the path of a suspect's vehicle in such a manner as to force a collision, constitutes the use of force. The use of this type of force must conform with the same legal policy constraints as are applicable to the use of any other type of force. It must be reasonable under the existing circumstances and no force greater than necessary is justified. The decision to use this type of force must take into account considerations, which are generally not present when other types of force are authorized and appropriate.

Corpus Christi Police Department

Policy Manual

Use of Force

- (a) While it may be argued that the act of fleeing is a form of resistance, such resistance does not in itself pose any kind of overt threat to the officer, i.e., the suspect is not attacking the officer, but on the contrary, is attempting to avoid him/her.
- (b) Once set in motion, the officer has little or no control over the result of the use of this type force. The intention may be to force the offender's vehicle to the curb, but the attempt to do so may result in the offender's vehicle, the police unit, or both going out of control and causing injury and damage far in excess of what would be reasonably commensurable with the offense committed. This could result in the use of deadly force where no such result was intended or justified.

2. Based on the above, the following guidelines are established as department policy on the use of a police vehicle as an instrument of force:

- (a) The use of a vehicle to apply force shall comply with the rules established in this chapter for deadly and non-deadly force.
- (b) In no case will a police unit be used as an instrument of force when the only known violation is of traffic laws. If the driver's behavior is such that the officer reasonably believes that the violator's continued driving presents an imminent and serious hazard to others and that other means of averting the hazard are not available, such force may be used with supervisory direction, unless instantaneous response is required.
- (c) The use of this type of force shall never be employed against a person on a motorcycle or a pedestrian unless deadly force would be clearly justified under the circumstances.

3. The use of this type of force is subject to the same type of departmental review as is the use of other types of force and its use shall be reported and investigated in the same manner.

200.5 REPORTING THE USE OF FORCE

Any use of force by a member of this Department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

1. A Use of Force/Injury Report shall be completed in Blue Team when:

- (a) A prisoner has any visible injury (whether it occurred before or during contact with the officer).
- (b) A prisoner complains of any injury (whether it occurred before or during contact with the officer).
- (c) A person, not taken into custody, alleges an injury occurred during contact with police.
- (d) An officer uses force during the arrest or handling of a prisoner (As used herein, "force" means any physical force greater than mere handcuffing or employing physical strength

Corpus Christi Police Department

Policy Manual

Use of Force

to prevent the prisoner from pulling away, and includes, among others, twisting, choking, kicking, striking, less than lethal or other force used to overcome serious resistance).

- (e) An officer uses force to overcome resistance, but the person is not arrested.
- (f) An officer deploys O.C. Spray and or a Conducted Energy Device.

2. The reporting officer shall:

- (a) Contact their supervisor to make him/her aware of the Use of Force/Injury Report
- (b) Complete the Use of Force/Injury Report in BlueTeam before the end of their shift.

3. An officer injured while handling a resisting prisoner shall report the injury to his/her immediate supervisor as soon as possible after the injury is apparent.

4. When an officer discharges a firearm in the line of duty (except during authorized practice at the range or as noted in section 200.5.1) he/she shall immediately orally notify his/her immediate supervisor and shall subsequently submit a written memo to his/her immediate supervisor detailing the circumstances involved. The memo shall be separate from other required reports. The memo shall be attached to the Blue Team Firearms Discharge Report completed by the supervisor. Further investigation by CID or internal Affairs may be conducted as appropriate.

200.5.1 DEATH OR SERIOUS BODILY INJURY FROM USE OF FORCE

When a person suffers death or serious bodily injury likely to result in serious physical incapacity as the result of the use of force by an officer (whether by firearm or otherwise):

- 1. The Chief, Assistant Chief of that Bureau, Division Commander, Internal Affairs Supervisor, police legal advisor, and risk management shall be promptly notified by the dispatch supervisor.
- 2. The incident shall be investigated by the Criminal Investigation Division, and Internal Affairs shall monitor the investigation and initiate such additional investigations as it deems necessary.
- 3. The C.I.D. investigation shall be forwarded to the district attorney.

200.5.2 "OFFICER INVOLVED" SHOOTING SCENES

- (a) Officers shall promptly ensure that the scene is properly secured and protected, with access tightly controlled until the arrival of the assigned investigating personnel. Officers posted at perimeters shall maintain a written crime scene log of all persons entering the scene. Persons, including police officers, not having a legitimate investigative function, at the scene at that time, shall not enter the crime scene.
- (b) If the suspect is alive, an officer shall be with him/her at all times, including the trip to the hospital. Officers shall maintain security and maintain the chain of custody on any clothing or property taken from the suspect by hospital personnel. Officers shall be cognizant of the possibility of dying declarations made by the suspect and document any such statements made.
- (c) All witnesses shall be isolated and prevented from discussing the case with each other.

Corpus Christi Police Department

Policy Manual

Use of Force

- (d) The offender's weapon should be left where it is located, if possible. If it must be removed, the original location must be marked.
- (e) Officers' weapons shall not be unloaded or examined at the scene except by forensics personnel. Chain of custody of officers' weapons shall be limited to the officers recovering the weapon, the immediate supervisor at the scene, and the forensics personnel when assigned.
- (f) Officers involved shall not discuss the incident in detail with any persons while at the scene other than the initial responding supervisor or assigned investigative supervisor and his/her personnel.
- (g) Officers should not be removed from the scene until criminal investigators arrive unless necessary for the officer's safety or well being. If officers must be removed they shall be transported to the station by a supervisor, when possible, but the integrity of the scene must be preserved, and the requirement not to discuss the case is extended to the location to which the officers are removed for their safety.
- (h) An officer's legal counsel or similar representative shall not be admitted to the crime scene, but the opportunity to contact such personnel must be provided as soon after leaving the scene as possible. No officers involved nor witness shall be permitted to leave the scene without authorization from the investigating supervisor.
- (i) No statement taken in the administrative process shall be included or otherwise used in the case for criminal investigation. If it is anticipated that criminal proceedings against the involved officer will be pursued, such officer will be given the Miranda warning.
- (j) Officers becoming the focus of any criminal investigation related to an officer involved incident may consult with legal counsel prior to any interrogation dealing with the criminal aspect of the investigation.

200.5.3 REMOVAL FROM DUTY ASSIGNMENT

When an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment by the Chief of Police or Designee pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

200.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, or hospital staff. If any such individual refuses medical attention, such a refusal shall be fully documented in

Corpus Christi Police Department

Policy Manual

Use of Force

related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

200.7 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.

Corpus Christi Police Department

Policy Manual

Use of Force

- (g) Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

200.8 ANNUAL USE OF FORCE REPORT

The Internal Affairs Unit Division Captain shall submit an annual Use of Force Report to the Chief of Police. The report should be based on the Use of Force Forms submitted to the Internal Affairs Unit Division Captain throughout the year. In compiling the annual report, the Internal Affairs Unit Division Captain should consider reviewing:

- (a) The type of force used.
- (b) The injuries that occurred from the use of force.
- (c) Precipitating events leading to the use of force.
- (d) The type of offense or arrest.
- (e) Whether alcohol and/or narcotics were involved.
- (f) The report should analyze the use of force incidents to determine whether:
 - 1. Any policies need revision.
 - 2. Additional training is needed and the scope of the training required.
 - 3. Any equipment changes that may be needed.
 - 4. Any changes in methods of operation or response that may be needed.

200.9 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.