

## Use of Force

### 300.1 PURPOSE AND SCOPE

The purpose of this policy is to provide 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.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Active resistance** - A subject attempts to attack or does attack an officer; exhibits aggressive behavior (e.g., lunging toward the officer, striking the officer with hands, fists, kicks or any instrument that may be perceived as a weapon such as knife or stick); or exhibits defensive resistance (e.g., attempts to leave the scene, flee, hide from detection, or pull away from the officer's grasp). Verbal statements, bracing or tensing alone do not constitute active resistance.

**Anatomical Compliance Technique** - The act of applying pressure to vulnerable areas, weak points or pressure points of the body. This technique is used to cause the immediate response by a subject who poses a threat.

**Apprehension** - The arrest, capture or taking into custody of a person.

**Arrest** - The taking of one person into custody by another. To constitute arrest there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the custody of the one arresting him. An arrest is a restraint of greater scope or duration than an investigatory stop or detention. An arrest is lawful when supported by probable cause.

**Canine apprehension** - Any event involving canine deployment wherein the canine has a clear and well-documented role in the capture of a person. The mere presence of a canine at the scene of an arrest shall not count as a canine apprehension.

**Canine deployment** - Any situation, except one involving an on-leash article search only, in which a canine is brought to the scene and used in an attempt to locate or apprehend a suspect, whether or not a suspect actually is located or apprehended.

**Critical firearm discharge** - A discharge of a firearm by an NOPD officer, including discharges where no person or animal is struck. Range and training firings, destruction of animals, and off-duty hunting discharges where no person is struck are not critical firearms discharges.

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Electronic Control Weapon (E.C.W.)** - A weapon designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses

# New Orleans Police Department

## Policy Manual

### *Use of Force*

---

**E.C.W. application** - The contact and delivery of electrical impulse to a subject with an E.C.W.

**Force statement** - A written statement documenting a use of force which shall include the following:

- A detailed account of the incident from the officer's perspective
- The reason for the initial police presence
- A specific description of the acts that led to the use of force
- The level of resistance encountered
- A description of every type of force used

**Force Investigation Team (FIT)** - The NOPD unit tasked with conducting investigations of serious uses of force; uses of force indicating apparent criminal conduct by an officer; uses of force by NOPD personnel of a rank higher than sergeant; and uses of force reassigned to FIT by the Superintendent, the Superintendent's designee, or PIB. Fit shall also investigate all instances where an individual has died while in, or as an apparent result of being in the custody of NOPD.

**In-custody death** - An incident where an individual died while in, or as an apparent result of being in, the custody of NOPD.

**Lethal force** - The use of force likely to cause death or serious physical injury, (e.g., the use of a firearm, neck hold or strike to the head, neck or throat with a hard object).

**Neck hold** - Any of the following types of holds:

- Arm-bar control hold, a hold that inhibits breathing by compression of the airway in the neck
- Carotid restraint hold, a hold that inhibits blood flow by compression of the blood vessels in the neck
- Lateral vascular neck constraint
- A hold with a knee or other object to the back of a prone subject's neck.

A neck hold shall be considered lethal force.

**Passive resistance** - Behavior that is unresponsive to police verbal communication or direction (e.g., ignoring or disregarding police attempts at verbal communication or control; going limp; or failing to physically respond or move) and verbal resistance (e.g., verbally rejecting police verbal communication or direction; telling the officer that he or she will not comply with police direction, to leave alone, or not bother him or her). Bracing, tensing, linking arms, or verbally signaling an intention to avoid or prevent being taken into custody constitutes passive resistance.

**Public Integrity Bureau (PIB)** - The NOPD unit charged with conducting internal and administrative investigations of NOPD officers and employees.

**Reasonable force** - Force that is objectively reasonable under the circumstances and the minimum amount of force necessary to effect an arrest or protect the officer or other person.

**Reportable use of force** - Any force above hand control or escort techniques applied for the purposes of handcuffing, or escort techniques that are not used as pressure point

---

# New Orleans Police Department

## Policy Manual

### *Use of Force*

---

compliance techniques, do not result in injury or complaint of injury and are not used to overcome resistance.

**Serious physical injury** - Physical injury that creates a substantial risk of death; causes death or serious and protracted disfigurement; or causes impairment of the function of any bodily organ or limb.

**Serious use of force** - Includes the following:

- All uses of lethal force by an NOPD officer
- All critical firearm discharges by an NOPD officer
- All uses of force by an NOPD officer resulting in serious physical injury or requiring hospitalization
- All neck holds
- All uses of force by an NOPD officer resulting in a loss of consciousness
- All canine bites
- More than two applications of an E.C.W. on an individual during a single interaction, regardless of the mode or duration of the application, and whether the applications are by the same or different officers, or E.C.W. application for longer than 15 seconds, whether continuous or consecutive
- Any strike, blow, kick, E.C.W. application or similar use of force against a handcuffed subject

**Supervisor** - A sworn NOPD employee at the rank of sergeant or above (or anyone acting in those capacities) and non-sworn NOPD personnel with oversight responsibility for other officers.

