

City of East Ridge Police Department

Subject: Use of Force		Number: 10.3
Reference: 10.4		Amends:
Effective: 05-01-2015	Review Date: Annually	# of Pages: 6

PURPOSE:

The purpose of this policy is to establish the policy and procedures governing the use of force and weapons by officers of the East Ridge Police Department. Any and all violations of this procedure may form a basis for departmental actions including termination. Only violations of the law may form the basis for civil or criminal penalties.

Policy on the Use of Force by ERPD Officers (10.3)

GENERAL GUIDELINES (10.3-01)

- A. ERPD policy on the use of force by Officers is derived from constitutional law, as interpreted by federal courts in cases such as *Graham v. Connor*, 490 U.S. 386 (1989) and *Tennessee v. Garner*, 471 U.S. 1 (1985), federal statutes and applicable policies.
- B. Officers may use "objectively reasonable" force only when it is necessary to carry out their law enforcement duties.
- C. The "reasonableness" of a particular use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against the rights of the subject, in light of the circumstances surrounding the event. Reasonableness will be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.
- D. The calculus of reasonableness embodies an allowance for the fact that law enforcement officers are often forced to make split-second decisions about the amount of force that is necessary in a particular situation in circumstances that are tense, uncertain, and rapidly evolving.

- E. A use of force is necessary when it is reasonably required to carry out the Officer's law enforcement duties in a given situation, considering the totality of facts and circumstances of such particular situation. A use of deadly force is necessary when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.
- F. An Officer may have to rapidly escalate or de-escalate through use of force options, depending on the totality of facts and circumstances of the particular situation.
- G. Based on the totality of circumstances, different officers may have different responses to the same situation, any of which may be both reasonable and necessary. The level of force applied must reflect the totality of circumstances surrounding the situation, including the presence of imminent danger to the officer or others.
- H. If feasible, and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of force. If a particular situation allows for the issuance of a verbal warning, the officer:
 - 1. Should have a reasonable basis to believe that the subject can comprehend and comply with the warning; and
 - 2. Allow sufficient time between the warning and the use of force to give the subject a reasonable opportunity to voluntarily comply with the warning.
- I. Following any incident involving the use of force, Officers shall seek medical assistance for any person who appears, or claims to be, injured.

OBJECTIVELY REASONABLE and the TOTALITY of CIRCUMSTANCES (10.3-02)

- A. The reasonableness inquiry for an application of force is an objective one: the question is whether the officer's actions are objectively reasonable in light of the totality of facts and circumstances confronting him or her, without regard to underlying intent or motivation.
- B. In determining whether a use of force is "objectively reasonable", an Officer must give careful attention to the totality of facts and circumstances of each particular case, including:
 - 1. Whether the subject poses an imminent threat to the safety of the officer or others;
 - 2. The severity of the crime at issue;

3. Whether the subject is actively resisting seizure or attempting to evade arrest by flight;
 4. Whether the circumstances are tense, uncertain and rapidly evolving; and
 5. The foreseeable risk of injury to involved subjects and others.
- C. Totality of circumstances refers to all factors existing in each individual case. In addition to those listed in subsection B, these factors may include (but are not limited to):
1. The training, mental attitude, age, size and strength of the officer;
 2. The training, mental attitude, age, size and strength of the subject;
 3. The weapon(s) involved;
 4. The presence of other officers, subjects or bystanders; and
 5. Environmental conditions.

USE of LESS-LETHAL FORCE (10.3-03)

- A. Less-lethal force is force that is not likely to cause serious physical injury or death.
- B. Any use of less-lethal force must be both objectively reasonable and necessary in order to carry out the Officer's law enforcement duties.
- C. Less-lethal devices/weapons may be used in situations where empty-hand techniques are not sufficient to control disorderly or violent subjects.

USE of DEADLY FORCE (10.3-04)

- A. Deadly force is force that is likely to cause serious physical injury or death.
- B. Officers may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of serious physical injury or death to the officer or to another person.
 1. Serious Physical Injury - Injury which creates a substantial risk of death or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ or structure or involves serious concussive impact to the head.
- C. **Discharging a firearm as a warning or signal is prohibited.** Discharging a firearm at a person shall be done only with the intent of stopping that person from continuing the threatening behavior that justifies the use of deadly force.

