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|  | <b>Use of Force</b>                          |                      | JPD Policy #      |
|   |  |                      | <b>300.00</b>     |
|   | <b>Chapter 3- Law Enforcement Operations</b> |                      | Distribution: ALL |
| Effective Date:   | Section 00- Use of Force                     |                      | Review Date:      |
|   | Authorized by:                               | Chief Mark A. Vieira | Annual/ As Needed |

## **I. PURPOSE**

The purpose of this policy is to provide police officers with guidelines on the use of force.

## **II. POLICY**

It is the policy of the Johnston Police Department to recognize and respect the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required.

Therefore, it is the policy of this department that police officers will use only that force that is objectively reasonable to accomplish lawful objectives.

## **III. DEFINITIONS**

- A. *Administrative Review*: A documented review of an incident or occurrence prepared by or for the CEO or his/her designee. The review should indicate whether policy, training, equipment, or disciplinary issues should be addressed.
- B. *Analysis*: A systematic, structured process for dissecting an event into its basic parts to identify any patterns or trends. Analysis should reveal patterns or trends that could be predictive or could indicate program effectiveness, training needs, equipment upgrade needs and/or policy modification needs.
- C. *Appropriate Medical Aid*: Appropriate medical aid may include, increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying

- first aid, evaluation by rescue personnel, or for more serious or life-threatening incidents, immediate aid by medical professionals.
- D. *Choke Hold*: A physical maneuver applied to a person's neck that restricts an individual's ability to breathe for the purpose of rendering the individual unconscious.
  - E. *De-Escalation*: Taking action and/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/or resources can be called upon to resolve the situation without the use of force or with a reduction of the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and/or tactical repositioning.
  - F. *Imminent Threat*: Such an appearance of impending threat as would cause a reasonable police officer to act immediately to stop the threat.
  - G. *Less Lethal Force*: Any use of force other than that which is considered lethal, or deadly force.
  - H. *Lethal Force*: Any use of force that is likely to cause death or serious bodily injury. Lethal force is also referred to as deadly-force.
  - I. *Objectively Reasonable Force*: Objectively reasonable force is that of force which is necessary and appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who has actually used force. Objectively reasonable force is not judged with hindsight, and will take into account, where appropriate, the fact that officers must make rapid decisions regarding the level of force to use in tense, uncertain, and rapidly evolving situations. Important factors to be considered when deciding how much force can be used to apprehend or subdue a subject include, but are not limited to:
    - 1. the severity of the crime at issue;
    - 2. whether the subject poses an imminent threat to the safety of the officers or others; and/or
    - 3. whether the subject is actively resisting arrest or attempting to evade arrest by flight.
  - J. *Reasonable Belief*: Those facts and circumstances that would lead a normally prudent police officer to conclude that his/her actions are necessary.

K. *Serious Bodily Injury*: Physical injury that (1) creates a substantial risk of death; (2) causes protracted loss or impairment of the function of any bodily part, member, or organ; or (3) causes serious permanent disfigurement.

L. *Vascular Neck Restraint*: A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.

## **IV. PROCEDURES**

### **A. GENERAL REQUIREMENTS**

#### 1. De-escalation

a) When safe and appropriate under the totality of the circumstances:

(1) officers will assess the situation to determine if de-escalation is appropriate in order to reduce the potential need for force;

(2) officers shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training and experience.

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.

2. Duty to Intervene- All officers present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances, shall intercede to prevent the use of such force when in a

position to do so safely. Officers shall report these observations to a non-involved supervisor as soon as practicable.

