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|  | ANGLETON POLICE DEPARTMENT | |
| | Policy 06.01.1 Use of Force | |
| | Effective Date: 7/7/2020 | Replaces: 03.02.1; 06.03.1 |
| | Approved: <u>Aaron Ausmus</u> Chief of Police | |
| | Reference: | |

I. POLICY

The Angleton Police Department is committed to the sanctity and preservation of life, human rights, and the dignity of every individual. Department members are sometimes required to use force in self-defense, defense of others, and during the execution of lawful duties. In all situations, Department members are required to conduct themselves in accordance with lawful and constitutional standards. The use of force must be objectively reasonable. The officer must use only the force that a reasonably prudent officer would use under the same or similar circumstances.

In cases where Department personnel must take action to conduct lawful duties where there is not an immediate physical threat, members shall take into account (and communicate where applicable) tactical considerations predicated on preventing the use of force. Officers are allowed and encouraged to take as much time as necessary and possible to use alternatives and if possible, avoid the use of force. It is the goal of this agency and each officer to perform our duty without the use of any force if at all possible.

For planned tactical operations, such as service of warrants, parole compliance searches, tactical cell extractions, and prolonged passive resistance, members shall develop a tactical plan predicated on preventing the use of force whenever possible. Supervisors shall be present during planned tactical operations.

This Department is committed to upholding lawful, professional, and ethical standards through assertive leadership and supervision before, during, and after force incidents. This includes force prevention efforts, effective tactics, dispassionate and objective review, and analysis of every incident.

II. PURPOSE

The purpose of this policy is to provide law enforcement officers of this agency with guidelines for the use of deadly and non-deadly force. This policy does not set forth a higher standard of care with respect to third party claims.

III. DEFINITIONS

- A. Deadly force: Any use of force that creates a substantial risk of causing death or serious bodily injury.
- B. Less-lethal force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.
- C. Objectively reasonable: This term means that department members, in determining the necessity and level of force, shall evaluate each situation requiring the use of force in light of the known circumstances, including, but not limited to, the severity of the crime, whether the subject poses an immediate threat to the safety of the member or others, and whether the subject is actively resisting. Reasonableness will be judged by what a reasonable officer faced with the same circumstances would do.
- D. Serious Bodily Injury: Injury that involves substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.
- E. De-escalation: Taking action or communication 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. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- F. Exigent Circumstances: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.
- G. Choke Hold: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. This does not include vascular neck restraints.
- H. Warning Shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

IV. LEVEL OF FORCE CONTINIUM

- A. Less Than Lethal Weapons: When the use of force is necessary and appropriate, members shall not employ a more forceful measure unless it is determined that a lower level of force would not be adequate, or a lower means has been attempted and found to be ineffective or inadequate.
- B. LEVEL 1: Officer's Presence - An officer's appearance may be enough to dissuade some persons from engaging in resistive behavior. Factors which contribute to this level include perceptions of the officer's attitude, ability, and self-confidence.
- C. LEVEL 2: Verbal Direction - Dialogue used by an officer can serve to diffuse potentially violent confrontations. It is important to observe that this level concerns WHAT an officer says and HOW he says it. The factors involved in this level include the officer's language, tone of voice, and confidence and/or posture and body language.
- D. LEVEL 3: Empty Hand Control or Use of O/C Spray -- "Soft" techniques which have minimal chance of causing serious injury. These techniques include some pressure point control techniques and joint manipulations. "Hard" techniques that have a probability of causing injuries. These techniques include punches and leg

strikes. The use of O/C spray is authorized according to department policy and if in the opinion of the officer, the use of empty hand techniques would pose unnecessary risk of injury to the offender and or the officer or if empty hand technique would be ineffective in gaining control of the offender.

- E. LEVEL 4: Impact Weapons - An officer may need to resort to the use of an impact weapon to control resistive behavior. These “hard” techniques have a probability of causing injuries. These techniques include impact weapon strikes.
 - 1. Impact Weapon: A weapon (e.g., straight baton, collapsible baton or flashlight) which causes blunt trauma upon striking the soft tissue or skeletal frame of the human body to impair an individual’s mobility or motor functions.
 - 2. Tasers: Devices that are safe and effective, and reduce injuries to officers and suspects by impairing an individual’s mobility and/or motor functions.
- F. LEVEL 5: Lethal Force - Lethal force can be realized through the application of a variety of measures. Although commonly related to an officer’s use of a firearm, lethal force can also be applied by use of severe hard empty hand control or hard intermediate weapon control techniques.