- D. Deadly force is not authorized solely to prevent the escape of a fleeing subject. Deadly force against a fleeing subject is only authorized if there is probable cause to believe that:
 - 1. The subject has inflicted or threatens to inflict serious physical injury or death to the officer or to another person; **and**
 - 2. The escape of the subject poses an imminent threat of serious physical injury or death to the officer or to another person.
- E. Officers shall not discharge their firearms at the operator of a moving vehicle, unless deadly force is necessary – that is, when the officer has a reasonable belief that the operator poses an imminent danger of serious physical injury or death to the officer or to another person.
 - 1. Such deadly force may include a moving vehicle aimed at officers or others present, but would not include a moving vehicle merely fleeing from officers unless the vehicle or the escape of the subject poses an imminent threat of serious physical injury or death to the officer or to another person.
 - 2. The hazard of an uncontrolled conveyance shall be taken into consideration prior to the use of deadly force.
- F. Firearms shall not be fired solely to disable motor vehicles.
- G. Deadly force may be directed against dangerous or vicious animals in self defense or in defense of another person.
- H. Deadly force may also be used to euthanize an animal that appears to be seriously injured or diseased. In doing so, the Officer must be able to justify the use of deadly force to prevent the animal from additional suffering, eliminate a public health risk or to ensure public safety.
- I. The act of establishing a grip, drawing a weapon or pointing a weapon does not constitute the use of deadly force.

USE of FORCE CONTINUUM (10.3-05)

- A. The Use of Force Continuum is an instructional model used to describe the levels of force an Officer may need to utilize to gain control over a resistant subject.
- B. While it describes each of the different levels of force that may be used in response to subject behavior, it is not necessary to mechanically apply every step of the Use of Force Continuum.
- C. An Officer may have to rapidly escalate or de-escalate through the Continuum, depending on the totality of facts and circumstances of the particular situation.

D. Levels of Subject Behavior/Resistance:

1. Compliant - A subject who is compliant /cooperative with an Officer's control efforts.
2. Passive Resistance - A subject who is not believed to represent an immediate threat or flight risk, and who is not offering physical resistance to an Officer's control efforts, but is not cooperative.
3. Active Resistance - A subject who offers physical or mechanical resistance to an Officer's control efforts.
 - a. Mechanical Resistance - A type of active resistance, where a subject uses a mechanical or other object to resist an officer control efforts. The subject's efforts are not directed toward the officer but rather appear intended to thwart an officer's control efforts by physically securing or holding to another object.
4. Assaultive Resistance (Physical Injury) - A subject whose resistance causes, or has the potential to cause, physical injury to the officer, others, or self. This includes a subject's attempts (or apparent intent) to make physical contact in an attempt to control or assault the officer.
5. Assaultive Resistance (Serious Physical Injury/Death) - A subject whose resistance causes, or has the potential to cause, serious physical injury or death to the officer, others, or self.

E. Levels of Officer Response:

1. Cooperative Controls - Measures (including verbal commands) used to maintain control over a compliant subject.
2. Contact Controls - Physical measures taken when verbal commands and officer presence are not effective in gaining compliance. Contact controls may include measures such as strategic positioning escort holds, joint manipulation or immobilization or touch pressure point stimulation.
3. Compliance Techniques - Actions taken when the subject is actively resisting the efforts of the officer to establish and maintain control. Examples of compliance techniques include the use of Oleoresin Capsicum (OC) spray, strike pressure points, stunning techniques, takedowns, joint manipulations and use of a Conducted Electrical Weapon (CEW).

4. Defensive Tactics - Actions taken when a subject has either assaulted the Officer or is displaying a willingness and intent to do so. Examples of defensive tactics are concentrated strikes involving the use of empty-hand techniques (e.g., the use of body parts as weapons), the Baton and the CEW.
5. Deadly Force - Actions taken when an Officer has a reasonable belief that the subject of such force poses an imminent danger of serious physical injury or death to the Officer or to another person.

USE of SAFE TACTICS (10.3-06)

- A. Officers should seek to employ enforcement tactics and techniques that effectively bring an incident under control, while promoting the safety of the officer and the public, and minimizing the risk for unintended injury and/or property damage.
- B. Except where otherwise required by inspections or other operations, Officers should avoid standing directly in front of or behind a subject vehicle. Officers should not place themselves in the path of a moving vehicle or use their body to block a vehicle's path.
- C. Officers should, whenever reasonable, avoid placing themselves in positions where they have no alternative to using deadly force.
- D. Officers shall not discharge their firearms in response to thrown or launched projectiles unless the officer has a reasonable belief, based on the totality of circumstances (to include the size and nature of the projectiles), that the subject of such force poses an imminent danger of serious physical injury or death to the officer or to another person. Officers may be able to obtain a tactical advantage in these situations, through measures such as seeking cover or distancing themselves from the immediate area of danger.