
Use of Force

200.1 PURPOSE AND SCOPE

This policy recognizes that the use of force by law enforcement requires constant evaluation. The use of force is a serious responsibility. The purpose of this policy is to provide officers of this Department with guidelines on reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

200.1.1 PHILOSOPHY

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied human encounters and when warranted, may exercise control over another in carrying out their duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use lawful and reasonable force and to protect the public welfare requires a careful balancing of all human interests.

200.1.2 DEFINITIONS

Reasonable Belief - An objective standard viewed from the perspective of a reasonable officer on the scene, without the benefit of 20/20 hindsight and within the limitations of the totality of the circumstances presented at the time of the incident.

Any interpretation of reasonableness about the amount of force that appears to be necessary in a particular situation must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving.

Bodily Injury - Physical pain, illness or any impairment of physical condition (Tex. Penal Code § 1.07(8)).

Serious Bodily Injury - Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ (Tex. Penal Code § 1.07(46)).

Non-Deadly Force - Any application of force by an officer other than deadly force.

Deadly Force - Force that is intended or known by the officer to cause, or in the manner of its use or intended use is known to be capable of causing death or serious bodily injury (Tex. Penal Code § 9.01(3)).

200.1.3 DUTY TO INTERCEDE

Any officer present and observing another agency employee using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force or they become aware of any violation of

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

departmental policy, state/provincial or federal law, or local ordinance. Such officers shall also promptly report these observations to a supervisor.

200.2 USE OF FORCE POLICY

It is the policy of this Department that officers shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to accomplish a legitimate law enforcement purpose and to apply de-escalation techniques when possible.

Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying reasonable force.

All personnel authorized to carry weapons shall receive training on the Use of Force policy and any related instruction before being authorized to carry any lethal or less lethal weapon and refresher training at least annually. Instruction shall include confirmation of employee understanding of legal implications and requirements, weapon specific operating and care procedures, documentation and reporting procedures and obligations following the use of force. Policy receipt and curriculum delivery must be documented.(CALEA 4.3.3 A) (CALEA 4.3.4)

200.2.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply any level of force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- (a) The conduct of the individual being confronted as reasonably perceived by the officer at the time.
- (b) Officer/subject factors such as age, size, relative strength, skill level, injury/level of exhaustion and number of officers vs. subjects.
- (c) Influence of drugs/alcohol or mental capacity.
- (d) Proximity of weapons.
- (e) The degree to which the subject has been effectively restrained and their ability to resist despite being restrained.
- (f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
- (g) Seriousness of the suspected offense or reason for contact with the individual.
- (h) Training and experience of the officer.
- (i) Potential for injury to citizens, officers and suspects.
- (j) Risk of escape.

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

- (k) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (l) Other exigent circumstances.

It is recognized that officers are expected to make split-second decisions and that the amount of an officer's time available to evaluate and respond to changing circumstances may influence their decision.

While the type and extent of force may vary, each officer is expected to use only that amount of force which reasonably appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

Circumstances may arise in which officers reasonably believe that it would be impracticable or ineffective to use any of the standard tools, weapons or methods provided by the Department. Officers may find it more effective or practicable to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the extent which reasonably appears necessary to accomplish a legitimate law enforcement purpose.

200.2.2 FORCE DE-ESCALATION

De-escalation tactics and techniques are those undertaken by an officer(s) to avoid physical confrontations, unless immediately necessary to protect someone or to stop dangerous behavior, while minimizing the need to use force during an incident when the totality of the circumstances and time permit. De-escalation tactics and techniques are employed to increase the likelihood of voluntary compliance and cooperation.

It is the policy of this Department that when all of the reasonably known circumstances indicate it is safe, prudent, and feasible to do so, an officer(s) shall attempt to slow down, reduce the intensity, or stabilize the situation so that more time, options and/or resources may become available for incident resolution.

When time and circumstances reasonable permit, an officer(s) shall consider whether a subject's lack of compliance is a deliberate attempt to resist or is the result of an inability to comply based on factors including, but not limited to:

- Medical conditions
- Mental impairment
- Developmental disability
- Physical limitation
- Language barrier
- Drug interaction
- Behavioral crisis

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident and which tactical options are the most appropriate to bring the situation to a safe resolution. An officer is not expected to engage in force de-escalation measures that could jeopardize the safety of the community or of any employee.