3. Appropriate medical aid consistent with police officer training will be provided as soon as is practical in all lethal force and less lethal force option usage resulting in injury, or allegation of injury, to include injuries incurred during apprehension and /or custody.
4. Use of physical force shall be discontinued when resistance ceases or when the incident is under control.
5. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person.
6. A department authorized and certified weapons instructor or armorer shall perform and document an inspection of all weapons:
  - a) Prior to issuance to an individual officer or made available for shared department use; and
  - b) At the time of qualification or recertification of said weapon.
7. Prior to their initial assignment, and at least annually, the department shall ensure that each officer receives training on the department's use of force policies, and document receipt of same.
  - a) All definitions contained in this policy will be included in said training.
  - b) All officers shall receive and sign for the receipt of the department's Use of Force Policy and any revisions thereto in hard copy or digital format.

## **B. PARAMETERS FOR USE OF LETHAL FORCE**

1. A police officer is authorized to use lethal force in order to:
  - a) Protect him/herself, another officer, or other person(s) when the officer has an objectively reasonable belief that an imminent threat of death or serious bodily injury exists to himself/herself, another officer or other person(s).

- b) To prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended.
- 2. Where feasible, police officers will identify themselves as a police officer and state their intent to use lethal force.
- 3. Lethal Force Restrictions: Lethal force should not be used against persons whose actions are clearly a threat only to themselves or property.
- 4. Police officers will adhere to the following restrictions:
  - a) Except for maintenance or during training, police officers will not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the firearm in conformance with this policy.
  - b) Warning shots are prohibited.
- 5. Discharging a firearm **from** a moving vehicle shall be avoided. However, whenever a situation exists where an officer must consider discharging a firearm from a moving vehicle in order to stop an imminent threat of death or serious bodily injury to himself/herself or others, the use of lethal force by the officer must not constitute a greater hazard to the public than does the imminent threat, and must be the most reasonable course of action under the circumstances. Officers must weigh the need to use lethal force against the potential harm to innocent bystanders caused by such use.
- 6. Discharging a firearm **at** a moving vehicle shall be avoided unless a person in the vehicle poses an imminent threat of death or serious bodily injury to the officer or another person. Officers shall avoid intentionally placing themselves in a position where a vehicle may be used against them. Escape from the path of an oncoming vehicle should be considered prior to, or in lieu of, the implementation of lethal force whenever escape is possible. However, whenever a situation exists where an officer must consider discharging a firearm at a moving vehicle in order to stop an imminent threat of death or serious bodily injury to himself/herself or others, the use of lethal force by the

officer must not constitute a greater hazard to the public than does the imminent threat, and must be the most reasonable course of action under the circumstances. Officers must weigh the need to use lethal force against the potential harm to innocent bystanders caused by such use.

7. In both Sections 5 and 6 above, the officer's focus will be to stop that person presenting the imminent threat, and not to disable the vehicle of which the suspect is an occupant. (This provision will not preclude tactical responses in a tactical operation.)
8. A police officer may discharge a firearm to euthanize an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.

### **C. PARAMETERS FOR USE OF LESS LETHAL FORCE**

#### 1. Less Lethal Force Options:

- a) The level of force used by an officer is directly related to the facts and circumstances encountered by that officer. Force options currently available to officers include, but are not limited to:

- (1) *Command Presence* - An officer's appearance may be enough to dissuade some persons from engaging in resistive behavior.

- (2) *Verbal Commands* - Dialogue used by an officer can serve to diffuse potentially violent situations.

- (3) *Physical Skills* - Physical techniques used by an officer to control potentially violent situations.

- (4) *Chemical Spray* - Used in compliance with a General Order entitled "OC Spray".

- (5) *Conducted Energy Weapon (CEW)* (if applicable) used in compliance with General Order entitled "Conducted Energy Weapon"

#### 2. Police officers are authorized to use department-approved less lethal force options to accomplish lawful objectives, as follows:

- a) To protect themselves or another from physical harm.

