

**Burleson Police Department
Administrative Policy and Procedures**

Policy Number: 04-003

Policy Title: Use of Force and Use of Less-Lethal Force

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CALEA Standards Referenced: 1.2.2; 4.1.1; 4.1.2; 4.1.3; 4.1.4; 4.1.5; 4.2.1a-d; 4.2.2; 4.2.3; 4.2.4a-e; 17.5.2; 22.1.4; 22.1.2a

ISSUING AUTHORITY:
Billy Cordell, Chief of Police

Billy Cordell 5-13-2024

I. Policy:

The authority to bear firearms carries with it an obligation and responsibility to exercise discipline, restraint, and sound judgment in their use. Generally, when in the presence of the public, a handgun should be drawn only when the officer has sufficient cause to expect it **may** be used.

It is not intended that an officer take undue risk when danger threatens but they must exercise good judgment at all times and will be held strictly accountable for the unwarranted use of firearms. [1.2.2]

In no instance shall police officers of the department use force other than that which is reasonable to accomplish lawful objectives or that which is necessary to overcome resistance by a person being detained or taken into custody. Personnel will apply de-escalation techniques when possible. [4.1.1]

II. Definitions: [4.1.2]

Reasonable belief: A belief that would be held by a reasonable and prudent officer in the same circumstances as the actor.

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.

Show of Force: The pointing of a firearm or conducted electrical weapon at a person or person(s) based on sufficient cause to expect it may be used, or to create the apprehension that force up to and including deadly force will be used if necessary.

III. Procedure:

Force options have been divided into the following types:

- A. Officer Presence refers to an officer's physical presence on the scene of an incident in which the officer clearly identifies they are a police officer, and they assert their authority either by wearing a distinctive uniform or displaying a badge or identification.
- B. Verbal Commands refers to verbal communication directed toward a subject in an effort to gain control through voluntary compliance.
- C. Empty Hand Control consists of an officer's use of their hands to gain physical control of a subject. Given the significant number of techniques covered within this level of force, empty hand control has been further separated into Soft and Hard techniques.
 1. Soft techniques typically present a minimal risk for injury. Generally, these techniques are used to control passive resistance such as a subject refusing to present hands for handcuffing, sitting or lying down (dead weight), refusing to enter a transport vehicle, stiffening of legs, arms, or body and pulling away. Some examples of soft techniques are handcuffing, wristlocks, arm bars, joint controls and touch pressure points resulting in transient pain. In addition, leg restraints such as

shackles and tethers, as well as the application of a spit hood and the non-forceful taking of a subject to the ground, **are considered** soft empty hand control.

2. Hard techniques consist of striking with hands, feet, knees and elbows and include the forceful taking of a subject to the ground. The nature of hard empty hand control techniques **increases** the potential risk of injury to the subject and officer. Hard empty hand control is typically used to counter active aggression such as pushing, grabbing, pulling, punching, kicking, biting, and tripping of officers. However, it may be used to counter passive resistance when the strikes and, or "take down" are utilized in a manner consistent with officer training as viewed within the totality of the circumstances.
- D. Less lethal defensive weapons as well as documented training will be provided by the department, within means, and as necessary. All less lethal training will be conducted at least biennially with the exception of CEW, which is conducted annually. **[4.1.4 / 4.3.2]** Agency approved types of less lethal force include:

1. Oleoresin-Capsicum spray should be considered greater than soft empty hand control. O.C. may be used when a subject exhibits signs of physical aggression and/or physically resists lawful detention, arrest, or transport. **[4.1.4]** Only department issued O.C. spray is allowed. **[4.3.1a/c]**

NOTE: Once sprayed with O.C. aerosol and under control, subjects should, if reasonably possible, be taken into an environment of fresh air. Flushing the eyes with cool water will help wash O.C. from them. Contact lenses should also be removed as soon as possible for quicker recovery. Soap and water will remove the O.C. and reduce the burning sensation. Persistent complaints from persons who have been sprayed or any reasonable belief by an officer that an affected subject may need medical care will be acted upon immediately. **[4.1.5]** A Response to Resistance report will be completed if O.C spray is deployed other than during training. **[4.2.1c]**

2. Conducted Electrical Weapon: (CEW)

Definition: Weapons designed to disrupt a subject's central nervous system by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses. Officers certified through annual department approved training and authorized to use less-lethal force are permitted to use an approved CEW issued by the department as follows: **[4.1.4 / 4.3.1c / 4.3.2]**

- a. Deployment philosophy:

The decision to use the CEW is dependent on the resistive actions of the suspect. Factors such as the critical distance between the officer and the threat may justify use of the CEW. The CEW is deployed as an additional police tool and is not intended to replace firearms, OC, or defensive tactics techniques. The CEW may be used to control dangerous or violent suspects when deadly force does not appear to be justified and/or necessary or attempts to subdue the suspect by other means have been ineffective; or there is reasonable expectation that it will be too unsafe for officers to approach within contact range of the suspect. **[4.1.4]**

- b. Recommended Target Areas: **[4.1.4]**

Officers should target the lower torso and legs or the back of a suspect. This recommendation should be viewed as best practice to mitigate risk management issues and resulting in deployment that is more effective. This maximizes safety considerations such as avoiding the non-target areas such as the face, neck, chest/breast, and genital areas. By lowering the target zone, it will increase the

effectiveness by allowing the bottom probe to affect the lower extremities such as the pelvic triangle and legs, which would achieve incapacitation and improve risk management. The preferred target area does not mean that the other areas are prohibited. When the situation allows sufficient time to intentionally aim the CEW and form a best practice standpoint. This will require some slight modification to traditional target acquisition by lowering the point of aim several inches to lower center mass.

