

SECTION SMP

SMP-B USE OF FIREARMS AND DEADLY FORCE

SMP-B: USE OF FIREARMS AND DEADLY FORCE

Section SMP-B.10

Policy of Department

The following guidelines are set forth to assist police officers in reaching the proper decision when faced with such decisions:

A. The purpose of this order is to provide officers with a single document explaining this department's policies and procedures related to the authorization, discharge and carrying of firearms.

B. The primary responsibility of this department and of each of its members is to protect the lives of the citizens we serve. It is critical that every action of this department and of each of its members be consistent with that responsibility. It is also the responsibility of each member of this department to honor the established principles of democracy. These principles include a reverence for human life, the value of human life exceeds any physical property, and the dispensation of punishment is not part of the law enforcement task.

C. This department and each of its officers has been granted extensive powers to meet these responsibilities. These powers have been granted by citizens and this department, and each of its officers are accountable to the citizens for the manner in which those powers are exercised. This is especially true where the power to use deadly force is concerned.

D. The laws of this state define deadly force as force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. Most often, deadly force involves the use of firearms. It is the policy of this department that display and discharge of firearms shall be held to the absolute minimum required to fulfill the responsibilities of this department and to protect the safety of officers.

E. Therefore, this department has, of this date, enacted the following police guidelines regarding the use of firearms and other means of deadly force. The following guidelines must be viewed as administrative guides for decision making before the fact and not as a standard for civil or criminal litigation judging the propriety of actions already taken. That is a matter of established law as well as a process of prosecutors, courts, and juries reviewing specific facts of a given incident.

Value of Human Life - The value of human life is immeasurable in our society. Officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders and protection of property must, at all

times, be subservient to the protection of life. The officer's responsibility for protecting life must also include his/her own.

"Deadly Force" Policy

Officers are equipped with firearms as a means of last resort to protect themselves and others from immediate threat of death or serious bodily injury. The basic responsibility of officers to protect life also requires that they consider all other reasonable means for apprehension and control before resorting to the use of firearms. Even though all officers must be prepared to use their firearms when necessary, the utmost restraint must be exercised in its use. However, no officer will be disciplined for discharging a firearm in self-defense or in defense of another when faced with a situation which immediately threatens life or serious bodily injury. Just as important, no officer will be disciplined for not discharging a firearm if that discharge might threaten the life or safety of an innocent person, or if the discharge is not clearly warranted by the policy and rules of the department. It is the policy of this department that the use of firearms is never to be considered routine and is permissible only in defense of life.

Use of Deadly Force

1. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;
 - a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - i. is reasonably likely to occur absent action by the law enforcement officer; and
 - ii. must be addressed through the use of deadly force without unreasonable delay; or
 - b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
2. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not

pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).

3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

The above policy is the basis of the following set of rules which are designated to guide officers in all cases involving the use of firearms.

Rule 1 - Police officers shall not shoot except to protect themselves or another person from imminent death or serious bodily injury.

Rule 2 - Police officers shall not discharge their firearms when doing so may endanger innocent persons, unless the use of deadly force is needed to protect the life of the officer or another individual.

Rule 3 - Police officers shall not discharge their firearms to threaten or subdue persons whose actions are destructive to property or injurious to themselves but which do not represent an imminent threat of death or serious bodily injury.

Rule 4 - Police officers shall not discharge their firearms to subdue an escaping suspect who presents no immediate threat of death or serious bodily injury.

Rule 5 - Police officers shall not discharge their weapons at a moving vehicle unless it is absolutely necessary to do so to protect the life of the officer or others.

Rule 6 - Police officers shall not fire warning shots unless the officer believes the warning shot may deter the actual use of deadly force.

Rule 7 - Police officers shall not draw or display their firearms unless there is a threat or reasonable suspicion to believe there is a threat to life.