**Use of force** - Physical effort to compel compliance by an unwilling subject above un-resisted handcuffing, including pointing a firearm at a person.

**Use of force indicating apparent criminal conduct by an officer** - Force that a reasonable and trained supervisor would conclude could result in criminal charges due to the apparent circumstances of the use of force, such as the level of the force used as compared to the resistance encountered, or discrepancies in the use of force as described by the officer and the use of force as evidenced by any resulting injuries, witness statements, or other evidence.

**Use of force report** - A written report documenting a supervisor's investigation of a use of force.

**Use of force statement** - Officer's written report documenting his/her use of force.

### **300.2 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, may use reasonable force in carrying out their duties.

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.

# New Orleans Police Department

## Policy Manual

### *Use of Force*

---

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.

Officers must meet training, and certification requirements to be permitted to carry and use authorized weapons.

Officers shall not use or possess Oleoresin capsicum spray while on-duty, including officers working secondary employment.

As part of the documentation of its activities, the SWAT team shall produce Use of Force reports.

### **300.3 DUTY TO INTERCEDE AND REPORT**

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 any use of force incident shall promptly report these observations to a supervisor, and officers observing a level 2, 3 or 4 use of force shall write a Force Statement before the end of shift, which shall be included in the Use of Force Report.

### **300.4 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 is 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 reasonably 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.

#### **300.4.1 USE OF FORCE TO EFFECT AN ARREST**

An officer making a lawful arrest may use reasonable force to effect the arrest and detention, and to overcome any resistance or threatened resistance of the person being arrested or detained (C. Cr. P. 220).

# New Orleans Police Department

## Policy Manual

### *Use of Force*

---

#### **300.4.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

When determining whether to use 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) Whether the subject poses a threat to himself, officers or others and the immediacy and severity of the threat.
- (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 versus 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 the subject, 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 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) Any other exigent circumstances.

#### **300.4.3 ANATOMICAL COMPLIANCE TECHNIQUES**

Anatomical compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those anatomical compliance techniques for which they have successfully completed department-approved training.

Officers utilizing any anatomical compliance technique should consider:

- (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 anatomical compliance technique shall be discontinued once the officer determines that compliance has been achieved.

#### **300.5 DEADLY FORCE APPLICATIONS**

An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

---

# New Orleans Police Department

## Policy Manual

### *Use of Force*

---

#### **300.5.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective. Officers shall not discharge a firearm from a moving vehicle or at a moving vehicle unless the occupants of the vehicle are using deadly force, other than the vehicle itself, against the officer or another person, and such action is necessary for self defense or to protect the other person; shall not intentionally place themselves in the path of, or reach inside, a moving vehicle; and, where possible, shall attempt to move out of the path of a moving vehicle before discharging their weapon. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

#### **300.6 ADDITIONAL USE OF FORCE CONSIDERATIONS**

##### **300.6.1 WARNING AND OTHER SHOTS**

Warning shots or shots fired for the purpose of summoning aid are prohibited.

##### **300.6.2 DANGEROUS ANIMALS**

Officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances in which officers have sufficient advance notice that a potentially dangerous animal may be encountered, officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER device, animal control officer). Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

#### **300.7 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.

Use of force reports, including force statements, shall be maintained centrally by PIB.

##### **300.7.1 REPORT OF FIREARM DISCHARGE**

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall notify the dispatcher and his/her supervisor immediately or as soon as circumstances permit. If the discharge is a level-4 use of force, the Force Investigation Team shall be notified via the Command Desk and additional officer statements and reports shall be made in accordance with the Force Investigation Team/Officer-Involved Shooting Policy.

##### **300.7.2 NOTIFICATION TO SUPERVISORS**

Officers who use or observe force shall notify their supervisors immediately following any use of force incident or upon receipt of an allegation of unreasonable or unreported use of force by any officer. Officers who use or observe force and fail to report it shall be subject to disciplinary action, up to and including termination.

# New Orleans Police Department

## Policy Manual

### Use of Force

---

#### **300.8 MEDICAL ATTENTION**

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 emergency medical personnel. If any such individual refuses medical attention, such a refusal should be fully documented by medical personnel and attached to related reports. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

Officers shall ensure 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 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.

