

## DE-ESCALATION AND USE OF FORCE

### 502.1 PURPOSE

The Pearland Police Department places its highest value on the life and safety of its officers and the public. The department's policies, rules and procedures are designed to insure this value guides employees in their interactions with the public and police officer and jailer use of force. To the extent possible, all employees are required to utilize trained de-escalation techniques in situations which may otherwise require force to be used.

Even though all officers and jailers must be prepared to use force when necessary, reasonableness must be exercised in its use. Consequently, an officer or jailer is justified in the reasonable use of force in self-defense; in defense of another; or when faced with a situation that immediately requires force to be used to protect life, property, or lawfully effect an arrest or detention. Just as important, an officer or jailer is expected to refrain from using force when the use of force might threaten the life or safety of an innocent person, or if the use of force is not clearly warranted by the policy and rules of the department.

### 502.2 DEFINITIONS

- A. Bodily Injury - Physical pain, illness, or any impairment of physical condition. (Texas Penal Code 1.07)
- B. De-Escalation – Tactics and techniques used by employees, when safe and feasible without compromising law enforcement priorities, that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance.
- C. Deadly Force - The force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury. (Texas Penal Code 9.01)
- D. Non-Deadly Force - That amount of force, which in the circumstances then present is neither likely nor intended to cause death or seriously bodily injury. Non-Deadly force shall be taken to mean the following types of force, Presence, Verbalization, Empty Hand Control - Soft Techniques, Pointing of a Weapon, Pain Compliance (Empty Hand Control – Hard Techniques, approved chemical agent – OC Spray, approved electro-muscular disruption device – TASER), K9 bite, Approved Baton or Less-Lethal Impact Munitions.
- E. 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. (Texas Penal Code 1.07)

### 502.3 PROCEDURES

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#### 502.3.1 DE-ESCALATION

1. All employees of the Pearland Police Department will be trained in de-escalation techniques within 6 months of being hired or a reasonable amount of time if part of an academy hosted by PPD. The department will provide continuing de-escalation training and incorporate de-escalation training in all intermediate weapon and other use of force training hosted at the Pearland Police Department.
2. Prior to using non-deadly or deadly force, all law enforcement personnel, when safe and without compromising law enforcement priorities, must attempt to use de-escalation techniques to gain compliance. This requirement does not require an officer/jailer to engage in de-escalation techniques when it is obvious to a trained officer/jailer that such techniques would be ineffective or increase the likelihood an employee or another person may be injured, or a violator may escape.
3. De-escalation techniques
  - (a) Communicate – Use verbal persuasion, advisements, empathy, or warnings as the situation requires.
  - (b) Remain Calm – Displaying calm in the midst of a heated situation is perhaps one of the most critical techniques, the act can be contagious.
  - (c) Listen – Allow people to give their side of the story, give them a voice and permit them to vent as possible. Many people just want a chance to say their side.
  - (d) Explain – Explain what you're doing, what they can do, and what's going to happen. Telling somebody what will happen often eases tension.
  - (e) Equity – Tell them why you are taking action. The reason must be fair and free of bias, and show their input was taken into consideration.
  - (f) Dignity & Respect – Act with dignity and leave them their dignity. Showing respect or concern can establish a positive foundation for the entire interaction.
  - (g) Patience – Time is often on the side of law enforcement, slow things down when applicable.
  - (h) Contain a threat – When possible contain the threat, this may include backing off and surrounding an area, such as in a barricaded suicidal subject.
  - (i) Move to a better position - Place barriers between an uncooperative subject and the officer to improve safety. Reduce exposure to unnecessary threats through distance, cover, or concealment.
  - (j) Request resources – Call for additional officers to help stabilize a situation or reduce the type of force needed. Request CIT trained personnel, officers equipped with additional less-lethal tools, or even outside personnel as the situation dictates.
  - (k) Employ your training – Use your training and life experiences to interact and gain compliance without having to use force.