Rule 8 - Officers are permitted to fire their weapons at any approved target at an approved range, for practice, in a safe manner, in any- area where firing a weapon would not be in violation of the law.

Rule 9 - Police officers may shoot to effect the capture, or prevent the escape of a person that the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony with the use or the threatened use of deadly force; if the officer reasonably believes that the person will cause death or great bodily harm if his/her apprehension is delayed.

Shots To Destroy Animals

- A. For self defense
- B. To prevent substantial harm to the officer or another
- C. When the animal is so badly injured that humanity requires its relief from further suffering.

A seriously wounded or injured animal may be destroyed only after authorization from a supervisor and all reasonable attempts have been made to request assistance from the agency responsible for disposal of the animal. The destruction of vicious animals should be guided by the same rules set forth for self-defense and the defense and safety of others.

Justification Limited To Facts Known To The Officer

Justification for the use of deadly force must be limited to what reasonably appears to be the facts known or perceived by an officer at the time. Other facts, no matter how compelling, cannot be considered at a later date to justify a shooting.

Drawing Or Exhibiting Firearms

Unnecessary or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable suspicion there is substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer shall as soon as practicable, secure or holster the firearm.

Officer Surrendering Weapon

An officer or his/her partner may be at the mercy of an armed suspect who has the advantage, but experience has shown that the danger to an officer is not reduced by giving up his/her gun upon demand. Surrendering your weapon might mean giving away your only chance for survival; therefore, an officer should use every tactical tool at his/her disposal to avoid surrendering the weapon.

Psychological Services - In all cases where any person has been injured or killed as a result of firearm discharge by an officer, the involved officer may be required to undergo a debriefing with a department provided psychologist as soon as possible. The purpose of the debriefing will be to allow the officer to express his/her feelings and to deal with the moral, ethical, and/or psychological after effects of the incident.

Administrative Leave - Any officer directly involved in a deadly force incident shall be placed on "Administrative Leave" directly upon completion of report of the incident. This leave shall be without loss of pay or benefits, pending the results of the investigation. The assignment to "Administrative Leave" shall not be interpreted to imply or indicate the officer has acted improperly.

While on "Administrative Leave," the officer shall remain available at all times for official department interviews and statements regarding the shooting incident and shall not discuss the incident with anyone except appropriate department psychologist, Union Representative, the officer's private attorney, the officer's chosen clergy, and the officer's immediate family. Upon returning to duty, the officer may be assigned to "Administrative Duty" for a period of time as deemed appropriate by the officer, his/her psychologist, and the Chief of Police.

The Shooting Investigation Process - The following procedures will be used to investigate every incident of firearms discharge by a department member except for target practice, hunting, ballistic examinations, and incidents involving the destroying of an animal.

Whenever an officer discharges his/her firearm either accidentally or officially, he/she shall immediately:

1. Determine the physical condition of any injured person and render first aid when appropriate;
2. Request necessary emergency medical aid;
3. Notify the communications operator of the incident and location;
4. Request a supervisor be notified immediately.

The officer will remain at the scene (unless injured) until the arrival of the appropriate supervisor. However, if the circumstances are such that the scene might cause a more hazardous situation to develop (violent crowd), the supervisor at the scene shall have the discretion to instruct the officer to respond to another, more appropriate location. The officer will protect his/her weapon for examination and submit said weapon to the appropriate investigator. The on-duty supervisor should obtain the officer's weapon in a discreet manner and immediately replace the officer's firearm with another firearm. The officer shall prepare a detailed report of the incident and remain available at all times for

official interviews and statements regarding the case and shall be subject to recall duty at any time.

Carry Firearms - It is the policy of this department that only those officers who meet the minimum requirements for proficiency in the use of firearms, as established by the department standards, shall be permitted to carry firearms in the course of this department. It is the policy of this department that on-duty officers must carry with them a service revolver or semi-automatic of a type and manufacture specified by the department and with which they have met the minimum standards for proficiency.