- b) To restrain or subdue a resistant individual.
  - c) To bring an unlawful situation safely and effectively under control.
  - d) To maintain control of a person or situation.
3. It is not the intent of this policy to direct officers to try each of the force options before moving to another. Officers may employ that force option which they believe is objectively reasonable to accomplish lawful objectives.
  4. Choke holds and vascular neck restraints are prohibited unless lethal force is authorized.
  5. It is understood that when requesting mutual aid assistance, the available force options of the responding agency may differ from those of the requesting agency. Officers shall be subject to the policies and procedures of their employing agencies at all times.
  6. Authorized less lethal options are those with which the police officer has received department approved training on proper and safe usage.
  7. Nothing contained in this section limits an officer's ability to use those means objectively reasonable for self-defense or to accomplish lawful objective, including but not limited to items of opportunity.

**D. TRAINING AND QUALIFICATIONS REGARDING LETHAL FORCE**

1. While on duty, police officers will carry and use only firearms and ammunition authorized by and documented with the Administrative Division (ex. the department certified firearms instructor, department armorer, etc.).
2. At least annually and in accordance with Rhode Island General Laws, the department shall conduct training and qualifications for all department authorized duty firearms to include specialized firearms.
3. Authorized firearms are those with which the police officer has qualified and received departmental training on proper and safe usage, and that are documented and comply with departmental specifications.
4. The department shall have a separate policy addressing the authorization of duty, off-duty and specialized firearms, weapons, and ammunition.
5. Unsafe or defective department-issued firearms shall be replaced or repaired.

6. All recent hires of the department shall be qualified by the hiring agency's certified firearms instructor using that agency's POST certified qualification course. This qualification shall take place prior to the officer carrying their department authorized duty firearms in any official capacity.
7. Police officers who are unable to qualify with their duty firearm(s), in accordance with department testing procedures will be given remedial training by the department's authorized certified firearms instructor.
  - a) Upon successful completion of this training, the officer will be retested.
  - b) If after a second attempt the officer does not qualify, a report will be forwarded to the Colonel/Chief of Police by the department's authorized and certified firearms instructor.
  - c) The Colonel/Chief of Police will then take such action as he/she deems necessary and not inconsistent with this policy.
8. A police officer will not be authorized to carry or use any duty firearm which he/she has not been able to qualify with during the department's most recent qualification period.
9. A police officer that has suffered an illness, injury or absence that could affect his/her ability to use a department authorized firearm will be required to requalify before returning to enforcement duties.
10. Officers who carry personally owned firearms and ammunition **off-duty** must have said firearms and ammunition authorized by the department and, at least annually, demonstrate proficiency and safe handling techniques to the department's certified firearm instructor.

#### **E. TRAINING AND QUALIFICATIONS REGARDING LESS LETHAL FORCE**

1. At least biennially, each sworn officer is required to demonstrate proficiency with department approved less lethal force options which he/she is authorized to use. In the case of conducted energy weapon (CEW), said demonstration will be on an annual basis. Proficiency standards are established as follows:



- a) Attainment of minimum qualification requirements in accordance with performance standards as determined by current training doctrine, methods, and/or trends;
  - b) Proper demonstration of recognized physical skills; and
  - c) Demonstrated knowledge of department policies pertaining to the use of less lethal force options.
2. The program of instruction will be conducted by a qualified instructor who has achieved and maintained certification in the respective less lethal force option(s).
3. The Administrative Division will maintain training documentation to include lesson plans, attendance sheets, and proficiency records.
4. Proficiency standards shall be satisfied prior to an officer being authorized to carry and/or utilize the less lethal force option(s).
5. Police officers who are unable to show proficiency with a less lethal force option in accordance with department testing procedures will be given remedial training by the department's less lethal force training instructor.
- a) Upon successful completion of this training, the officer will be retested.
  - b) If after a second attempt the officer does not evidence proficiency, a report will be forwarded to the Colonel/Chief of Police by the department's less lethal force training instructor.
  - c) The Colonel/Chief of Police will then take such action as he/she deems necessary and not inconsistent with this policy.