#### **300.9 SUPERVISOR RESPONSIBILITIES**

A supervisor shall respond to an incident in which there has been a reported application of force. The supervisor shall:

- (a) Obtain the basic facts from the involved officer. 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 also be retained until all potential civil litigation has expired.
- (e) Identify and interview any witnesses not already included in related reports.
- (f) Review and approve all related reports.

# New Orleans Police Department

## Policy Manual

### *Use of Force*

---

- (g) 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.

Supervisors shall be responsible for notifying Command Desk of all use of force occurrences as soon as possible.

#### **300.9.1 PLATOON COMMANDER RESPONSIBILITY**

The Platoon Commander shall review each use of force by any personnel within his/her command and forward the review as appropriate.

#### **300.10 GENERAL**

Annually, the NOPD will analyze the year's use of force data and document its findings in a public report which includes:

- (a) Force related outcome data
- (b) Determination of significant trends
- (c) Identification of deficiencies
- (d) Recommendations to correct deficiencies



# PR300

---

## Use of Force

### PR300.1 USE OF FORCE PRINCIPLES

Use of force by NOPD officers, regardless of the type of force or weapon used, shall abide by the following requirements:

- (a) Officers shall use advisements, warnings, and verbal persuasion, when possible, before resorting to force.
- (b) Force shall be de-escalated immediately as resistance decreases.
- (c) When feasible based on the circumstances, officers will use disengagement; area containment; surveillance; waiting out a subject; summoning reinforcements; and/or calling in specialized units, in order to reduce the need for force and increase officer and civilian safety.
- (d) Officers shall allow individuals time to submit to arrest before force is used wherever possible.
- (e) Officers shall not use neck holds, except where lethal force is authorized.
- (f) Officers shall not use head strikes with a hard object, except where lethal force is authorized.
- (g) Officers shall not use force against persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to the officer or another person or persons, or as objectively reasonable, where physical removal is necessary to overcome passive resistance.
- (h) Officers shall not use force above un-resisted handcuffing to overcome passive resistance, except that physical removal is permitted as necessary and objectively reasonable.
- (i) Un-holstering a firearm and pointing it at a person constitutes a use of force, and shall accordingly be done only as objectively reasonable to accomplish a lawful police objective.
- (j) Officers shall not use force to attempt to effect compliance with a command that is unlawful. Any use of force by an officer to subdue an individual resisting arrest or detention is unreasonable when the initial arrest or detention of the individual was unlawful.
- (k) Immediately following a use of force, officers and upon arrival, a supervisor shall inspect and observe subjects for injury or complaints of pain resulting from the use of force, and immediately obtain any necessary medical care. This may require an officer to provide emergency first aid until professional medical care providers are on the scene.
- (l) Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that a situation may escalate to the point where lethal force would be authorized.

### PR300.2 GENERAL INFORMATION

The **decision** to resort to force to accomplish a lawful police objective must be reasonable. Officers shall use advisements, warnings, and verbal persuasion, when possible, before resorting to force.

---

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

The **degree** of force used must be reasonable, and necessary, and in a manner that avoids unnecessary injury to officers and civilians. The officer may only use enough force to overcome the amount of resistance or aggression met. When such resistance or aggression is reduced, the officer must correspondingly and immediately reduce the degree of force he/she is applying, or the use of force is **NOT** legal.

The unreasonable use of force will subject officers to discipline, possible criminal prosecution, and/or civil liability. Officers who use or observe force and fail to report it shall be subject to disciplinary action, up to and including termination.

There are a number of non-lethal skills and equipment which are authorized for use when necessary to accomplish valid police objectives.

- (a) Verbal communication and/or persuasion are a basic defensive tactic.
- (b) Bodily force, including hands, fists, and feet may be used in a variety of situations depending upon the individual officer's skill, and the circumstances. If injuries result from the use of bodily force, the arresting officer shall handle the injured subject in accordance with current departmental regulations and the supervisor shall submit a Resisting Arrest Report along with an incident report through the chain of command.
- (c) The baton is an intermediate level of force. The side handle baton or expandable baton is capable of causing serious injury. The officer must complete Departmental training before using the side handle baton or expandable baton. If injuries result from the use of the baton, the arresting officer shall handle the injured subject in accordance with current department regulations and the supervisor shall submit a Resisting Arrest Report along with an incident report through the chain of command.

In all instances where physical force is used to control an individual and the individual is injured or complains of injury, the supervisor shall complete a use of force report covering the circumstances surrounding the incident. A copy of the report shall be forwarded to the Public Integrity Bureau within twenty-four (24) hours of its approval by a supervisor.

Unnecessarily or prematurely drawing or exhibiting a firearm constitutes a use of force and it limits an officer's alternative's in controlling a situation, creates unnecessary anxiety on the part of the citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm.

