

DIRECTIVE 4.1 USE OF FORCE

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Pages: 10	Ohio Standard 1

This directive consists of the following sections:

- 4.1.1 Use of Reasonable Force
- 4.1.2 Use of Deadly Force
- 4.1.3 Warning Shots
- 4.1.4 Use of Authorized Less Lethal Weapons
- 4.1.5 Rendering Medical Aid Following Police Actions
- 4.1.6 Vascular Neck Restrictions
- 4.1.7 Choke Holds

DEFINITIONS:

Active Aggression - means that the subject takes physical action toward any person, by any means.

Aggravated Active Aggression - means that the subjects' actions may cause serious physical harm to anyone or the subject is using deadly force against any person.

Deadly Force - means any force that carries a substantial risk that it will proximately result in the death of any person. [ORC 2901.01A]

De-Escalation – taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary.

Defensive Resistance - means that the subjects' actions or verbalization offer active resistance to the officer, by attempting to escape the officer's control by any means.

Force - means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing. [ORC 2901.01A]

Immediate - means near to or related to present time.

Less Lethal Force - means any force that is intended to incapacitate or stop a person without causing death.

Objectively Reasonable - The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer using force was presented with at the time of the incident.

Passive Resistance - means that the subjects' actions offer no active opposition or resistance to the officer's control.

Psychological Intimidation / Totality of Circumstances - means that the size of, appearance of, gestures or any actions exhibited by a subject, or known indicators at the time of the incident that may be perceived by the officer as a threat.

Physical Harm to Persons - means any injury, illness or other physiological impairment, regardless of its gravity or duration. [ORC 2901.01A]

Physical Harm to Property - means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. Physical harm to property does not include wear and tear occasioned by normal use. [ORC 2901.01A]

Reasonable Belief- means the facts or circumstances the officer knows, or should know, is such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

Reasonable Force – that force which is necessary to accomplish lawful objective.

Risk - means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist. [ORC 2901.01A]

Secondary Firearm - means a personally owned firearm that an officer may carry as a back up firearm while on-duty or as an off-duty firearm; subject to the provisions of this directive.

Serious Physical Harm to Persons - means any of the following:

- Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
- Any physical harm that carries a substantial risk of death;
- Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
- Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

- Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain. [ORC 2901.01A]

Serious Physical Harm to Property - means any physical harm to property that does either of the following:

- Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;
- Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time. [ORC 2901.01A]

Substantial Risk - means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist. [ORC 2901.01A]

Verbal Non-Compliance - means that the subject has verbalized the intent not to comply with the officer's directions

Verbal Direction - means the verbalization by an officer directing a person to perform in some manner.

POLICY AND PROCEDURE:

4.1.1 Use of Reasonable Force

Employees may only use the force which is reasonably necessary to affect lawful objectives including: affecting a lawful arrest or overcoming resistance to a lawful arrest, preventing the escape of an offender, or protecting or defending others or themselves from physical harm.

The type and degree of force or weapons used will be based on the totality of the circumstances and a reasonable belief of the need for such use of force in order to accomplish a lawful objective.

Use of Force Guidelines

When officers are faced with confrontation, de-escalation tactics and techniques should be utilized whenever possible. Calling for back up should be a priority.

Officers may display less lethal weapons whenever the officer has reasonable belief that such display may diminish aggressive behavior by another.

Officers may display a firearm whenever the officer has a reasonable belief there may exist immediate danger of serious physical harm to any person or whenever the officer

has a reasonable suspicion that a person may be armed with a deadly weapon or under any circumstance where an officer is authorized to use deadly force.

Disengagement from confrontation shall be an option and officers are authorized to disengage from a confrontational situation and retreat to a position of safety when in the officers' opinion such disengagement may diminish the threat of immediate harm to the offender, the officer or any other person.

The following use of force guidelines are to provide direction for officers in their response to resistance or force which is encountered while in the performance of their sworn duties and effecting lawful objectives.

An officer shall not be required to progress through lower levels of response action in responding to resistance or force.

The use of vascular neck restraints is prohibited unless an officer is in a deadly use of force scenario and all other reasonable means of response have been exhausted and it is necessary for the defense of the officers' life or the life of another.

Resistance/Force Encountered & Officer Response, Use of Force Continuum

Officers should attempt to achieve control through verbal commands. However, officers need not apply force in gradually increasing steps to justify physical control or even deadly force. Instead, officers need to respond with all the force reasonably necessary for the circumstances in each specific situation. Members may use only that level of force necessary to gain control when compliance cannot be achieved through verbal commands and there is:

- Resistance to the officer's performance of a lawful duty;
- A threat to the safety for the officers or another person; or
- A reasonable belief that there are no alternatives, or they would clearly be ineffective.

Each use of force situation is unique, and this continuum is intended only as an illustration of the various force options that are available to an officer facing a given level of subject resistance.

