



# Indianapolis Metropolitan Police Department

## GENERAL ORDER

**1.30**

## USE OF FORCE

### POLICY

This policy provides Indianapolis Metropolitan Police Department (IMPD) officers with guidelines for the reasonable use of force. The department considers the use of force in most instances to be defensive in nature and to be used only when necessary and justified to accomplish lawful objectives. All officers shall exercise good judgment at all times when the use of force is necessary.

### PURPOSE AND SCOPE

The use of force by law enforcement is a matter of critical concern for the public. Although it is recognized that some individuals will not comply with the law or submit to lawful control unless compelled to do so by the use of force, the amount and type of force used shall be reasonable in all situations.

While there is no way to specify the exact amount or type of reasonable force to be applied in all situations, each officer is expected to make such decisions in a professional and impartial manner. It is the policy of the department that officers shall use only that amount of force that is reasonable, given the facts and circumstances known by the officer at the time of the event.

While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to sustain physical injury before applying reasonable force.

IMPD officers are approved to carry a department-authorized firearm and other authorized weapons in accordance with their assigned duties. Officers shall adhere to all department policies, procedures, rules, regulations and directives regarding the carrying, use and care of those firearms and weapons. Officers shall at all times handle and carry any firearm/weapon with due consideration for others and themselves (refer to G.O. 1.31 Officer Involved Shootings, G.O. 1.32 Firearms Review Board, G.O. 1.33 Electronic Control Devices and G.O. 1.34 Control Devices for additional information).

Officers are required to immediately report all violations of department policies, procedures, rules and regulations and directives regarding the use of force by another officer to a supervisor.

### LEGAL ISSUES

This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at the lowest level, the use of force is a serious responsibility and subject to legal scrutiny by the courts. The reasonableness inquiry in an excessive force case is an objective one. The issue in question is whether the officer's actions are objectively reasonable in light of the facts and circumstances at that moment in time, without regard to any underlying intent or motivation.

Officers shall be aware of the possibility that a person's lack of compliance may not always be a deliberate attempt to resist. Notwithstanding the added limitations of time constraints and other factors during rapidly evolving circumstances, officers should balance all available information with the known facts of the incident when deciding the most appropriate option for a safe resolution.

**STATE STATUTES**

IC 35-41-3-2 states in part: Use of force to protect person or property;

(a) A person is justified in using reasonable force against another person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force. However a person: (1) is justified in using deadly force; and (2) does not have a duty to retreat; if the person reasonably believes that that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.

IC 35-41-3-3 states in part: Use of force relating to arrest or escape;

(b) A law enforcement officer is justified in using reasonable force if the officer reasonably believes that the force is necessary to affect a lawful arrest. However an officer is justified in using deadly force only if the officer: (1) Has probable cause to believe that that deadly force is necessary: (A) To prevent the commission of a forcible felony; or (B) To effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and (2) Has given a warning, if feasible, to the person against whom the deadly force is to be used. (c) A law enforcement officer making an arrest under an invalid warrant is justified in using force as if the warrant was valid, unless the officer knows that the warrant is invalid. (d) A law enforcement officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody that the officer would be justified in using if the officer was arresting that person. However, an officer is justified in using deadly force only if the officer: (1) Has probable cause to believe that deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or third person; and (2) Has given a warning, if feasible, to the person against whom the deadly force is to be used.

IC 35-41-1-7 states: Deadly Force; Force that creates a substantial risk of serious bodily injury.

IC 35-41-1-25 states: Serious Bodily Injury; means bodily injury that creates a substantial risk of death or that causes: (1) serious permanent disfigurement; (2) unconsciousness; (3) extreme pain; (4) permanent or protracted loss or impairment of the function of a bodily member or organ; or (5) loss of a fetus.

IC 35-41-1-11 states: Forcible Felony; A felony that involves the use or threat of force against a human being, or in which there is imminent danger of bodily injury to a human being.

**I. Factors Used to Determine the Reasonableness of Force**

- A. When determining whether or not to apply any level of force or when evaluating whether an officer has used reasonable force, there are a number of factors to be considered. An officer's use of force is individually assessed by the standards set by the Fourth Amendment to the United States Constitution and by the subsequent affected case decisions.

See *Graham v Connor*, 490 U.S. 386 (1989).

The U. S. Supreme Court applied the reasonableness test of the Fourth Amendment to use of force inquiries. Specifically, the test to determine the reasonableness of the force occurs by balancing the government's interest in making the seizure against the nature and quality of the intrusion. The nature and quality of the intrusion represents the amount or type of force the officer used. Applying the test requires careful attention to the facts and circumstances known to the officer at the time the force was used, *Id* at 396.