Where circumstances and time reasonably permit, an officer(s) shall take those reasonable and prudent actions which operate to mitigate the immediacy of the threat thereby giving the officer(s) time to call more officers, utilize other tactics, or request specialty assistance, such as Crisis negotiators. The number of officers on scene may increase the available force options, a circumstance which has the potential to increase the ability of the officer(s) to reduce the overall force used by promoting consideration of other viable alternatives such as:

- Decreasing the exposure to the potential threat by using distance or physical barriers between an uncooperative subject and an officer.
- Containing the threat.
- Maximizing the use of cover or concealment to reduce officer(s) exposure to potential threats by placing the officer(s) in a safer position.
- Communicating from a safe position to gain the subject's compliance through the use of verbal persuasion, advisements, and/or warnings. Generally, communication techniques should engage active listening to calm agitated individuals and promote rational decision making.
- The offer's physical actions may also de-escalate a potentially volatile/violent situation; i.e., exhibiting a relaxed body language.

When the circumstances warrant an application of force, the level of force applied must reflect the totality of the reasonably known circumstances surrounding the immediate situation. The officer need only select a level of force that is within the range of "objectively reasonable options." Officers must rely on training, experience and an assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed.

Officers may either escalate or de-escalate the use of force as the situation progresses or as circumstances change. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, the degree of force shall be de-escalated accordingly.

200.2.3 USE OF FORCE TO EFFECT A DETENTION, AN ARREST OR TO CONDUCT A SEARCH

An officer is justified in using reasonable force when the officer reasonably believes the use of such force is immediately necessary (Tex. Penal Code § 9.51(a)):

- (a) To make or assist in a detention or an arrest, or to conduct a search that the officer reasonably believes is lawful.
- (b) To prevent or assist in preventing escape after an arrest, provided the officer reasonably believes the arrest or search is lawful.

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

- (c) To make an arrest or conduct a search under a warrant that the officer reasonably believes is valid.

200.2.4 NOTICE OF AUTHORITY AND IDENTITY

If it is not already reasonably known by the person to be searched or arrested, or it is not reasonably impracticable to do so, officers should make clear their intent to arrest or search and identify themselves as a peace officer before using force (Tex. Penal Code § 9.51(a)(2)).

200.2.5 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a passive or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has received department-approved training, and only when the officer reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose.

Officers utilizing any pain compliance technique should consider the totality of the circumstance including, but not limited to, the following:

- (a) The potential for injury to the officer(s) or others if the technique is not used.
- (b) The potential risk of serious injury to the individual being controlled.
- (c) Whether the pain compliance technique is effective in achieving an appropriate level of control.
- (d) The nature of the offense involved.
- (e) The level of resistance of the individual(s) involved.
- (f) The need for prompt resolution of the situation.
- (g) If time permits (e.g., passive demonstrators), other reasonable alternatives.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved or other more appropriate alternatives can reasonably be utilized.

200.3 DEADLY FORCE APPLICATIONS

An officer may use deadly force in the following circumstances:

- (a) To protect themselves or others from what the officer reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) To make an arrest, or to prevent escape after arrest when the officer has probable cause to believe that the suspect has committed or intends to commit a felony involving the infliction or threatened infliction of serious bodily injury or death and the officer reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to any other person if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force where feasible (Tex. Penal Code § 9.51(c)).

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

- (c) At no time shall an officer resort to deadly force solely to prevent damage to or loss of property, regardless of ownership.
- (d) An officer shall apply deadly force by utilizing an authorized weapon only, except in the case of extreme emergency to protect themselves or others. Techniques which impair breathing or circulation shall not be used except when deadly force is authorized.
- (e) An officer shall not discharge a firearm as a warning or threat.
- (f) Firing at a fleeing felon is prohibited unless circumstances outlined in sub-section a & b
- (g) Firing into buildings or places where offenders are suspected of hiding shall be prohibited, except where there is no doubt of the offender's location, deadly force is being directed from that location at the officer or others, and return fire by officers would not present a risk to innocent bystanders.
- (h) Firing at vehicles shall be prohibited, unless an occupant of the vehicle is using or attempting use deadly force against an officer or others, and the return fire by officers would not present a greater danger to innocent persons.
- (i) Firing at animals, fowl, or other non-human beings is prohibited unless officers or other persons are in imminent danger of death or seriously bodily injury, or with the permission of the Director, or his designee.
 - 1. Exceptions include situations in which a seriously injured animal is brought to the attention of the Department and, in the opinion of an on-duty supervisor, should be destroyed for humane reasons, and, an owner cannot be identified or located, The on-duty supervisor may authorize the destruction of the animal under safe conditions and report the matter to the Director. This alternative is not to be utilized when the services of the Town contract animal clinic can alleviate the suffering of the animal in a reasonable amount of time.
- (j) Appropriate medical evaluation, first aid and, if required, medical assistance at an appropriate facility shall be provided to any person subjected to a police action as quickly as reasonable possible. When obvious severe injuries have occurred, medical distress is apparent, or the subject is unconscious, an on-scene officer shall notify the communications center and request that a Mobile Intensive Care Unit be dispatched.