#### 502.3.2 USE OF FORCE CONSIDERATIONS

1. Subject Threat Level

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- (a) Compliant – Subject is offering no resistance and follows the commands of the officer/jailer.
  - (b) Passive Resistance – Subject does not respond to verbal commands, but also offers no physical form of resistance.
  - (c) Threatening – Actions or words by a subject which would reasonably place another in fear of injury.
  - (d) Active Physical Resistance – Physically evasive movements to defeat, avoid, or prevent an officer's attempt at apprehension, but who does not attempt to inflict harm against the officer/jailer.
  - (e) Assaultive – A subject who does not follow verbal commands, resists the officer/jailer and who is aggressive or combative; actively attempting to assault or assaulting the officer or another person.
  - (f) Life-threatening – Any action likely to result in serious bodily injury or death of an officer or another person.
  - (g) Suicidal – Any subject who presents an immediate threat of death only to him/herself.
2. Condition of the Subject
- (a) Apparent medical conditions;
  - (b) Infirm, feeble, or elderly;
  - (c) Mental impairment;
  - (d) Obvious developmental or physical disability;
  - (e) Obvious or stated pregnancy;
  - (f) Language barrier, can the subject understand the officer;
  - (g) Deaf or hard of hearing;
  - (h) Drug interaction;
  - (i) Behavioral crisis;
  - (j) Factors which may be beyond the individual's control.
3. Other Factors to Consider
- (a) Seriousness of the crime or offense suspected, nature of the offense;
  - (b) The level of threat or resistance presented by the subject;
  - (c) The risk of escape;
  - (d) The conduct of the individual being confronted by the officer;
  - (e) The time available to the officer to evaluate the situation and decide on a course of action;
  - (f) The availability of other feasible, less intrusive force options;

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- (g) The availability of backup or support;
- (h) The availability to engage in de-escalation before resorting to force;
- (i) Actions or the presence of third parties;
- (j) The relative size or physicality of the officer to the subject;
- (k) Any pattern of violence known to the officer at the time of the incident;
- (l) The number of subjects;
- (m) The environment in which the incident is taking place;
- (n) Whether the officer believes the subject is armed or near a deadly weapon;
- (o) The totality of the circumstances.

#### 502.3.3 REASONABLE, PROPORTIONAL, AND NECESSARY FORCE (RP 6.01)

1. Police officers and jailers are authorized to use physical force but shall only use physical force when no other viable option is available or reasonable given the circumstances. In all cases where force is used, it must be reasonable, proportional, necessary and meant to achieve a legal objective. **(RP 6.01)**
2. A police officer/jailer is authorized to use deadly force when the officer/jailer reasonably believes that his/her life is in immediate danger of death or serious bodily injury or a third person is in immediate danger of death or serious bodily injury. **(RP 6.02)**
3. Police officers and jailers shall use force only when it is objectively reasonable, proportional, and necessary to effectively and safely resolve a conflict or incident. Force may only be used when it is in line with the department's mission of preserving life and minimizing physical harm. Officers or jailers may use reasonable, proportional, and necessary force to achieve one or more of the following objectives:
  - (a) Lawfully arrest, detain, or search an individual;
  - (b) To defend oneself or another;
  - (c) Prevent escape of an individual who the officer/jailer has reason to believe has committed a crime, however deadly force is not authorized to stop a fleeing subject unless the subject poses an immediate threat of serious bodily injury or death to somebody other than the subject;
  - (d) To maintain the safety and security of the detention facility;
  - (e) To prevent the damage or theft of property, however, deadly force is not authorized to attempt to stop a subject from damaging or stealing property.
  - (f) To prevent a subject from engaging in acts of self-harm, however, deadly force is not authorized to attempt to stop somebody from self-harm.