To apply the test, the Graham decision states in part, “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 calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The force must be reasonable under the circumstances known to the officer at the time the force was used. Therefore, the department and subsequently the courts examine all uses of force from an objective standard rather than a subjective standard. Those factors may include, but are not limited to:

1. The severity of the crime;
  2. Whether the suspect posed an immediate threat to the safety of the officer(s) or others;
  3. Whether the suspect was actively resisting arrest or attempting to evade arrest by flight;
  4. The conduct of the individual being confronted (as reasonably perceived by the officer at the time);
  5. Officer versus suspect/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects);
  6. Whether the suspect was under the influence of drugs/alcohol (mental capacity);
  7. The degree to which the subject was effectively restrained and his/her ability to resist despite being restrained;
  8. Information known about the subject to include; history of violence, criminal background, special tactical training and/or martial arts training;
  9. Proximity of weapons;
  10. The risk of escape;
  11. Time and circumstances permitting, the availability of other options (what resources were reasonably available to the officer under the circumstances);
  12. Training and experience of the officer; and
  13. Other exigent circumstances.
- B. It is recognized however, that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the standard tools, weapons or methods provided by the department. Officers may find it necessary, more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate law enforcement purpose.



## II. Less Lethal Force Options

- A. Less lethal force options may be used when, in the officer's opinion, persuasive speech or physical contact controls are insufficient, unsafe or impractical to control or stop an aggressive act or forcible resistance. These options are not intended to substitute for the use of deadly force when it is reasonable and necessary. There is neither a requirement nor an expectation that officers attempt to use or exhaust less lethal options in situations requiring the use of deadly force.
- B. Generally, less lethal force options should not be used on people who are properly handcuffed or secured for transportation. However in situations where an officer is physically threatened with forcible resistance by a handcuffed subject, and there are no other reasonable force alternatives, control devices pursuant to G.O. 1.34 may be used to assist in gaining control of the individual.
- C. Any less lethal option may be utilized against aggressive animals.
- D. The department authorizes the use of the following less lethal weapons to include but not limited to o-chlorobenzylidenemalononitrile/oleoresin capsicum (CS/OC) spray, PepperBall® deployment systems, extended range impact devices in twelve gauge shotgun, 37 and 40 mm launchers for the delivery of kinetic energy impact projectiles and electronic control devices.

## III. Deadly Force Applications

- A. While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the force applied will create a substantial likelihood of causing death or serious bodily injury (refer to G.O. 1.31 Officer Involved Shootings and G.O. 1.32 Firearms Review Board for additional information regarding the shooting policy and related investigative procedures).

- B. Department-authorized firearms use

Firearms shall be used and maintained only as documented in training provided by the department's Firearms Training Section (refer to General Order 1.8 Firearms for information regarding the acquisition, use, and documentation of training in the use of firearms).

1. Nothing in this directive precludes an officer from un-holstering a firearm in a dangerous or life-threatening situation, such as serving a high-risk warrant, building search, felony vehicle stop or other situations where the presentation of a firearm is a reasonable use of force.
2. Officers are authorized to carry only those firearms and ammunition types specifically designated by the Firearms Training Section and approved by the chief of police. This includes the on-duty firearm, as well as any back-up or off-duty firearms for use in an official capacity.
3. Officers shall demonstrate proficiency with any firearm that will be used in an official capacity before that weapon may be carried and comply with all training requirements for specific firearms, as directed by the department.
4. Use of any other unauthorized firearm or non-approved accessories or ammunition in an official capacity is prohibited.

- C. Discharges from department-authorized firearms

1. All discharges from department-authorized firearms, on-duty or off-duty, except for training and/or qualification purposes, shall be immediately reported to an on-duty supervisor by the involved officer in the most expedient method possible. The on-duty supervisor shall make appropriate notification to his/her district commander or designee and respond to the scene of the incident and conduct an investigation.



2. The use of any department-owned firearm for sport/recreational use, or by anyone other than the assigned officer unless approved by the officer's commander via chain of command, is prohibited.
3. The involved officer shall complete an initial police report and provide it to the assigned field supervisor responsible for the investigation prior to the end of shift if on-duty and if off-duty, as directed by the field supervisor.
4. **All** discharges of a department-authorized firearm shall be investigated to determine if the shooting is within the law and department policy. The responsible supervisor will prepare a **Firearms Investigation Report (Other than Animal)** or a **Destruction of Animal (Firearm Report)**. The summary section shall be completed in detail in lieu of completing a Supervisory Special Report.
  - a. The Firearms Investigation Report, with one copy of the involved officer's initial police report will be forwarded through the chain of command to the chief of police.
  - b. The chief of police will assign the case to his/her Executive Staff designee for compilation, review and filing and the case will be forwarded to the Firearms Review Board for their recommendation to the chief of police (refer to G.O. 1.32 Firearms Review Board for additional information regarding the administrative review process).
5. If an uninvolved department member has knowledge of an unreported shooting incident they shall report the known facts to a supervisor.
6. Moving vehicles

Unless it reasonably appears that it would endanger officers or the public, officers are expected to move out of the path of any approaching vehicle, however,

- a. This is not intended to restrict an officer's right to use deadly force directed at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the officer or others.
- b. Officers may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction or threat of serious bodily injury and the officer reasonably believes that there is an imminent or future potential risk of serious bodily injury to others if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force when feasible.
- c. Officers shall not discharge a firearm from a moving vehicle, except in exigent circumstances and in the immediate defense of life.

