

Approved Date: April 24, 2008

By: Wayne Ringen
Office of the City Attorney



**City of
Norfolk**

Prescribed Date: 5/18/09
By: Josina H. Williams
City Manager/Director of Public Safety

Departmental General Order OPR-120
Norfolk Police Department

Subject: Use of Force

Office of Preparation: Strategic Management Division

Supersedes:

1. G.O. 89-002, dated April 5, 2006
2. Any previously issued directive conflicting with this order

Related Documents:

1. G.O. ADM-320: Dress and Personal Appearance
2. G.O. ADM-330: Workers' Compensation
3. G.O. OPR-110: Firearms
4. G.O. OPR-140: Special Incident Reports (SI)
5. G.O. OPR 210: Transporting Prisoners
6. G.O. OPR-640: K-9 Patrol and Explosive Detector Dogs

Order Contents:

- I. Parameters for Application of Force
- II. Supervisory/Investigative Responsibilities – Use of Force
- III. Death or Serious Injury as a Result of Use of Force
- IV. Medical Treatment
- V. Authorized Weapons (excluding firearms)

A handwritten signature in black ink, appearing to read "B. Marquis".

Bruce P. Marquis
Chief of Police

BPM/sm

Purpose

The purpose of this order is to provide guidelines for the use of force by sworn personnel.

Policy

The term "use of force" applies when an officer is required to use a firearm, baton, chemical agent, K-9 dog, or any other physical means to carry out a law enforcement function or restrain a prisoner other than the routine use of handcuffs and/or hands to hold, guide or lead a prisoner.

All incidents involving use of force by officers will be reported on PD 539, Notification of Special Incident, as outlined in G.O. OPR-140: Special Incident Reports (SI).

Definition

Serious Physical Injury:

A physical injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the function of any bodily member or organ. The threat of serious physical injury is one of the exceptions in the use of force policy, Section I.E. of this order.

I. Parameters for Application of Force

A. Reasonable Force

Only that force reasonably necessary to successfully accomplish legitimate police functions is authorized. The use of any force by department personnel that exceeds that which is "reasonably necessary" will be considered excessive and will not be tolerated. Department members may use physical force to effect an arrest, prevent an escape, overcome resistance, or to defend themselves or a third party from injury or death. The type and degree of force used must be reasonable based upon the facts of the situation. Officers will be required to report and explain, in writing, every incident involving the use of force in performance of police duty or activity.

B. Use of Force Continuum

Attempts should be made to achieve the control required to effect arrests and ensure both officer and public safety: through advice, persuasion, and then warnings. However, in situations where physical resistance or a threat of harm is encountered, and reasonable alternatives have been exhausted or would clearly be ineffective, physical force may be used.

C. Use of Authorized Weapons

Officers may use only authorized weapons in conformance with the policies set forth in this order, consistent with training provided by the Norfolk Police Department and in compliance with orders listed below. Use of weapons not issued by the Department or authorized by the Chief of Police is strictly prohibited other than the listed exceptions in Section I.E. of this order, and in compliance with the following orders

1. G.O. OPR-110: Firearms.
2. G.O. OPR-640: K-9 Patrol and Explosive Detector Dogs.

D. Use of Force to Head, Face, Neck, or Throat

Officers will not use any weapon or object to intentionally strike another in the head, face, neck, throat, or to effect a choke hold, under any circumstances other than those stated as exceptions in Section I.E. of this order.

E. Exceptions to Use of Authorized Weapons and Force

Under the following circumstances, police personnel may use whatever means, methods, instruments, or techniques which are immediately available:

1. *Imminent Danger*: To defend and protect oneself or another when the officer reasonably believes that he or she or another person is in imminent danger of death or serious physical injury.
2. *Fleeing Felony Suspect*: To apprehend a fleeing felony suspect when the officer has reasonable belief based upon personal knowledge of the offense involved and the surrounding circumstances to believe that:
 - a. The suspect has committed, attempted to commit, or is committing a felony offense involving use of violent physical force against a person; **and**
 - b. The suspect poses an **imminent threat** of death **or** serious physical injury to the officer or other person(s).

II. Supervisory/Investigative Responsibilities

Supervisors will be responsible for reviewing all reports of use of force by officers under their supervision.

A. The reviewing supervisor will:

1. Inquire sufficiently and specifically to determine the nature of force used and by whom.
2. Clarify all facts and circumstances pertaining to such incidents to determine whether the degree of force used was reasonable.
3. When appropriate, initiate corrective or disciplinary action.
4. Verify that the force used by each officer is fully and accurately reported on a PD 539, Special Incident Report and filed appropriately, as outlined in G.O. OPR-140: Special Incident Reports (SI).
5. In the event of serious physical injury or death, the supervisor will notify the Field Commander and a Detective Division supervisor.

B. The Detective Division will:

1. Conduct a criminal investigation of use of force incidents resulting in serious physical injury or death.
2. Submit copies of the investigation file to the Chief of Police and the officer's command as soon as it is appropriate and possible. If appropriate, the Chief of Police or designee will forward copies to the Commonwealth's Attorney's Office.
3. Maintain the investigation file until:
 - a. A final decision is made by the appropriate official or agency not to indict and/or prosecute; and
 - b. If there is a prosecution, until all proceedings, including appeals and habeas corpus proceedings, have been finally concluded; and
 - c. To the extent Detective Division procedures require further retention of files, until such procedures permit disposition.

