

The Village of Franklinville Police Department

General Order

Number : 3

Subject : Use of Force

Revised : 01/02/2024

I. PURPOSE

Police Officers of The Village of Franklinville Police Department are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used. This policy is founded in these standards but is not intended to be an exhaustive recitation of state and/or federal legal frameworks governing use of force. The policy is designed to provide guidance to individual officers in the selection of a justifiable level of force to control a subject. This policy is not intended to endorse any particular tactic, technique, or method of employing force.

II. POLICY

The federal and state standards by which use of force is measured are both founded on the basic premise of objective reasonableness. The amount of force that is used by officers shall be the amount of force that is objectively reasonable and necessary under the circumstances for the officer involved to affect an arrest, prevent an escape, or in defense of themselves or others. The standard of objective reasonableness, established by the United States Supreme Court in ***Graham v. Connor***, is used in this policy and is intended to provide officers with guidelines for the use of force, including deadly physical force.

As the Supreme Court has recognized, this reasonableness inquiry embodies "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."

This policy is written in recognition of 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 a careful balancing of all interests.

III. DEFINITIONS

- A. Objectively Reasonable** — An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.

- B. Deadly Physical Force** - Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

- C. Physical Injury** — Impairment of physical condition or substantial pain.

- D. Serious Physical Injury** — Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

- E. Serious Bodily Injury** - Bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

IV. USE OF FORCE

- A.** In general terms, force is authorized to be used when necessary to affect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of oneself or another.

- B.** Under the 4th Amendment, a police officer may use only such force as is "**objectively reasonable**" under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.

V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

- A.** When used, force should be only that which is reasonable and necessary given the circumstances perceived by the officer at the time of the event.

- B.** Factors that should be used in determining the reasonableness of force include, but are not limited to:
1. The severity of the crime or circumstance;
 2. The level and immediacy of threat or resistance posed by the suspect;
 3. The potential for injury to citizens, officers, and suspect;
 4. The risk or attempt of the suspect to escape;
 5. The knowledge, training, and experience of the officer;
 6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects.
 7. The proximity or access of weapons to the subject;
 8. Other environmental conditions or exigent circumstances.

VI. DUTY TO INTERVENE

- A. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.
- B. An officer who observes another employee use force that exceeds the degree of force permitted by law and/or policy should promptly report these observations to a supervisor.

VII. USE OF DEADLY PHYSICAL FORCE

- A. Deadly physical force may be used by an officer to protect himself, herself, or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.
- B. Deadly physical force may be used to stop a fleeing suspect where:
1. The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,

2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
3. Where feasible, some warning should be given prior to the use of deadly physical force. **NOTE- WARNING SHOTS ARE PROHIBITED**

VIII. PROHIBITED USES OF FORCE

A. NECK RESTRAINT - PROHIBITED (Unless used as a LAST RESORT by an officer to save himself, herself, or another person from serious physical injury or death).

Any technique involving the use of an arm or other firm object to attempt to control or disable a subject by applying pressure against the windpipe, or frontal area of the neck with the purpose or intent or effect of controlling a subject's movement or rendering a subject unconscious by blocking the passage of air through the windpipe.

B. CAROTID RESTRAINT - PROHIBITED (Unless used as a LAST RESORT by an officer to save himself, herself, or another person from serious physical injury or death).

Any technique which is applied in an effort to control or disable a subject by applying pressure to the carotid artery, the jugular vein, or the sides of the neck with the purpose or intent or effect of controlling a subject's movement or rendering a subject unconscious by constricting the flow of blood to and from the brain.

Force shall not be used by an officer for the following reasons:

To extract an item from the body or a cavity of a subject without a warrant, except where exigent circumstances are present;

To coerce a confession from a subject in custody;

To obtain physical evidence from an individual for the purposes of scientific testing in lieu of a court order where required;

Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

IX. REPORTING & REVIEWING THE USE OF FORCE

A. Any injuries resulting from a use of force incident shall result in the appropriate medical attention being provided to the injured party.

B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a Franklinville Police Department Use of Force Report.

1. Use of force that results in a physical injury.
2. Use of force incidents that a reasonable person would believe is likely to cause an injury.
3. Where force is used to overcome active resistance.
4. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
5. Incidents where a conducted energy device (TASER) was intentionally discharged or accidentally discharged after being displayed.
6. Incidents where a firearm was discharged at a subject.

C. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.

D. A supervisor who is made aware of a force incident shall make a thorough inquiry of all officers involved at the time the force or alleged force was used, and ensure the completion of a use of force report.

E. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.

F. The Chief of Police will receive all reports and designate personnel to conduct an investigation.

G. Failure to adhere to use of force guidelines is subject to discipline consistent with The Village of Franklinville Police Department General Orders and Procedures section *****

H. DCJS Mandated Use of Force Data Collection - Executive Law 837-t

1. For reporting purposes, Executive Law 837-t requires each police department, county sheriff, and the state police to report any occurrence in which a police officer or peace officer employs use of force as listed below:

- a. When an officer engages in conduct which results in the death or serious bodily injury of another person;
 - b. When one of the following is initiated by an officer:
 - 1) Brandishes, uses, or discharges a firearm at or in the direction of another person;
 - 2) Uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;
 - 3) Displays, uses, or deploys a chemical agent, including, but not limited to, oleoresin capsicum pepper spray or tear gas;
 - 4) Brandishes, uses, or deploys an impact weapon, including, but not limited to, a baton or Asp;
 - 5) Brandishes, uses, or deploys an electronic control weapon, including, but not limited to, an electronic stun gun (TASER), flash bomb, or long-range acoustic device.
2. Beginning July 11, 2019, each law enforcement agency will be responsible for reporting information for their own officers who are involved in use-of-force incidents that meet the criteria of the data collection. Law enforcement agencies will be required to submit details of the incident to DCJS, including, but not limited to the date of incident, agency involved, county, town/city, description of circumstances, and demographics of all persons engaging in the use of force or suffering such injury.
 3. The Chief of Police, or his designee, will be directly responsible for reporting such criteria as listed under Executive Law 837-t to the State of New York using the prescribed format established by NYSDCJS.

X. TRAINING

- A. All officers shall receive training on the proper application of force.
- B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.

- C. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.