## **F. REPORTING USES OF FORCE**

1. A reportable use of force is defined as any incident in which a sworn department member exercises his/her police powers and uses a force option except for those actions set forth in Subsection 3 below.
2. Reportable uses of force also include:

a) Drawing and pointing a firearm or CEW at a person for the purpose of obtaining and/or maintaining control of that person.

b) Taking an action that results in, or is alleged to have resulted in, either injury to or the death of another person.

3. Exceptions to reportable force:

a) Command presence.

b) Verbal commands.

- c) Physical skills which does not result in injury, the appearance of injury, or the complaint of pain (ex. soft empty-hand control techniques).
  - d) Compliance handcuffing which does not result in injury, the appearance of injury, or the complaint of pain.
4. Officers will notify a supervisor who is not involved in the incident without unnecessary delay and in accordance with department policy whenever a reportable use of force incident occurs either on-duty or off-duty.
  5. An officer who has used force shall articulate in writing the force used and the facts, circumstances, and reasons for the use of said force.
  6. All reportable uses of force resulting in death, serious bodily injury, or allegations of serious bodily injury shall be investigated by trained personnel.
    - a) All other reportable uses of force shall undergo a documented initial review by the officer's immediate supervisor. Said documentation shall be forwarded through the chain of command for administrative review and to determine whether further action, including but not limited to a follow up investigation is necessary.
  7. Where officers respond to an incident involving a reportable use of force, a "Response to resistance/ non-compliance" form must be completed for that incident setting forth the specific use of force actions taken by each officer.
  8. In lieu of a "response to resistance/ non-compliance" form, an officer shall be required to prepare a written report in accordance with departmental procedures whenever any of the following actions have occurred:
    - a) The officer discharges a firearm under circumstances that are not otherwise classified as a reportable use of force, except for those times when said discharge occurs either during a weapons training or during lawful recreational activities where no report is necessary.
    - b) The officer discharges a firearm to euthanize an animal, as set forth in Section IV (B) (8).

## **G. DEPARTMENTAL RESPONSE**

1. Use of Force resulting in death or serious bodily injury:

- a) In accordance with the Rhode Island Attorney General's Protocols, all police incidents involving the use of deadly force, excessive force and custodial deaths will be reported to the Attorney General's office for review.
  - b) Where a police officer's use of force causes death or serious bodily injury, the officer will be placed on a non-punitive administrative leave pending completion of an administrative review, and until a post-incident evaluation is conducted by a licensed mental health professional preferably experienced in working with law enforcement personnel.
  - c) The department will conduct both a Professional Standards review and criminal investigation of the incident.
2. Allegations of excessive use of force shall be reported to the department's Office of Professional Standards or its equivalent in accordance with the department's protocols.
3. FBI's CJIS National Use of Force Data Collection
- a) Any use of force meeting the following criteria shall be reported to the CJIS database:
    - (1) Force resulting in death or serious bodily injury to a person; or
    - (2) Where an officer discharges a firearm at or in the direction of a person.
4. Administrative review of use of force incidents:
- a) All reported uses of force will be reviewed by the Professional Standards Division to determine whether, at a minimum:
    - (1) Departmental rules, policy, or procedures were violated;
    - (2) The relevant policy was clearly understandable and effective to cover the situation;
    - (3) If department training is currently adequate; (4) If department equipment needs to be addressed.
  - b) All findings of deficiencies shall be reported to the appropriate unit for resolution and/or discipline.

5. All “noncompliant suspect” reports will be retained as required by department policy and a documented annual analysis of those reports will be compiled by the Administrative Division.
6. This analysis shall, at a minimum, identify the following:
  - a) Date and time of incidents;
  - b) Types of encounters resulting in use of force;
  - c) Trends or patterns related to race, age and gender;
  - d) Trends or patterns resulting in injury to any person; and
  - e) Impact of findings on policies, practices, equipment, and training.
7. Each calendar year an annual summary report of this analysis will be made available to the public.

Per order,

*Chief Mark A. Vieira*

Mark A. Vieira  
Chief of Police