An officer shall exercise extreme caution with respect to use of deadly force. In all cases, only the minimum degree of force which is necessary shall be used, and every other available alternative shall, if feasible, shall be exhausted before deadly force is applied if feasible.

### **PR300.3 INSTRUCTIONS - GENERAL**

Officers who use or observe force shall notify their supervisors immediately following any use of force incident or upon receipt of an allegation of unreasonable or unreported use of force by any officer. Officers who use or observe force and fail to report it shall be subject to disciplinary action, up to and including termination.

Personnel may delay compliance with the provisions of this policy/procedure if the scene is unstable, there is community unrest, or other conditions make immediate compliance impracticable. The protection of Department personnel, the public, and the maintenance of public safety shall remain the priority. The approving supervisor shall ensure the reason for

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

the delay is documented in the Use of Force Report. Such compliance delays are subject to review by the Use of Force Review Board.

#### **PR300.3.1 GENERAL INSTRUCTIONS - SUPERVISOR**

When notified of a Level 3, or 2 use of force, the supervisor shall respond to the scene and conduct the appropriate force investigation.

When notified of an allegation of a use of force and the member denies using force, the supervisor shall respond to the scene and conduct a preliminary investigation into the use of force allegation.

Supervisors shall be held accountable for the timely, accurate, and thorough documentation of all use of force incidents.

Supervisors shall identify Departmental or individual training and tactical issues and make recommendations for corrective action when appropriate, and document the recommendations in the Use of Force Report.

Supervisors shall ensure the provisions of all policies are properly applied.

#### **PR300.3.2 USE OF FORCE INVESTIGATION - WHEN NOT NEEDED**

A use of force investigation need not be conducted when a subject has incurred an injury requiring no more than basic first-aid and the injury did not occur as a result of a member's use of force and there is no allegation of force by the subject.

#### **PR300.3.3 USE OF FORCE - MISCONDUCT**

If any force investigation indicates administrative misconduct, the supervisor shall conduct, at a minimum, a Level 3 force investigation and additionally initiate an internal investigation. Document the date PIB was notified in the Use of Force Report.

If any force investigation indicates criminal misconduct, the supervisor shall suspend the investigation immediately and notify PIB. The FIT will take over the investigation.

#### **PR300.3.4 USE OF FORCE - MEDICAL**

Personnel shall request medical service without delay when a subject has visible injuries or the subject complains of injury.

#### **PR300.3.5 USE OF FORCE - REPORTS**

Reports shall not contain "boilerplate" or "pat" language (e.g., "furtive movement" or "fighting stance," etc.) without descriptive or explanatory details of the action."

In the event multiple members are involved in a **single** incident, regardless of the varying levels of force used by an individual officer involved, the reporting member or supervisor shall prepare only one Use of Force Report listing all involved personnel. When multiple levels of force are used, the highest level of investigation shall be conducted.

#### **PR300.3.6 ANIMALS**

Injured or killed animals shall be handled and/or disposed of appropriately.

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

#### **PR300.4 LEVELS OF FORCE**

Force options are grouped in the following four (4) force levels for reporting and investigating purposes only:

##### **PR300.4.1 LEVEL 1**

**Level-1** uses of force include pointing a firearm at a person and hand control or escort techniques (e.g., elbow grip, wrist grip, or shoulder grip) applied as pressure point compliance techniques or that result in injury or complaint of injury.

**Note:** Hand control or escort techniques applied for the purposes of handcuffing or escorts that are not used as pressure point compliance techniques, do not result in injury or complaint of injury, and are not used to overcome resistance, are not reportable uses of force.

##### **PR300.4.2 LEVEL 2**

###### **Level-2**

- uses of force include use of an ECW (including where an ECW is fired at a person but misses); use of an impact weapon to strike a person but where no contact is made; use of a baton for non-striking purposes (e.g., prying limbs, moving or controlling a person); and weaponless defense techniques (e.g., elbow strikes, kicks, leg sweeps, and takedowns).

##### **PR300.4.3 LEVEL 3**

###### **Level-3**

- uses of force include any strike to the head (except for a strike with an impact weapon); use of impact weapons where contact is made (except to the head), regardless of injury; or the destruction of an animal.

##### **PR300.4.4 LEVEL 4**

**Level-4** - uses of force include all serious uses of force, and shall be investigated by NOPD's Force Investigation Team.

###### **Serious use of force:**

- (a) all uses of lethal force by an NOPD officer;
- (b) all critical firearm discharges by an NOPD officer;
- (c) all uses of force by an NOPD officer resulting in serious physical injury or requiring hospitalization;
- (d) all neck holds;
- (e) all uses of force by an NOPD officer resulting in a loss of consciousness;
- (f) all canine bites;
- (g) more than two applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and whether the applications are by the same or different officers, or ECW application for longer than 15 seconds, whether continuous or consecutive; and
- (h) any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject.