200.4 REPORTING THE USE OF FORCE

Any use of force by a member of this Department through the use of lethal or less-lethal, on or off-duty for a law enforcement purpose, shall be documented promptly, completely and accurately in an appropriate report. The use of force or the use of particular weapons such as chemical agents may require the completion of additional report forms as specified in Department policy and/or law.

Reportable force applications include:

- (a) The application has caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force has expressed a complaint of pain or injury.

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

- (d) The application of any control device.
- (e) The individual subjected to the force was rendered unconscious.
- (f) An individual was struck or kicked in any manner.
- (g) An individual alleges any of the above occurred.
- (h) Pointing a weapon at a person as a use of force.
- (i) Discharge of a weapon as a use of force.

NOTE: If an officer has subdued a person solely with physical strength and skill, the related facts shall be included in the narrative portion of the Offense/Arrest Report and a separate report is not required unless required by the Director.

200.4.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force on or off duty.

200.4.2 MEDICAL ATTENTION

Prior to booking or release, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, who has been rendered unconscious or who has been subjected to a mechanism of injury that would lead to the suspicion of injury. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by on-duty paramedics. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

A person who exhibits extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain or who requires a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

200.4.3 RENDERING MEDICAL ATTENTION

All persons inflicted with any use of force or police action shall be closely observed during transport and book-in and appropriate medical treatment provided, if needed.

Persons sprayed with O.C. usually recover in 15-30 minutes and usually do not require medical treatment. However, the persons sprayed should be closely evaluated for any after effects that may require medical treatment and follow emergency protocol.

When an officer books a subject to whom less-lethal force has been applied, the Officer shall notify the holding facility personnel.

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

200.5 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor should:

- (a) Obtain the basic facts from the involved officer(s).
- (b) Ensure that any injured parties are examined and treated
- (c) Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas. Photographs should also be taken of areas subjected to force that do not show visible injury to document pertinent negatives.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Complete and attach a Use of Force Report Form and ensure that a copy of the report package is forwarded to the Director of Public Safety via chain of command.

In the event that it appears that an application of force by an officer was not within policy, The Director of Public Safety will take any appropriate action and/or forward the investigation or complaint to the Internal Affairs Division for further action.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

200.5.1 ADMINISTRATIVE REVIEW

Any use of force involving a lethal or less-lethal weapon additionally requires a summary report from the Officer In Charge. This report reviews the employee(s)' actions to include relevant facts and circumstances surrounding the incident and a conclusion as to whether the use of force violates any agency policy. After review of this report and the involved employee(s)' report(s), the Director may assign the Internal Affairs Investigator to investigate the incident extensively. If the Officer in Charge is involved in the incident, the Operations Commander will submit the summary report.

200.5.2 RELIEF FROM DUTY

Any employee, whose actions or use of force to any degree results in a death or serious bodily injury to any person shall be removed from operational assignments.

The employee removed from their operational assignment may be placed on administrative leave with counseling services provided, as approved by the Director, until such time as a preliminary investigation is completed if no wrong doing is found. If criminal or policy problem, the Director determines leave or duty assignment pending a full investigation. (CALEA 26.3.7)

*NOTE: Any use of force that results in death shall be investigated by an outside agency. Any use of force that results in serious bodily injury may, at the discretion of the Director, be investigated by an outside agency.

Highland Park Department of Public Safety

Highland Park DPS Policy Manual

Use of Force

Resulting actions from Department investigations may include but shall not be limited to the following:

- (a) Finding no deviation from Department policies and procedures, the employee may be returned to duty.
- (b) Upon receiving a "no bill" indictment from the Grand Jury but an internal affairs investigation reveals violation of one or more Department policies and procedures, the employee may face disciplinary action up to and including termination.
- (c) Upon indictment by the Grand Jury, the employee may be terminated from Town employment.

*NOTE: In the event the employee is acquitted at trial, the employee may be rehired with payment of back wages if the internal affairs investigation revealed no deviation from Department policies and procedures.

200.6 ANNUAL USE OF FORCE REPORT

The Department Accreditation Manager shall submit an annual Use of Force Report to the Director of Public Safety. The report should be based on the Use of Force Forms submitted to the Director of Public Safety throughout the year. In compiling the annual report, the Accreditation Manager should consider reviewing:

- The type of force used.
- Whether the force used was effective in controlling the individual.
- The location (premise type) where the force was used.
- The number of officers present when the force was used.
- The identity and number of officers who used force.
- Precipitating events leading to the use of force.
- The type of offense or arrest.
- Whether alcohol and/or narcotics were involved.

The report should analyze the use of force incidents to determine whether:

- Any policies need revision.
- Additional training is needed and the scope of the training required.
- Any equipment changes that may be needed.
- Any changes in methods of operation or response that may be needed.