- C. The Internal Affairs Division (IAD) will:
1. Conduct a parallel administrative investigation for all use of force incidents involving death or serious physical injury, alleged felonies or misdemeanors related to the use of force, and to all discharge of firearms. Any such parallel investigation in which there is a risk of a negative impact upon, or prejudice to the criminal investigation and/or prosecution, will be suspended until the criminal investigation has been completed or the risk of negative impact or prejudice has been resolved.
 2. Be provided with all the facts, materials and evidence developed by the criminal investigation when their disclosure will not have an adverse impact on the criminal investigation and/or prosecution.
 3. Maintain a separate set of records and prepare cases as required for departmental board hearings, grievance panels, and trial board proceedings.

III. Death or Serious Injury as a Result of Use of Force

- A. Any officer directly involved in a shooting or other use of force resulting in death will be removed from street duty assignment by the commanding officer or designee, pending an administrative review by the Chief of Police or designee.
- B. Any officer directly involved in a shooting or other use of force resulting in serious physical injury may be removed from street duty assignment at the discretion of the commanding officer or designee, pending an administrative review by the Chief of Police or designee.
- C. The commanding officer will refer the officer, as soon as is practical, for critical incident debriefing via the department's designated clinician and, if necessary, psychological counseling and/or treatment.

IV. Medical Treatment

- A. When an officer's use of force results in injury to a person, the officer will ensure the person is afforded adequate first aid and/or transported to a medical facility for evaluation and treatment.
- B. When in doubt about the medical condition of a person, the officer will ensure the person is transported to a medical facility for evaluation and treatment.

- C. Under no circumstance should an officer make any commitment to a person or medical care provider regarding the payment of treatment expenses. This excludes injured police personnel requiring medical treatment.
- D. Transportation and security requirements for medical treatment of prisoners will be in accordance with G.O. OPR 210: Transporting Prisoners.
- E. Chemical Agents:
 - 1. Any person subjected to chemical agents through an officer's use of force should be advised not to rub his or her eyes.
 - 2. As soon as practical, the affected person shall be permitted to rinse affected areas with water.
 - 3. Persons having adverse reactions to chemical agents following the rinsing procedure shall be considered injured and treated as prescribed in Section V.A. above.

V. Authorized Weapons (excluding firearms)

All personnel authorized to carry and use any weapon must, as a prerequisite to its carrying or use, complete training and satisfy qualification standards prescribed by the Department. The weapons authorized by the Department to be carried and used are:

A. Police baton

- 1. Officers are permitted to purchase police batons at their own expense, and to use them instead of batons issued by the department provided:
 - a. The individually purchased batons comply with G.O. ADM-320: Dress and Personal Appearance.
 - b. The requesting officer has been approved in advance to carry the non-issued baton by his or her commanding officer.
- 2. If carried, batons will be used only in accordance with departmental training, except as authorized in Section I.E. of this order.

B. Collapsible batons

- 1. Authorization to carry
 - a. Officers must submit a written request to their respective commands indicating intention to carry the baton.

- b. Officers must successfully complete training detailed in Section VI.B.3 below, prior to authorization for use.

2. Baton specified

- a. See G.O. ADM-320: Dress and Personal Appearance for descriptions of approved models.
- b. These batons are optional equipment and must be purchased at the officer's expense.

3. Training

Officers must successfully complete one of the following courses prior to being authorized to carry the collapsible baton:

- a. The NPD Basic Recruit School's instructional block on collapsible baton techniques.
- b. The NPD Training Division's course on approved collapsible baton techniques.

C. Flashlights

- 1. Officers may purchase flashlights, at their own expense, and use them instead of department issued flashlights. Optional flashlights must be silver or black and have a battery capacity no larger than five D cells or seven C cells and weigh no more than three pounds. Prior to authorizing its use, the requesting officer's commanding officer or supervisor must ensure that the optional flashlight meets the stated requirements.
- 2. Some optional flashlights may be used for illumination and defensive purposes. When the flashlight is used as a defensive weapon, the manner of use will be in accordance with departmental training in the same manner as a police baton except as authorized in Section I.E. of this order.

D. Chemical agents

- 1. On-duty personnel and those working in a police capacity off-duty are required to carry the issued Oleoresin Capsicum Spray (OC), unless to do so would hamper an undercover investigation or operation. Officers seeking an exemption for this reason must obtain their commanding officer's approval prior to every undercover assignment.

2. OC canisters should be checked periodically and as soon as practical following use. The Property and Evidence Unit (P&E) will issue new canisters when:
 - a. The canister weighs less than 65% of its original weight. Scales are available at the Police Operations Center (POC) desk and P&E.
 - b. The expiration date of the OC has passed.
 - c. The canister does not function properly.
3. Officers will turn in depleted, malfunctioning or out-dated canisters to P&E, Monday through Friday, excluding holidays, during P&E normal working hours.
4. Officers working shifts outside normal P&E hours should submit canisters for return to P&E by “dayshift” personnel. The returned canister should be labeled with the officer’s name, assignment, and working hours so that the replacement canister may be provided by the start of the submitting officer’s next shift.
5. The Training Division will use returned OC canisters as training and research aids.