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

All level-4 uses of force (serious use of force), uses of force indicating apparent criminal conduct by an officer, uses of force by NOPD personnel of a rank higher than sergeant, or uses of force reassigned to the FIT by the Superintendent or his designee or PIB shall be investigated by the FIT. Supervisors shall notify the FIT via the Command Desk.

#### **PR300.5 LEVEL 1 USE OF FORCE INCIDENTS**

Level 1 Use of Force incidents are self-reported incidents.

##### **PR300.5.1 RESPONSIBILITIES OF PERSONNEL - LEVEL 1**

Department personnel who use a Level 1 use of force shall:

- (a) Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor shall be notified.
- (b) Complete a Use of Force Report.
- (c) The member who uses force shall write a Force Statement before the end of shift, which shall be included in the Use of Force Report. The Force Statement shall include:
  1. A detailed account of the incident from the officer's perspective;
  2. The reason for the initial police presence
  3. A specific description of the acts that led to the use of force;
  4. The level of resistance encountered
  5. A description of every type of force used.
- (d) Complete the **original** Use of Force Report and, if applicable, the appropriate Offense Report and ancillary documents to provide his/her immediate supervisor or, if unavailable, to an on-duty supervisor for review **prior to the end of tour of duty**.

##### **PR300.5.2 SUPERVISOR RESPONSIBILITIES FOR LEVEL 1**

When contacted by involved personnel, supervisors shall review the general circumstances of the incident with the involved personnel as necessary, and ensure the facts are consistent with the reporting level.

The direct supervisor of the officer using a Level 1 use of force shall review and approve in writing the Level 1 use of force before the end of the shift during which the Level 1 force is used. Supervisors shall elevate and investigate any use of force that appears to have been inappropriately categorized as a Level 1 use of force.

**Level 1** incidents do not require witness identification.

#### **PR300.6 LEVEL 2, 3 AND 4 USE OF FORCE INCIDENTS**

##### **PR300.6.1 RESPONSIBILITIES OF OFFICERS USING OR OBSERVING A LEVEL 2, LEVEL 3 OR LEVEL 4 USE OF FORCE**

All officers using a Level 1 through 4 use of force, and officers observing a Level 2, Level 3, or Level 4 use of force, **shall write a Force Statement** before the end of shift, which shall be included in the Use of Force Report.

The officer's Force Statement shall include:

- (a) a detailed account of the incident from the officer's perspective;
-

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

- (b) the reason for the initial police presence;
- (c) a specific description of the acts that led to the use of force;
- (d) the level of resistance encountered; and
- (e) a description of every type of force used.

Officers' Force Statements shall completely and accurately describe the force used or observed. The use of force reporting policy shall explicitly prohibit the use of conclusive statements without supporting detail, including "boilerplate" or "pat" language (e.g., "furtive movement" or "fighting stance") in all statements and reports documenting use of force.

Officers shall be subject to disciplinary action for material omissions or inaccuracies in their Force Statements.

Officers who use or observe force shall notify their supervisors immediately following any use of force incident or upon receipt of an allegation of unreasonable or unreported use of force by any officer.

#### **PR300.6.2 SUPERVISORS RESPONSIBILITIES - LEVEL 2, LEVEL 3 OR LEVEL 4**

The direct supervisor of the officer(s) using force, upon notification of a Level 2, Level 3, or Level 4 use of force incident or allegation of excessive force, shall respond to the location of occurrence. The direct supervisor of the officer(s) involved in the reportable use of force incident shall investigate all uses of force, with the exception of:

- (a) those incidents involving a serious use of force (Level 4 uses of force);
- (b) uses of force indicating apparent criminal conduct by an officer, as defined in this Agreement;
- (c) a use of force incident by NOPD personnel of a rank higher than the supervisor assigned to investigate the incident; or
- (d) a use of force investigation reassigned to FIT by the Superintendent or his designee or PIB.

A supervisor who was involved in a reportable incident, including by participating in or ordering the force being investigated, shall not investigate the incident or review the Force Statements for approval.