#### 502.3.4 USE OF FORCE CONTINUUM

1. Types of Force - Force options are listed from the least severe to the most severe:

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- (a) Presence – No force is used, the mere presence of authority is sufficient to gain compliance to lawful commands, deter crime or diffuse the situation. The officers/jailer's attitudes are professional and non-threatening.
- (b) Verbalization – Force is not physical, issuing calm, nonthreatening lawful commands. Officer/jailers may increase their volume, shorten commands, or employ other necessary verbalization including threats/consequences for a failure to comply with lawful orders.
- (c) Empty Hand Control (Soft Techniques) – Officers/jailers use grabs, holds, or joint locks to restrain an individual, unlikely to cause any injuries to the subject, but that may cause temporary discomfort (this includes handcuffing, leg cuffs, transport belts, restraint chairs, straightjackets or similar devices used to immobilize a person).
- (d) Pointing of a Weapon – The purposeful pointing of a weapon at a person. The pointing of a firearm is considered more force than the pointing of an intermediate weapon. The unholstering, display, or holding of a weapon in the ready position (low ready, "SUL", etc.) is NOT considered the Pointing of a Weapon.
- (e) Pain Compliance – These techniques have a possibility of causing injury and include the following based on the level of resistance:
  - 1. Use of an approved chemical agent – Oleoresin Capsicum (OC) spray used in compliance with policy and training.
  - 2. Use of an approved electro-muscular disruption device – TASER used in compliance with policy and training.
  - 3. Empty Hand Control (Hard Techniques) – Officers/jailers using strikes, kicks, takedowns, throws, or other physical strength or skill which may include martial arts or other fighting techniques.
- (f) Trained Police K9 – They have a high probability of causing injury when they bite. As such Police K9s shall only be used pursuant to department policy and training.
- (g) Less Lethal Weapons – These weapons have a high probability of causing injury, including soft connective tissue damage or bone fractures. This would include an Approved Baton, or Less-Lethal Impact Munitions.
- (h) Deadly Force Options – The following weapons or techniques are likely to cause serious bodily injury or death:
  - 1. Discharge of a firearms.
  - 2. Ramming of a person with a vehicle.
  - 3. Purposeful strikes to the head or neck with a baton or similar item.
  - 4. Intentional shots to the head or neck with a Less-Lethal Impact Munition.
  - 5. Neck holds, including chokeholds, strangleholds, lateral vascular neck restraints, carotid restraints, chest compressions, or any other tactic that restricts oxygen or blood flow to the head or neck.

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6. Any purposeful act by a police officer or jailer that the officer/jailer should have reasonably known would lead to the serious bodily injury or death of a person.
  - (i) Non-Categorized Weapon of Opportunity – A weapon of opportunity should only be used by a police officer/jailer who is facing at a minimum an Assaultive subject and only to the degree the officer/jailer had no other reasonable approved methods to defend him/herself. The officer/jailer must understand the use of such an object/technique will be applied to the closest level of force on this continuum and the application of the object/technique must be justified.
2. Levels of Force – Officers/jailers will employ the lowest reasonable, proportional, and necessary level of force based on the circumstances to achieve the needed outcome. All uses of force consider the Totality of the Circumstances. The levels of force will be categorized as follows:
  - (a) Low Level Force – Has no, to very low probability of causing injury. This level of control may be necessary to interact with Subject Threat Levels who are Compliant, Passive Resistance, Threatening, or Suicidal actions. Types of Force which may be appropriate include Presence, Verbalization, Empty Hand Control (Soft Techniques), and/or Pointing of a Weapon.
  - (b) Intermediate Level Force – Has a potential to cause injury or substantial pain. This level of control may be necessary to interact with Subject Threat Levels who are Threatening, using Active Physical Resistance, Assaultive, or Suicidal. Types of Force which may be appropriate include Presence, Verbalization, Empty Hand Control (Soft Techniques), Pointing of a Weapon, or Pain Compliance.
  - (c) K9 Force – While Trained Police K9s have a high probability of causing injury when they bite, police K9s may be necessary to use during incidents of lower Subject Threat Levels. Depending on the Totality of the Circumstances, this level of control may be necessary to interact with Subject Threat Levels who are Passive Resistance (in circumstances consistent with police K9 training), Threatening, Active Physical Resistance, Assaultive or Suicidal.
  - (d) High Level Force – Has a high probability of causing injury or substantial pain but is not meant to cause serious bodily injury or death. This level of control may be necessary to interact with Subject Threat Levels who are Assaultive or Suicidal. Types of Force which may be authorized include Presence, Verbalization, Empty Hand Control (Soft Techniques), Pointing of a Weapon, Pain Compliance, or Less Lethal Weapons.
  - (e) Deadly Force – Has a high probability of causing Serious Bodily Injury or Death and is only meant to deal with Subject Threat Levels who are Life-threatening when Deadly Force Options remain the only visible response.