All weapons used by officers on or off duty must be inspected and approved by the training officer. At that time, all such weapons must be registered by serial number with the department.

No officer may carry upon his/her person at any time, any firearm with which he/she has not demonstrated minimum proficiency as established by department standards, except while transporting it to the department range for that purpose.

With the prior knowledge and written approval of their commanding supervisors, on-duty officers may carry a second firearm, provided that all requirements in this section are met, and provided that the second firearm is not carried in the manner that is visible.

Section SMP-B.12 Duty Weapons

The following sidearms are authorized for on-duty use:

1. Department issued sidearm.
2. 9mm or larger caliber weapon upon the approval of the Chief of Police and the firearms training officer.

Section SMP-B.13 Off-Duty Weapons

Officers are authorized to carry off-duty weapons at their discretion, provided they carry proper identification, a shield of the office and comply with the departmental policies.

- A. When operating a department vehicle while off-duty, officers must carry a properly registered firearm of a type specified by the department, and with which they have met minimum department proficiency standards.
- B. At other times, officers are permitted to carry firearms while off duty, with the following exceptions:

1. It is the policy of this department that off-duty officers should not carry firearms at social events and other circumstances in which they anticipate consuming alcoholic beverages.
 2. It is the policy of this department to carry all off-duty weapons in the most concealable manner possible. Officers will not necessarily expose their off-duty firearm which may compromise their identity or alarm a citizen.
- C. An officer who chooses not to carry a firearm while off-duty should refrain from taking forcible police action except in circumstances which seriously threaten life, property or public order. It is the policy of this department that the most appropriate police action to be taken by off-duty officers in less serious situations or in situations in which forcible police action itself may increase risk to the lives and safety of officers or other innocent persons is, to request the assistance of an on-duty officer at the first opportunity. Before taking any action while off-duty, officers should carefully consider the risks to themselves and to the others that may be caused by sudden confrontation with armed criminals or suspects. If it is feasible, the off-duty officer should identify himself/herself as a law enforcement officer before taking any action.

Officers are permitted to carry any off duty weapon for off-duty use, on the approval of the Chief of Police and the firearms training officer.

Section SMP-B.14 Tactical Weapons

The department provides the following tactical weapons for the use by its officers:

1. Shotguns
2. Select fire weapons/submachine gun if need be, additional equipment may be provided by individual officers with the prior approval of the Chief of Police and the department's firearms training officer.

Section SMP-B.15 Firearms Modification

No firearm will be altered or modified internally without the approval of the Chief of Police and the department's firearms training officer.

Such modifications will be limited to the replacement of broken or worn parts and other work done to improve the reliability of the weapon. All work will be done by a competent gunsmith.

Section SMP-B.16 Ammunition

All ammunition carried, other than for training purposes, will be factory ammunition, approved and issued by the department. Such ammunition will be replaced at intervals not to exceed three (3) years.

Section SMP-B.17 Weapons Training and Qualification

The firearms training officer is responsible for coordinating the firearms training program for all weapons used within the department, and announcing in advance when training sessions are to occur.

All officers shall qualify once a year with their sidearms, secondary weapons, and off-duty weapons by achieving a satisfactory score over an approved course of fire established by the firearms training officer.

Officers using tactical weapons must qualify once a year with each type of weapon used. To qualify, an officer must achieve a satisfactory score over an approved course of fire established by the firearms training officer. An unsatisfactory score will result in an unqualified status. Officers who do not qualify will shoot additional courses until they qualify. Assistance or additional training will be provided by the firearms training officer. If after additional training the officer is unable to qualify, the matter will be turned over to the Chief of Police for review and administrative action.

Section SMP-B.18 Legal Disclaimer

This directive is for departmental use only, and does not apply in any criminal or civil proceedings. The departmental policy should not be construed as a creation of higher legal standard of safety or care in evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for criminal or civil sanctions in a recognized judicial setting.

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