#### **For all Level 2 and Level 3 uses of force, the investigating supervisor shall:**

- (a) respond to the scene, examine the subject of the force for injury, interview the subject for complaints of pain after advising the subject of his/her rights, and ensure that the subject receives medical attention from an appropriate medical provider;
- (b) notify immediately of the use of force and obtain a use of force tracking number;
- (c) identify and collect all relevant evidence and evaluate that evidence to determine whether the use of force:
  - 1. was consistent with NOPD policy and/or
  - 2. raises any policy, training, tactical, or equipment concerns;
- (d) ensure that all evidence to establish material facts related to the use of force, including audio and video records, photographs, and other documentation of injuries or the absence of injuries is collected;

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

- (e) ensure that a canvass for, and interview of, civilian witnesses is conducted. In addition, civilian witnesses should be encouraged to provide and sign a written statement in their own words;
- (f) ensure that all officers witnessing a use of force incident by another officer provide a Force Statement. Officers involved in a use of force incident shall be separated until interviewed. Group interviews shall be prohibited. Supervisors shall ensure that all Use of Force Reports identify all officers who were involved in the incident, witnessed the incident, or were on the scene when it occurred. Supervisors shall not ask officers or other witnesses leading questions that improperly suggest legal justifications for the officers' conduct, where such questions are contrary to appropriate law enforcement techniques. Investigating supervisors shall record all interviews with civilian witnesses and all follow-up interviews with officers, and shall record all interviews with subjects, after advising them of their rights and that they seek to question them only about the use of force. The recording requirements set out in Custodial Interrogations do not apply to subject interviews regarding the use of force. review all Force Statements and ensure that all reports include the information required by this Agreement and NOPD policy; and
- (g) consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate, and make credibility determinations, if feasible. Supervisors will make all reasonable efforts to resolve material inconsistencies between the officer, subject, and witness statements, as well as inconsistencies between the level of force claimed by the officer and the subject's injuries. NOPD will train all of its supervisors on the factors to consider when evaluating credibility, incorporating credibility instructions provided to jurors. Where a reasonable and trained supervisor would determine that there may have been misconduct, the supervisor shall immediately notify FIT to respond to the scene.

Each supervisor shall provide a written gist to the Division Commander by the end of the shift documenting the supervisor's preliminary determination of the appropriateness of the use of force, including whether the force was reasonable and within policy; whether the injuries appear proportionate to the use of force described; and summaries of subject, witness, and officer statements.

Each supervisor shall complete and document a use of force supervisory investigation using a supervisor's Use of Force Report within 72 hours of learning of the use of force. Any extension to this 72-hour deadline must be authorized by a Division Commander. This Report shall include:

- (a) the supervisor's narrative description of the incident, including a precise description of the evidence that either justifies or fails to justify the officer's conduct based on the supervisor's independent review of the facts and circumstances of the incident;
- (b) documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report shall specifically state this fact. In situations in which witnesses were present but circumstances prevented the author of the report from determining the identification, phone number or address of those witnesses, the report shall state the reasons why. The report should also include all available identifying information for anyone who refuses to provide a statement;
- (c) the names of all other NOPD employees witnessing the use of force;
- (d) the investigating supervisor's evaluation of the use of force, based on the supervisor's review of the evidence gathered, including a determination of whether the officer's actions appear to be within NOPD policy and consistent with state and federal law; and

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

an assessment of the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or lesser force options, and;

- (e) documentation of any non-disciplinary corrective action taken.

Upon completion of the supervisor's Use of Force Report, the investigating supervisor shall forward the report through their chain of command to Division Commander, who shall review the report to ensure that it is complete and that the findings are supported using the preponderance of the evidence standard. The Division Commander shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings.

Where the findings of the Use of Force Report are not supported by a preponderance of the evidence, the investigating supervisor's chain of command shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation. The investigating supervisor's superior shall counsel the investigating supervisor regarding the inadequately supported determination and of any investigative deficiencies that led to it. The Division Commander shall be responsible for the accuracy and completeness of Use of Force Reports prepared by supervisors under their command.

Where an investigating supervisor repeatedly conducts deficient investigations, the supervisor shall receive the appropriate corrective action, including training, demotion, and/or removal from a supervisory position in accordance with performance evaluation procedures and/or Civil Service Rules.

Whenever an investigating supervisor, reviewing supervisor, or Division Commander finds evidence of a use of force indicating apparent criminal conduct by an officer, he or she shall suspend the force investigation immediately and notify PIB. PIB shall immediately notify FIT, which will take over the investigation.

When the Division Commander finds that the investigation is complete and the findings are supported by the evidence, the investigation file shall be forwarded to PIB. PIB shall review the investigation to ensure that it is complete and that the findings are supported by the evidence.

At the discretion of the Superintendent, his designee, or PIB, a use of force investigation may be assigned or re-assigned for investigation to FIT or to another supervisor, whether within or outside of the District in which the incident occurred, or may be returned to the Unit for further investigation or analysis. This assignment or re-assignment shall be explained in writing.

Where, after investigation, a use of force is found to be out of policy, the Superintendent shall direct and ensure appropriate discipline. Where the use of force indicates policy, training, tactical, or equipment concerns, the Superintendent shall ensure also that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.