This Use of Force Continuum is not intended to preclude a force option when that option would not exceed the amount of force reasonably necessary to affect a lawful arrest (*Graham v. Connor*, 490 U.S. 386 (1989)). The 'Graham Factors' should be considered during any force situation.

- The severity of the crime at issue;
- Whether the suspect poses an immediate threat to the safety of the officers or others, and;

- Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Good judgment and the circumstances of each situation will dictate the level on the continuum of force at which an officer will start. Depending on the circumstances, officers may find it necessary to escalate and de-escalate the use of force by progressing up and down the force continuum. It is not the intent of this continuum to require officers to try each of the options before moving to the next, if the level of force used is reasonable under the circumstances.

Disengagement, area containment, surveillance, waiting out a suspect, summoning reinforcements, or calling in specialized units may be an appropriate response to a situation.

Force options may be used simultaneously, for instance, combining verbal commands with use of chemical irritant. The officer must choose the necessary response based on law, departmental policy, training, and experience. The officer must exercise proper use of force decision making, which means the use of reasonable force, including proper tactics, and de-escalation techniques.

Following any use of force resulting in a citizen's injury, officers will ensure appropriate first aid is rendered immediately once the incident scene is stabilized.

Passive Resistance

- Verbal Direction
- Empty Hand Techniques
- Soft-Pressure Points
- Escort Position

Verbal Non-Compliance

- Verbal Direction
- Empty Hands Techniques
- Soft-Pressure Points
- Escort Position
- Chemical Agent = *There is a perceived physical threat present.*

Psychological Intimidation

- Verbal Direction
- Empty Hand Techniques
- Soft-Pressure Points
- Escort Position
- CEW = *There is a perceived physical threat present.*
- Chemical Agent = *There is a perceived physical threat present.*

Defensive Resistance

- Verbal Direction
- Empty Hand Techniques
- Hard-Pressure Points
- CEW = *There is a perceived physical threat present.*
- Chemical Agent
- Police Canine

Active Aggression

- Tactical Baton
- CEW
- Chemical Agent

Aggravated Active Aggression

- Lethal Force
- Firearm
- CEW
- Tactical Baton

4.1.2 Use of Deadly Force

The preservation of human life is of the highest value in the State of Ohio. Therefore, employees must have an objectively reasonable belief deadly force is necessary to protect life before the use of deadly force. Deadly force may be used only under the following circumstances:

- To defend themselves from serious physical injury or death; or,
- To defend another person from serious physical injury or death; or,
- In accordance with US and Ohio Supreme Court decisions, specifically, Tennessee v. Garner and Graham v. Connor.

An officer may only use deadly force when the officer reasonably believes that the action is in defense of human life, including the officers' own life, or in the defense of any person in immediate danger of serious physical harm.

Officers will not discharge a firearm at or from a moving vehicle, unless all other reasonable means have been exhausted and it is necessary for the defense of the officers' life, the life of another, or the officer has reasonable cause to believe that the suspect poses a significant threat of death or serious physical harm to the officer or another.

When reasonable, appropriate, and not prevented by physical environment, distance, or other situational circumstances, officers should provide warning prior to the use of deadly force.

Annually, definitions of conditional terms or similar terms shall be reviewed during in-service training.

4.1.3 Warning Shots

Officers are never justified in discharging a firearm to fire a warning shot.

4.1.4 Use of Authorized Less Lethal Weapons

Officers may only use less lethal weapons within the scope of their employment and authority to use such weapons and then only with the degree of force necessary to affect the officers' lawful objective.

Officers may only carry or use an approved less lethal weapon after documented proficiency training.

Officers are prohibited from carrying or using any less lethal weapon other than those approved by the Chief of Police.

Expandable Baton

The current approved and issued expandable baton is an expandable baton of metal construction. The department will issue each officer an expandable baton. Uniformed officers shall carry on their duty belt the issued expandable baton in the issued baton holder.

Chemical Agent

The department will issue each officer an approved chemical agent spray for use. Uniformed officers shall carry on their duty belt the issued chemical agent container within the department issued chemical agent holder.

If possible, a verbal warning should be issued prior to the use of the chemical agent unless exigent circumstances exist that would make it imprudent to do so.

When spraying chemical agent, target a subject's face and upper torso. It is recommended to deliver the chemical agent in one-half to one second bursts and if unable to control the subject resort to other means of force.

Absent exigent circumstances, officers should remove the subject from the contaminated area and face them into the wind. EMS will be called to the scene to assist with decontamination and to assess any health concerns of the subject.

Larger quantities of chemical agents may be stored in each patrol supervisor's vehicle for use in large disturbances.

Conducted Electrical Weapon (CEW)

The department issues approved CEWs for use in the field. Only properly functioning and charged CEWs are to be carried. Uniformed officers working road patrol will carry a CEW.

The CEW must be worn on the non-dominant side in either a non-dominant draw or cross draw position.