#### 502.3.5 DUTY TO INTERVENE, REPORT, AND PROVIDE AID

1. Duty to Intervene & Report

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- (a) A police officer or jailer has an affirmative duty to intervene to stop another officer or jailer, regardless of rank or employing agency, who engages in excessive or unnecessary force in his/her presence. Consistent with
  - (b) Any employee who observes what they believe to be an excessive use of force have a duty to report the incident to an on-duty supervisor. The failure to report an unnecessary or excessive use of force is a serious violation which will lead to disciplinary action, up to and including indefinite suspension or termination.
  - (c) A supervisor who is informed by any employee of an alleged excessive use of force shall immediately notify their division commander (or on-call police command staff member) and initiate an inquiry into the matter.
2. Duty to Provide Aid
- (a) As soon as safely practical, following any use of physical force, officers/jailers are required to render first aid and if necessary call for medical assistance or any other aid for anyone in police custody who the officer/jailer has reason to know is injured and to anyone who complains of injury. **(RP 6.07)**
  - (b) As soon as safely practical, following the deployment of any intermediate weapon, a K9 bite, or any use of deadly force, officers/jailers shall summon emergency medical services (EMS or FD) to provide aid. Probes from an Electro-Muscular Disruption Device (TASER) shall be removed by Emergency Medical Personnel.

#### 502.3.6 USE OF FORCE / GENERAL RULES

1. Following an Intermediate, K9, High, or Deadly Use of Force, an officer or jailer will to the extent possible, turn over custody of the subject to another officer or jailer. The purpose of this is to facilitate the de-escalation of the incident and to better permit the involved employee to promote composure.
2. Peace officers shall not surrender their firearm unless as a last resort and only after using every tactical tool at their disposal. Surrender of a weapon rarely de-escalates a serious situation and can, in fact, put the officer and innocent persons in jeopardy.
3. No officer shall carry or in normal circumstances use any weapon unless it is approved, and he/she has been properly trained in its use (the Police Utility Knife is not a tool to be trained on as a weapon). "Training" shall include proficiency in technical, mechanical, and physical aspects of the use of the weapon, a knowledge and understanding of the law, rules contained in departmental policy and any other regulations regarding the use of the weapon.

#### 502.3.7 USE OF NON-DEADLY FORCE

1. Non-deadly force may be used in instances where a police officer or jailer must take action to achieve a lawful objective.
2. Whenever a police officer finds it necessary to use non-deadly force to achieve a lawful objective, it shall be incumbent upon that officer to evaluate and use the options

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available, based on laws governing the use of force, reasonableness, proportionality, and necessity.

3. An approved chemical agent unlikely of inflicting permanent injury may be used pursuant to this policy, subject to the following rules:
  - (a) Under normal circumstances, all reasonable steps should be taken to insure that innocent persons are not affected by the discharge of a chemical agent.
  - (b) The preferred target area is the eyes/brow and it is recommended the deployment is 36 or more inches from the face.
  - (c) Only the amount of chemical agent required to control the situation is to be used. Once the subject is under control, the use of chemical agents shall be discontinued.
  - (d) Every reasonable effort will be made to relieve the subject's discomfort once control has been attained and medical aid summoned in accordance with Section E of this order.
4. An approved electro-muscular disruption device (TASER), not designed to inflict permanent injury, may be used pursuant to this policy, subject to the following rules:
  - (a) Under normal circumstances, all reasonable steps should be taken to insure innocent persons are not affected by the discharge of an electro-muscular disruption device (TASER).
  - (b) Use preferred target zones -below the neck on the back and below the chest on the front. Avoid the head and groin areas.
  - (c) TASER use shall not continue after target aggression has ceased or once the subject is under control.
  - (d) Every application of the TASER must be justified.
  - (e) Every reasonable effort will be made to relieve the subject's discomfort once control has been attained and medical aid summoned in accordance with Section E of this order.
5. The baton may be used by an officer pursuant to this policy, subject to the following rules:
  - (a) Blocks with the baton are actually strikes that are occurring to stop an attack that is coming at an officer. These blocks are delivered to the meaty portion of the arm or leg that is attacking the officer in order to disable to the attacker.
  - (b) Baton strikes are delivered to the meaty portions of the leg (thigh and calf).
  - (c) Baton strikes shall not continue after target aggression has ceased.
  - (d) Every reasonable effort will be made to relieve the subject's discomfort once custody has been attained and medical aid summoned in accordance with Section E of this order.