### **PR300.7 RESPONSIBILITIES OF UNINVOLVED PERSONNEL WHO DID NOT WITNESS THE USE OF FORCE, WHEN DIRECTED BY A SUPERVISOR**

The responsibilities of uninvolved personnel who did not witness the use of force, when directed by a supervisor shall:



# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

- (a) Conduct a reasonable effort to identify and obtain statement from other witnesses in the proximity of the use of force incident, commensurate with the availability of resources and the conditions of the event.
- (b) Witnesses to a use of force shall be identified to the extent that it is reasonable and listed in an Incident Report. Statements shall be taken from outside agency personnel or private person witnesses, when practical. The following criteria shall be used when listing witnesses:
  - 1. **Outside Agency Personnel** Outside agency personnel at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified as follows:
    - (a) Name;
    - (b) Rank/Title;
    - (c) Badge or employee number; and
    - (d) Department affiliation.
  - 2. **Private Person Witnesses** Private persons at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified, when possible, as follows:
    - (a) Name;
    - (b) Sex, Race, DOB;
    - (c) Contact number(s); and
    - (d) Home address.
  - 3. Document in the appropriate report why witness information was not obtained in situations where it was unsafe or impractical to obtain, (e.g., hostile crowd, insufficient police resources) or the witness refused to remain at the scene, or is uncooperative.
  - 4. Members shall not detain or delay a witness who refuses to remain at the scene; nonetheless, the witness' physical description, license plate, comments, or other identifiers shall be obtained when available and documented in the appropriate report.
  - 5. Members shall summon a supervisor to the scene in the event a witness refuses to give a statement or provide identification information.
  - 6. Complete a Supplemental Statement without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.
  - 7. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member's Supplemental Statement.

#### **PR300.7.1 PLATOON COMMANDER OR COMMANDER OF THE INCIDENT SCENE RESPONSIBILITIES**

The platoon commander or commander of the incident scene shall:

- (a) Respond to the scene and take Incident Command responsibilities when advised the incident involves significant department resources or is likely to generate unusual public interest.

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

- (b) Monitor and ensure the use of force investigation is conducted in a thorough, methodical, and efficient manner.
- (c) Ensure the following notifications are made as soon as possible unless conditions at the scene make such notification impractical:
  - 1. Deputy Superintendent of the Public Integrity Bureau;
  - 2. Police Commander of the Public Integrity Bureau;
  - 3. Commander of the Force Investigative Team;
  - 4. Superintendent of Police;
  - 5. Orleans Parish District Attorney's Office Standby Team for force incidents resulting in death or injury likely to result in death;
  - 6. Office of the City Attorney (OCA);
  - 7. Office of Inspector General (OIG);
  - 8. City Administrator;
  - 9. Field Operations Bureau (FOB) and Investigation and Support Bureau (ISB) Deputy Superintendents; and
  - 10. District/Division Commander.

#### **PR300.8 LEVEL 4 FORCE OR IN-CUSTODY DEATH INCIDENT**

Force Investigative Team shall proceed concurrent with an administrative investigation by the Public Integrity Bureau.

Level 4 force incidents shall be investigated by NOPD's Force Investigation Team.

If the case may proceed criminally, or where NOPD requests a criminal prosecution, any compelled interview of the subject officers shall be delayed. No other part of the investigation shall be held in abeyance unless specifically authorized by the Superintendent in consultation with the agency conducting the criminal investigation.

#### **PR300.8.1 PUBLIC INTEGRITY BUREAU FORCE INVESTIGATIVE TEAM (FIT)**

Once the Supervisor of the FIT is notified via the Command Desk or a member's Supervisor of a level-4 use of force incident or an in custody death, the FIT Supervisor will notify the members of the squad and respond as outlined in policy/procedure 310 - Force Investigative Team/Officer Involved Shooting.

#### **PR300.8.2 DISTRICT ATTORNEY'S (DA) STANDBY TEAM**

The District Attorney Office and the City Attorney's Office have the authority to conduct their own independent investigations. They will be available to assist and advise the investigating officers on all criminal law issues as they relate to the investigation.

#### **PR300.9 LEVEL 4 FORCE INCIDENTS INVOLVING AN OUTSIDE AGENCY**

##### **PR300.9.1 LEVEL 4 FORCE INCIDENTS OCCURRING OUTSIDE THE CITY OF NEW ORLEANS**

Upon notification, the platoon commander shall:

- (a) Send an on-duty supervisor to the jurisdiction in which the incident occurred unless the distance makes it impractical. The supervisor shall remain with the member(s) during the investigation by the outside agency;

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

- (b) Notify the Public Integrity Bureau Deputy Superintendent who shall determine if Public Integrity Bureau Force Investigative Team investigators are to be called-out; and
- (c) Notify the Public Integrity Bureau Police Commander who shall determine if the Public Integrity Bureau Administrative investigators are to be called-out.