When deploying a CEW against a fleeing suspect, the officer should consider, along with the Graham Factors in the Use of Force Guidelines:

- Have proper instructions to halt been issued?
- The landing location(s): asphalt, railroad tracks, grass, stairwells or bodies of water, etc.

Officers must be trained concerning:

- The ability of an electrical charge to act as an ignition for combustible materials.
- The preferred targeting is the center mass of the subject's back; however, it is recognized that it is not always possible to get behind the subject. Where back – targeting is not possible, frontal targeting should be lower center mass, and intentional deployments to the chest shall be avoided where possible. Officers shall make all reasonable efforts to avoid striking persons in the head, neck, eyes or genitals.
- The effectiveness of the CEW when deployed on persons wearing heavy or layered clothing.
- Use of the CEW should be combined with physical restraint techniques to minimize the total duration of the struggle and CEW use. Additional officers on the scene of a CEW deployment should attempt to restrain and handcuff a subject during an active CEW cycle. Officers should transition to a different force option if multiple CEW deployments fail to gain compliance or continued CEW applications are not making enough progress toward gaining compliance.
- When possible, avoid prolonged, extended, uninterrupted discharges or extensive multiple discharges. Minimizing the successive number of CEW discharges against an individual when possible but being aware when back-up officers are unavailable, that multiple applications may be necessary to gain or maintain control of an active aggressive individual.
- No more than one officer deploying a CEW against a single individual at the same time.
- The CEW is not to be used as a punitive measure.
- It is recommended to give a verbal warning prior to each discharge to warn other officers that a deployment is about to occur and to give the subject an opportunity to comply with your orders.

- Discharging a CEW at animals. The CEW is an effective tool for stopping the aggressive behavior of wild or potentially dangerous animals. The CEW is especially effective for vicious and /or dangerous dogs. Officers using a CEW on an animal may need to adjust their aim to ensure contact is made with both probes.

Officers will not use a CEW on a subject(s) who are operating a motor vehicle.

Officers should avoid using the CEW on unarmed persons who reasonably appear to be, or are known to be, young children, elderly persons, medically infirm, pregnant or users of a cardiac pacemaker. Officers are not prohibited from using the CEW on such persons, but use is limited to those exceptional circumstances where the potential benefit of using the CEW (i.e. injury reduction) reasonably outweighs the risks and concerns.

Officers carrying a CEW shall conduct a function test at the beginning of their shift. If a CEW other than the officer's assigned unit is being used, the officer's supervisor will note the CEW serial number tested by the carrying officer's name on the shift activity report.

Emergency Situations

If an officer is confronted with an emergency in which the use of deadly force is justified, the officer may use anything at his/her disposal to avoid death or serious physical harm.

4.1.5 Rendering Medical Aid Following Police Actions

Anytime an officer uses force against any person, the officer shall as soon as appropriate and when they are able to do so, determine if an injury has occurred or the person needs medical assistance. If the officer determines that there is a need for medical aid or if the person upon whom force was used requests medical aid, the officer shall summon medical aid via contact of Clermont County Communication Center. Clermont County Communication Center will request Miami Township Fire/EMS to respond to officer's location for medical aid.

Officers shall render any immediate medical assistance that they are trained and able to perform.

Officers using a CEW may remove darts embedded in a subject's skin using the appropriate technique provided the darts are not embedded in soft body tissue, i.e. genitals, breast tissue, or any that are above the collar bone. If the darts are embedded in the soft body tissue a paramedic or EMT will be requested for removal.

Used CEW cartridges and darts are considered a biohazard. All necessary precautions such as gloves will be used when removing and or collecting the darts. The used cartridge and darts will be placed in a biohazard receptacle.

All persons who have been the subject of a Conducted Electrical Weapon deployment shall be monitored for a period with a focus on symptoms of physical distress. Any person, who appears to be having any form of physical distress following the deployment of a CEW, shall be transported to a medical facility for a medical examination. It should be noted that studies indicate that persons who suffer from excited delirium may not be immediately impacted and the onset of physical difficulty may occur after the police control event.

Mandatory Medical Clearance at the Hospital is required:

- If the person has been struck in a sensitive area: eyes, head, genitals, female breasts.
- When the probes have penetrated the skin and Officers/EMS cannot safely remove darts in accordance with this policy.
- For persons who do not appear to have fully recovered after a short period of time.
- For persons who fall into one of the vulnerable classes such as juveniles, pregnant women, persons who officers become aware have a pre-existing medical condition that increases danger and the elderly.

4.1.6 Vascular Neck Restrictions

The use of vascular neck restraints is prohibited unless an officer is in a deadly use of force scenario and all other reasonable means of response have been exhausted and it is necessary for the defense of the officers' life or the life of another.

4.1.7 Choke Holds

The use of choke holds or any technique restricting the intake of oxygen for the purpose of gaining control of a subject is prohibited unless an officer is in a deadly use of force scenario and all other reasonable means of response have been exhausted and it is necessary for the defense of the officers' life or the life of another.