V. FORCE PREVENTION PRINCIPLES

- A. Department members shall only use that level of force which is objectively reasonable and force should be used as a last resort. Department members should endeavor to de-escalate confrontations through tactical communications, warnings, increasing distance from the threat, and other common sense methods preventing or minimizing the use of force whenever possible.
- B. When force must be used, officers should endeavor to use restraint techniques trained by the department when possible, and use only the level of force necessary for the situation.
- C. While state law clearly states that law enforcement officers have no duty to retreat if otherwise authorized to use force, this department considers that a temporary tactical disengagement for purposes of preparing a plan or awaiting resources may be the best option in our efforts to accomplish our mission without the use of force. This can only be accomplished when there is no immediate threat to others and the officers can safely withdraw to a position of safety.
- D. Officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:
 - Medical conditions
 - Mental impairment
 - Developmental disability
 - Physical limitation
 - Language barrier
 - Drug interaction
 - Behavior crisis

VI. AUTHORIZATION TO USE FORCE

- A. Use of Less-Lethal Force: Where deadly force is not authorized, officers are authorized to use only that amount of force that is objectively reasonable to perform their duties.
- B. Use of Deadly Force: Law Enforcement officers are authorized to use deadly force when one or both of the following apply:
 - 1. To protect the officer or another from what is reasonably believed to be an immediate threat of death or serious bodily injury.
 - 2. To prevent the escape of a fleeing violent felon whom the officer has probable cause to believe will pose a significant threat of death or serious bodily injury to the officer or another. Where practical, prior to discharge of a firearm, officers shall identify themselves as law enforcement officers and state their intention to shoot.
- C. Deadly Force Restrictions:
 - 1. Each department member discharging a firearm must establish independent reasoning for using deadly force. The fact that other law enforcement personnel discharge firearms is not by itself sufficient to justify the decision by a department member to shoot.
 - 2. Warning shots shall not be fired.
 - 3. Firearms shall not be fired at moving vehicles in an attempt to disable the vehicle or driver unless there is no other reasonable means of escaping the threat. Because of the low probability of penetrating a vehicle with a handgun, officers threatened by an oncoming vehicle should attempt to move out of the path instead of discharging a firearm at it or its occupants. The primary tactical consideration in these circumstances is to move out of the path of the vehicle.
 - 4. Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure if the animal is seriously injured and the officer reasonably believes that deadly force can be used without harm to the officer or others. In these circumstances, a supervisor shall be contacted prior to the use of deadly force if time permits.

VII. DE-ESCALATION

- A. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
- B. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

VIII. UNREASONABLE FORCE

Department members shall use only that force which is objectively reasonable. Unreasonable force is that force that is unnecessary or excessive given the totality of the circumstances. Unreasonable force is prohibited. The use of unreasonable force

is subject to discipline and/or prosecution.

IX. PROHIBITED FORCE

The following uses of force are prohibited unless circumstances justify the use of deadly force.

- A. Head strike(s) with an impact weapon;
- B. Deliberately or recklessly striking an individual's head against a hard, fixed object;
- C. From a standing position, kicking an individual with a foot while the individual is on the ground;
- D. Kneeing an individual in the head, or deliberately or recklessly causing their head to strike the ground or hard, fixed object;
- E. The application of a choke hold or carotid-control holds, except when the officer reasonably believes such holds are the only means of protecting himself or another from serious bodily injury or death, and then only if other departmental approved methods are not available or are impractical.
- F. The use of flashlights as batons except when the officer reasonably believes such holds are the only means of protecting himself or another from serious bodily injury or death, and then only if other departmental approved methods are not available or are impractical. Use of a flashlight or similar weapon, depending on the manner of use, may be deemed a use of deadly force.

X. TRAINING AND QUALIFICATIONS

- All officers shall be trained and qualified with their firearms at least annually.
- All officers shall receive training in the department's Use of Force policy at least annually.
- All officers shall receive hands-on arrest and defensive tactics training at least every two years.
- Officers shall receive training in all non-lethal weapons issued or used by the department and demonstrate proficiency with those weapons at least every two years.
- All Use of Force training shall, at a minimum, comply with the standards established by TCOLE.

A. Deadly Weapons

- While on and off duty, police officers shall carry only weapons and ammunition authorized by and registered with the department.
- Authorized weapons are those with which the police officer has qualified and received departmental training on proper and safe usage, and that are registered and comply with departmental specifications.
- The police department shall schedule regular training and qualification sessions for duty, off-duty and specialized weapons, which will be graded on a pass/fail basis.
- Police officers who fail to receive a passing score with their duty weapon(s) in accordance with department testing procedures shall be relieved of their police powers and immediately reassigned to non enforcement duties.
- A police officer shall not be permitted to carry any weapon with which he has not been able to qualify during the most recent qualification period.
- A police officer who has taken extended leave or suffered an illness or

injury that could affect his use of firearms ability will be required to re-qualify before returning to enforcement duties.