The law enforcement agency, which has jurisdiction where the incident occurred, shall have incident command and primary criminal investigation responsibility. The Public Integrity Bureau Force Investigative Team shall only assume primary criminal investigation responsibility upon the request of the outside agency.

Public Integrity Bureau Force Investigative Team investigators shall request to attend the interview of NOPD personnel, unless the distance involved makes this impractical.

Public Integrity Bureau Administrative investigators shall request to monitor the interview of NOPD personnel, unless the distance involved makes this impractical.

#### **PR300.9.2 LEVEL 4 FORCE INCIDENTS INVOLVING OUTSIDE AGENCY PERSONNEL WITHIN THE CITY OF NEW ORLEANS**

The Public Integrity Bureau Force Investigative Team shall conduct the criminal investigation for level-4 use of force incidents and in custody deaths. The outside agency may assist at the discretion of the Public Integrity Bureau Deputy Superintendent.

#### **PR300.10 COMMAND REVIEW AND ENDORSEMENT**

All reviewers shall:

- (a) Review the Incident Report and the Use of Force Report and evaluate these reports for completeness, accuracy, and quality and ensure reports do not contain "Boilerplate" or "Pat" language without descriptive or explanatory details of the action. Return any reports that are incomplete or inadequate and ensure corrections are made;
- (b) Order further investigation or additional investigative resources when necessary;
- (c) Evaluate and document whether the use of force was in compliance with Departmental policy, and determine whether any training and tactical issues need further review, when appropriate; and
- (d) Review the Incident Report and Use of Force Report and forward as appropriate.

#### **PR300.10.1 LEVEL 1 FORCE REVIEW RESPONSIBILITIES**

The reviewing supervisor shall:

- (a) Conduct a thorough review of all documents to ensure completeness, accuracy, and quality.
  - (b) Incomplete or inadequate reports shall be returned for additional details or clarification.
  - (c) Ensure the Use of Force Report contains the appropriate, corresponding Item Number.
  - (d) Upon approval, sign the appropriate Level 1 Reviewer box on the Use of Force Report
    1. Ensure the Use of Force Report contains the original Use of Force Report with attached supplemental statements
    2. A copy of the appropriate report (e.g., Incident Report or field interview card)
-

# New Orleans Police Department

## Procedure Manual

### *Use of Force*

---

3. Upon approval, sign the appropriate Level 1 Reviewer box on the Use of Force Report

#### **PR300.10.2 LEVEL 4 FORCE REVIEW RESPONSIBILITIES**

The Public Integrity Bureau Force Investigative Team (FIT) supervisor shall:

- (a) Ensure the investigation is conducted and assigned to a Public Integrity FIT investigator who shall prepare an Incident Report.
- (b) Review and forward the Incident Report to the Police Commander of the Public Integrity Bureau.

The Public Integrity Bureau Police Commander shall:

- (a) Ensure Public Integrity Bureau Administrative investigators have conducted a complete use of force investigation, independent of the criminal investigation, and prepared a Use of Force or In-Custody Death Report in accordance with PIB Policy and Procedure
- (b) Review and forward the Incident Report and the Use of Force Report to the Deputy Superintendent of the Public Integrity Bureau.
- (c) Provide an oral report to the Superintendent of Police within 24 hours of the incident.

#### **PR300.11 OFFICER'S BILL OF RIGHTS**

Nothing in this procedure shall preclude a member of the police department from taking reasonable action(s) to ensure officer safety or the public's safety.

All members shall be afforded all substantive and procedural rights and remedies as provided by law, including without limitation those laws granted by the Officers' Bill of Rights.

The Superintendent of Police, after consulting with members of the Command Staff and Public Integrity Bureau shall determine if the member(s) should be returned to their regular assignment, but only after completion of any mandatory debriefing by the department's psychologist, and any recommended retraining.

Any determination by the Superintendent not to return an officer(s) to their regular assignment and to continue their reassignment is administrative only and in no way shall be considered punitive

#### **PR300.12 TRAINING**

Commanders, investigators, and supervisors shall complete a Department approved training course regarding the Departmental Use of Force Policy and reporting and investigating use of force incidents prior to conducting any use of force investigation. The training course shall include provisions of the NOPD Operations Manual Chapters related to RECEIVING AND PROCESSING COMPLAINTS AGAINST DEPARTMENT PERSONNEL OR PROCEDURES and CRIMINAL INVESTIGATIONS INVOLVING ACTIVE LAW ENFORCEMENT OR A MEMBER OF THE DEPARTMENT.