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#### 502.3.8 USE OF DEADLY FORCE

1. A police officer or jailer is authorized to use deadly force when the officer/jailer reasonably believes his/her life is in immediate danger of death or serious bodily injury or a third person is in immediate danger of death or serious bodily injury. **(RP 6.02)**
2. Police officers/jailers should exhaust other reasonable alternatives when those alternatives would be likely to achieve the goal of stopping the immediate danger of serious bodily injury or death. Officers/jailers are not expected to attempt to use all other force alternatives prior to deadly force, when the situation clearly warrants an immediate need for deadly force as the only reasonable action to stop the threat.
3. The following rules shall be adhered to in the discharge of firearms at a person:
  - (a) Police officers shall not discharge their firearms except when deadly force is authorized and only when it will not clearly endanger innocent persons.
  - (b) When possible and to the extent doing so would not further endanger the officer or another, officers should warn the suspect they will be shot if they do not comply.
  - (c) Police officers shall not:
    1. Fire warning shots. **(RP 6.09)**
    2. Discharge their firearms to subdue an escaping suspect who presents no imminent threat of death or serious bodily injury.
    3. Discharge their firearms to threaten or subdue persons whose actions are only destructive to property or injurious to themselves.
    4. Discharge their firearm in an attempt to disable a vehicle. (A SWAT operation may permit the disabling of a vehicle in compliance with CART guidelines)
4. Once a lesser degree of force is considered effective or the subject has submitted to custody, the use of deadly force shall be discontinued.
5. Every reasonable effort will be made to relieve the subject's discomfort once control has been attained and medical aid summoned in accordance with Section E of this order.
6. Police officers or jailers who use deadly force during the performance of their duties either on- or off-duty will be subject to post-incident drug/alcohol testing within a reasonable amount of time after the scene of the incident has been secured.

#### 502.3.9 COMPREHENSIVE REPORT OF USE OF FORCE

1. Employee's Responsibility Use of Force Reporting
  - (a) An officer who points a weapon shall include the reasons for doing so pursuant to **604 Incident Reports**.
  - (b) To promote transparency and accountability of actions involving the use of physical force against civilians, employees shall immediately or as soon as practical report to an on-duty police supervisor any injury to a prisoner or use of

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force involving the Pain Compliance (Empty Hand Controls – Hard Techniques, use of an approved chemical agent – OC spray, use of an approved electro-muscular disruption device – TASER), a K9 bite, an approved Baton or discharge of a Less-Lethal Impact Munition, any Deadly Force Option, or Non-Categorized Weapon of Opportunity.