B. Non-deadly force weapons and methods

- A police officer is not permitted to use a non-deadly weapon unless qualified in its proficient use as determined by training procedures.
- The following non-deadly weapons are authorized:
 - Oleoresin Capsicum Spray
 - Asp Baton (Expandable)
 - Conducted Electrical Weapon (CEW)

XI. PERFORMANCE STANDARDS ASSOCIATED WITH USE OF FORCE

- A. The evaluation of a member's performance with regards to the use of force includes the strategies and tactics used leading up to, during and after the use of force. These strategies and tactics shall be evaluated in terms of whether or not they comply with department policies and training.

The following are examples of the types of tactical considerations that shall be evaluated under this policy:

- The approach to the subject or vehicle
 - The availability and deployment of equipment and weapons
 - Communication with the subject
 - Use of cover or concealment, position of advantage
 - Coordination with other officers
 - Maintaining or increasing distance (if possible)
 - Field of fire, shooting backdrop, crossfire potential
 - Target acquisition and fire discipline
 - Planning and supervision
 - Partner splitting and taking independent action
- B. A member's performance associated with the use of force that does not comply with department policies, procedures, and training may be subject to discipline under this section.

XII. MEDICAL ASSISTANCE

- A. Department members will immediately provide medical assistance to any subject injured during a use of force incident.

XIII. USE OF FORCE REPORTING

- A. The department recognizes each use of force by its members requires a thorough, fair and objective review.

B. Any force which is greater than that required for un-resisted department approved searching and handcuffing, control holds or come-alongs, hobbling, or which results in any injury or complaint of pain constitutes a reportable use of force. This includes:

- Searching, handcuffing, or hobbling resisted by subject,
- Control holds or come alongs resisted by subject,
- Any take-downs, strikes, or pain compliance techniques,
- The use of any less-lethal weapons or firearms,
- Any identifiable injury or complaint of pain,
- The discharge of any firearm,
- The display of any firearm,
- The deployment of a patrol rifle or shotgun, and
- Any canine bite.

C. Officer Responsibilities

In all cases where force is used, if the subject is injured or complains of injury, the officer shall immediately request medical assistance and shall provide medical assistance to the level of the officer's ability until medical assistance arrives. Any refusal of medical treatment will be documented in subsequent reports.

In all cases where a member uses a Reportable Use of Force, they shall make verbal notification to their immediate supervisor as soon as safely possible and before leaving the scene. Unless otherwise specifically directed by a supervisor, the member will complete a written first report of the force incident (Use of Force Form PD-03) before going off duty. Reference to the supervisor the incident was verbally reported to shall be included in the report.

Each assisting member who used force, and any partners, or witness officers will also submit a written supplement report detailing their actions prior to going off duty.

Each member reporting a use of force shall describe in detail the force incident, including the tactics leading up to the use of force, the actions of the suspect necessitating the use of force, and the specific force used. Any injuries or complaints of injuries shall also be detailed in the report.

A use of force report is required if the force was used by a member of the department regardless of whether the subject subsequently escaped, or was involved in a crowd control actions and could not be taken into custody.

D. Supervisor Responsibilities

If notified by an officer of a reportable use of force, or if notified by a citizen of a use of force allegation, the supervisor shall respond to the scene or to the holding facility if the subject has been arrested. The supervisor shall immediately conduct an inquiry to determine the circumstances of the reported incident and will insure the required reports are submitted.

The supervisor will as soon as possible, notify the Command Staff of the incident through the chain of command.

E. Office of Professional Integrity and Transparency Responsibilities

The OPIT conducting the inquiry shall adhere to the following guidelines for use of force investigations:

- Ensure medical assistance was provided if needed;
- Locate and interview all witnesses including the suspect and those named by the suspect;
- Collect any evidence and take written or recorded statements from witnesses if possible;
- Interview the officers and ensure their written reports are submitted;
- Take photographs of the location where the incident occurred and any injuries to the officers and/or suspect;
- Recover and preserve any video evidence from police vehicles, body cameras, or private surveillance systems if possible;
- Review any medical records;
- Prepare a summary report to the Chief of Police containing a summary of the incident, a summary of the witness statements and other evidence, and a statement regarding the conclusions of the supervisor regarding the necessity and appropriateness of the use of force.

F. Chief of Police Responsibilities

The Chief of Police shall review the investigation and any recommendations from the supervisors in the chain of command.

If department policy, training, tactics or procedures were violated during the incident, the Chief may order an Internal Investigation.

In all cases the Chief of Police will inform the officers involved of his decision in the matter and forward a copy of the incident summary to the training officer for use in training development.

XIV. ANALYSIS OF USE OF FORCE INCIDENTS

- A. Annually, in January of each year, the department will conduct an analysis of all use of force incidents. This analysis will include the number and type of force used on suspects, the race and sex of suspects involved, and the results of the uses of force and whether they were successful at bringing the incident to a close. The analysis shall go into sufficient depth to determine a clear picture of the use of force by the department and show any increase or decrease over the previous year.
- B. The Annual Use of Force Analysis will be forwarded to the City Council for review.