**NOTE**

This policy, in regards to discharging a firearm at or from a moving vehicle, may not cover every situation that may arise. In all situations, officers are expected to act with professional maturity, exercising sound judgment. Any deviation from the provisions of this policy shall be examined on a case-by-case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force.



## 7. Warning shots

Generally, warning shots are prohibited and may not be discharged. However, in exceptional circumstances, and where a warning shot(s) might reasonably be expected to avoid the need to use deadly force, the warning shot(s) shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

## D. Firearms discharges causing injury or death

1. The Homicide Section will investigate and properly document all officer discharges resulting in an attempt to injure, an actual injury or death to a person.
2. The Professional Standards Division/ Internal Affairs Section will conduct a parallel investigation which will remain separate and independent of the homicide investigation. The Internal Affairs Section commander will be responsible for overseeing the internal investigation and reporting the results through the Professional Standards Division commander to the chief of police. Refer to G.O. 1.31- *Officer Involved Shootings* for information regarding the investigative procedure.

**IV. Notification and Documentation of the Use of Force**

- A. An officer shall notify a supervisor via Communications as soon as practical following a use of force incident as specifically outlined in this general order and as described below:
  1. Force applied through the use of deadly or non-deadly weapons.
  2. Discharge of an authorized firearm for other than training purposes.
  3. Force applied resulting in, or alleged to have resulted in, serious bodily injury, injury or complaint of pain of another person.
- B. An officer shall promptly document any use of force described above as follows:
  1. The officer will obtain a case number from Communications and write an initial police report.
  2. The officer's initial police report will describe the contributing factors leading up to and ultimately requiring the use of force in the "Narrative" section, as well as in the "Probable Cause" section if an arrest resulted.
  3. The officer will include a description of the force used and describe any resulting injuries to the arrestee, the officer and/or any involved citizens.
  4. The officer will be responsible for having photos taken of all injuries and will document the information in the initial police report.
- C. The officer's supervisor shall respond to the scene and complete a Supervisory Special Report documenting the use of force as outlined in this general order.
  1. The supervisor's report narrative will include the required documentation for the involved officer.
  2. The supervisor's Supervisory Special Report will be forwarded to the affected division chief within 72 hours of the incident, along with copies of all related paperwork. Refer to G.O. 1.33 Electronic Control Devices, G. O. 1.34 Control Devices and G.O. 4.2 Canine Response for the corresponding Supervisory Special Report requirements.



## **V. Medical Attention for Injuries Sustained Using Force**

- A. Other than specifically addressed above, or as stated in General Orders 1.33 and 1.34, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury, continuing pain or serious bodily injury. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by IMPD personnel, firefighters, paramedics, hospital staff or medical staff at the APC or jail. If any such individual refuses medical attention, such refusal shall be fully documented in related reports and whenever practical, should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included if possible.
- B. Persons who exhibit any combination of the following factors may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as possible:
  - 1. Extreme agitation;
  - 2. Violent irrational behavior;
  - 3. Profuse sweating;
  - 4. Extraordinary strength beyond physical characteristics;
  - 5. Unusual high tolerance to pain; and/or
  - 6. Require a protracted physical encounter with multiple officers to bring under control.

## **VI. Supervisor Responsibility**

- A. Other than as specifically addressed above, when a supervisor responds to an incident in which there has been a reported application of force, the supervisor is expected to:
  - 1. Obtain the basic facts from the involved officer(s);
  - 2. Ensure that any injured parties are examined and treated;
  - 3. Separately interview the subject(s) upon whom the force was applied;
  - 4. Ensure photographs have been taken of any areas involving visible injury.
    - a. Photos of IMPD K-9 bites shall be taken after treatment by an authorized medical provider.
    - b. Photos and other documentation shall include the location and number of bites.
  - 5. Identify and interview any witnesses not already included in related reports;
  - 6. Review, complete and submit all related reports through the chain of command.
- B. In the event the supervisor believes the incident may give rise to potential civil litigation, a separate memorandum form shall be completed and routed to the district commander via chain of command.
- C. Should the supervisor determine that any application of force was not within policy, the supervisor shall initiate a separate internal administrative investigation.

**VII. Annual Analysis**

- A. The department will maintain records for use of force incidents involving:
1. Discharges of firearms; or
  2. Any force alleged to have resulted in serious bodily injury of another; or
  3. Any force through the use of deadly or non-deadly weapons;
  4. Any use of force where injury occurred and the injury was documented by a Supervisory Special Report;
  5. Records for use of force incidents will be maintained by the Professional Standards Division.
- B. The Professional Standards Division will be responsible for conducting a documented annual analysis of the above reports by reviewing the incidents in an effort to reveal patterns or trends that could indicate training needs, equipment upgrades and/or policy modifications.
- C. The resulting report from the annual analysis shall be forwarded to the Training Division commander or designee, for evaluation and implementation.

**NOTE**

Any deviation from the provisions of this policy shall be examined on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of force.