- (c) An employee who uses force as defined above, shall complete an incident report or as necessary based on the circumstances, provide a statement to a reporting officer.
  - (d) An employee shall articulate and document the following:
    - 1. The subject's action necessitating the use of force, including any threat presented by the subject;
    - 2. Any efforts to de-escalate or use lesser options of force and the type of force used;
    - 3. Any warning given to the subject prior to the use of force, and if not, why not;
    - 4. Any injury or complaints of injury by the subject;
    - 5. Any injury or complaints of injury to an officer/jailer or other person;
    - 6. Any information regarding first aid provided or any medical assessment or evaluation, including whether the subject refused medical attention.
  - (e) An employee must complete their report before the end of their shift, unless it is impractical to do so (injury, criminal investigation, etc.) and a supervisor approves the report being incomplete.
2. Supervisor Responsibility for Use of Force Reporting
- (a) No supervisor who used, participated in, or ordered a reportable use of force, will conduct the supervisory evaluation of the incident, unless it is impractical under the circumstances. If no other supervisors are available, the supervisor will contact his/her division commander (or if the division commander is unavailable then the on-call command staff member) for guidance.
  - (b) Immediately upon being notified of a use of force incident, the supervisor shall respond to the scene, if practical, to take command of the incident and insure department policy is followed and a competent investigation occurs. The supervisor shall insure notifications are made pursuant to **601 Major Incident Response** and **503 Deadly Force Incidents**;
  - (c) For incidents involving the delivery of impact munitions, the supervisor shall contact the appropriate District Attorney's office to determine proper protocols for investigation under **503 Deadly Force Incidents**.
  - (d) The supervisor shall initiate an investigation (administrative review) into the Use of Force and complete a Use of Force module in RMS.

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- (e) For incidents involving a TASER(Electro-Muscular Disruption Device), the supervisor will insure any data recorded by the weapon is downloaded and submitted with the Use of Force report.
  - (f) Regardless of the jurisdiction of the incident, a department supervisor shall initiate an investigation required under this section for any Pearland S.W.A.T. officer involved in a use of force incident, when the force is directed at a person. The deployment of gas or flash-bangs for the purpose of clearing an objective are not considered to be directed at a person.
3. Use of Force Module in RMS (RP 6.03)
- (a) The Supervisor who enters the information into the Use of Force Module in RMS shall complete the administrative review.
  - (b) The supervisor shall include a copy of the incident report, all video, and copies of other evidence pertinent to the investigation. The supervisor shall make a recommended classification based on the highest level of force used and determine if the action was within guidelines, whether there were lesser force alternatives available (that would have been likely to resolve the incident) and whether training and proper tactics were followed. Whenever possible the supervisor should finish the report before going off-duty, if he/she is unable to do so, the supervisor shall notify their division commander, through their chain of command, where the file is located, why he/she was unable to complete the module before the end of their shift, and an approximate date it will be completed.
  - (c) For a Use of Force incident in which the supervisor believes the force was within policy guidelines, the supervisor will forward the report through his/her chain of command to the Division Commander. The Division Commander will review the incident and if he/she concurs, will forward the report to Bureau Chief of the officer involved. If the Bureau Chief concurs, the Chief will forward the report to the Professional Development unit for review of training opportunities. After review, the Use of Force report will be forwarded to the Chief's Executive Assistant for scanning and filing. Files will be retained for a minimum of 5 years or longer as required by State statute.
  - (d) If any supervisor or officer assigned to review a Use of Force believes the force used was unnecessary or excessive, the supervisor will stop their administrative review and initiate an inquiry (professional standards investigation) via the discipline system. The employee making the complaint shall also make immediate notification to their division commander if applicable, via their chain of command, of their concerns. The division commander who completes the Division Commander Synopsis of the inquiry, will complete the Use of Force Module and will indicate their findings in the module.
4. Annual Use of Force Report (RP 6.10)
- (a) The Pearland Police Department will prepare an annual report on Use of Force Incidents which will be sent to the Chief of Police by January 31<sup>st</sup> of the following year.

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- (b) The report will include at a minimum data on the following:
  - 1. The number of Citizen Calls for Service and Police Incidents during the year;
  - 2. The number of Use of Force Incidents in the year;
  - 3. The number of Officers/employees injured and if so, treatment information;
  - 4. The number of Subjects injured and if so, treatment information;
  - 5. The demographic information of the Subjects;
  - 6. The recommended classification of the Use of Force;
  - 7. The number found to be within or outside of policy guidelines;
  - 8. Any other information that will help the department identify trends, training needs, equipment needs or needs for policy revisions.
- (c) Upon approval of the report, the Administrative Services Division Commander will direct posting of the report on the department website.