- c. Only properly functioning and charged agency approved CEWs will be used.
- d. With the exception of equipment tests and documented training, each discharge, including accidental discharges, shall be documented by the completion of a Response to Resistance report. [4.2.1c] It is not recommended that the CEW be used after the use of O.C. spray in close quarters such as a patrol car or a booking area.
- e. CEW should not be used on handcuffed persons unless there is no other reasonable means to prevent them from harming themselves or others and in accordance with the agency's training curriculum.
- f. Examples of appropriate CEW use:
 1. When an officer has clearly articulated their authority and intention to arrest and the suspect by words or actions indicates to the officer that they will physically resist arrest, and the officer believes that a lesser form of force would be ineffective or expose the officer and/or others to unnecessary danger.
 2. Aggressive animals: when other conventional means are unavailable or have been exhausted or are unreasonable.
 3. The CEW darts shall be removed from the subject after being restrained, following the procedures outlined in training. Medical aid shall be summoned if necessary. [4.1.5]
3. Impact Weapon contacts will be directed toward viable areas as instructed during training. [4.1.4 / 4.3.2] A blow or contact shall be of a degree of force, where the intention is not to inflict serious bodily injury or death (except in those circumstances where deadly force is authorized by state statute and departmental policy). If an impact weapon is used and the subject is struck, medical care will be provided immediately. [4.1.5] Photos of injuries will be taken and a Response to Resistance report will be completed. [4.2.1b/c]
4. Less-Lethal impact munitions (12ga. less lethal round and 40mm less lethal rounds) will only be deployed when accompanied by another officer capable of utilizing lethal force as cover. [4.3.1a/b] When the round is launched, it is only directed towards viable areas as directed in training. Never fire closer than ten feet, except in those unusual circumstances where deadly force is authorized by State Statute and department policy. Unless articulated reasons exist, no round will be deployed in the area from the sternum up to the top of the head. A round launched shall be a degree of force, where the intention is not to inflict serious bodily injury or death (except in those circumstances where deadly force is authorized by state statute and departmental policy). If a less lethal impact munitions is launched and the subject is struck, medical care will be provided immediately. [4.1.5] Photos of injuries will be taken and a Response to Resistance report will be generated. [4.1.4 / 4.2.1b/c]

- E. Deadly force as defined by the Texas Penal Code Chapter 9 Section 9.01(3) "means 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."
1. An officer may use deadly force ONLY when the officer has reason to believe that the action is in defense of human life or imminent serious bodily injury of the officer or another person. [4.1.2] A verbal warning should precede the use of deadly force if practical.
 - a. Deadly force may be used against a fleeing felon ONLY when their escape presents an imminent threat of serious bodily injury or a threat to human life (Serious Bodily Injury as defined by the Texas Penal Code Chapter 1). [4.1.2]
 - b. The assumption that a fleeing vehicle is a deadly weapon and may cause injury to another officer or citizen is NOT, in itself, justification to use deadly force, whether displayed toward the vehicle or at the driver or occupants.
 2. Neck restraints to the front or side of the neck that includes pressure sufficient to restrict airway or blood flow shall be considered deadly force as described in Section II E. This includes "choke holds" and Lateral Vascular Neck Restraints (LVNR). Neck restraints (choke holds) are not allowed. (Except in those circumstances where deadly force is authorized by state statute and departmental policy). [4.1.6; 4.1.7]
 3. No warning shot(s) will be fired under any circumstances by the officer. [4.1.3]
 4. It is permissible to destroy an animal that is endangering lives, or if humane reasons require its relief from suffering. In so doing officers must receive advance authorization from a supervisor, if time permits. Officers will ensure that no person or property will be endangered by their actions. [4.1.2]
 5. In as much as the department recognizes deadly force situations as an extremely traumatic and stressful occurrence the following post use of force policy is implemented. In any case of death or serious injury to another person the officer(s) involved will be removed from line duty assignment as described in in section IV (C) of the Internal Affairs policy 05-002. [4.2.3] Officers will not be required to accompany the victim to the hospital or morgue. Officers will be provided with the services of a trained psychologist for debriefing, counseling, and/or any other appropriate function. [22.1.4] If the officer's equipment requires seizure for purposes of the investigation it will be replaced immediately, if appropriate. [4.2.3] All releases of information will come from the Public Information Officer, Chief of Police or their designee.
 6. Show of force involving the pointing of a firearm at person does not constitute the use of deadly force as long as the purpose is limited to creating an apprehension that deadly force will be used if necessary (Texas Penal Code Chapter 9 section 9.04 Threats as Justifiable Force).
- F. Medical Considerations
1. Anytime force is used, and the person is injured, complains of injury, or an injury is suspected, appropriate medical assistance shall be provided to the injured person. Personnel should continue to render first aid to the best of their ability and ensure that Emergency Medical Services (EMS) personnel are called to the incident scene. [4.1.5]
 2. Officers should be aware of certain conditions and/or behaviors that may increase the likelihood of injury to person when force is used. Those conditions and/or behaviors may include but are limited to:

- a. intoxication (alcohol and drugs),
 - b. violent or bizarre behavior,
 - c. upper body obesity,
 - d. profuse sweating,
 - e. disrobing,
 - f. other indicators of elevated body temperatures, and/or
 - g. restraint in a prone position.
3. Upon recognition of a person exhibiting these traits, officers shall ensure that EMS personnel are called to the scene. While awaiting arrival of EMS personnel the officer shall closely monitor the person and not leave the person unattended, rendering first aid as needed.
 4. Persons restrained with their hands behind their back may be at a higher risk of death when kept in a prone position; therefore, it is the policy of the department to avoid keeping a person in a prone position for an extended period of time. Officers shall sit the person in an upright position as soon as it is safe to do so. If it is necessary to leave a restrained person on the ground, immediately position the person so they lay on their side. Officers shall closely monitor the person and not leave the person unattended, rendering first aid as needed.
 5. The arresting officer will notify detention personnel of any abnormal behavior and/or traits that the person is/was exhibiting when the person is released to detention personnel.
- G. Duty to intervene: [\[1.2.10\]](#)
1. Any officer observing use of force that is beyond that which is objectively reasonable shall immediately:
 - a. Intervene to prevent the use of excessive force.
 - b. Summon medical attention and provide first aid as appropriate, [and](#)
 - c. Report their observations and actions through their chain of command.
- H. Any officer involved in a line of duty death or serious physical injury of a citizen, may be placed on administrative leave pending departmental investigation as described in section IV (C) of the Internal Affairs policy 05-002. [\[4.2.3 / 22.1.2a\]](#) The officer(s) will be returned to regular duties when determined appropriate and with the concurrence of the Chief of Police or designee.
1. Officers placed on administrative leave shall not speak to anyone about the incident without first obtaining permission from the Chief of Police or their designee. This does not preclude an officer from consulting with an attorney.
 2. The officer(s) involved shall be available to members of the Burleson Police Department or any other agency so authorized to investigate the incident. Officers may have an attorney present during the criminal investigation.
 3. The completed administrative investigation shall be forwarded through the officer(s) chain of command for recommendations to the Chief of Police.
- I. An officer shall submit a Response to Resistance report [through the department's approved electronic use of force management system](#) if:
1. They use the following force type(s):

- a. Hard empty hand control. [4.2.1d]
 - b. Less lethal defensive weapons, and [4.2.1c]
 - c. Deadly force [4.2.1c]
2. They discharge a firearm, either intentionally or accidentally (other than during a training course or for recreational purposes). [4.2.1a]
 3. The force results in physical injury or death to a person. This does not include minor redness, scratches, abrasions, or transient pain associated with grasping, handcuffing, pressure points, joint manipulation, or non-forceful take downs. [4.2.1b/c/d]
- J. In addition, the completion of a Response to Resistance report does not alleviate the requirement to thoroughly document the officer's use of force. All force types used will be documented in the appropriate incident report, arrest report, or supplemental report. In addition, Soft empty hand control, show of force, the use of leg restraints, and the use of spit hoods not covered in 04-003, III, I, shall be thoroughly documented in the department's approved electronic use of force management system. In every incident in which an officer uses force greater than handcuffing, the officer shall notify the on-duty supervisor as soon as practical, but no later than the end of shift. [4.2.1c/d]
- K. The use of physical force capable of causing nonvisible injury which results in the complaint of non-transient pain shall be documented with a Response to Resistance report. In addition, the individual should be monitored closely and if necessary medical aid should be summoned. [4.1.5 / 4.2.1d]
- L. Force used during special operations and at the direction of the incident commander or S.W.A.T. Commander do not require a response to resistance report. These incidents will be documented in detail by the S.W.A.T Commander in an after-action report.
- M. Supervisor responsibility:
- Supervisors will ensure all use of force is documented in accordance with this policy. In addition, supervisors shall thoroughly review each Response to Resistance incident including, video, reports, and witnesses to determine if the use of force was justified and within policy. In the event a supervisor believes there to be a policy violation, they will report their concerns to their immediate supervisor. Supervisors will complete their review, discuss their findings with the officer, and forward the Response to Resistance report through their chain of command within 72 hours from the use of force, unless the supervisor has received authorization for a delay. [4.2.2]
- N. Second Level Review:
- Upon receipt, of a supervisor's review there will be a second level review as soon as practical in an effort to ensure compliance with policy and state law. All response to resistance reports will be maintained electronically in the department's approved use of force management system. Annually, the Operation's Captain will conduct an analysis of the agency's use of force activities, policies, and practices in an effort to identify training or equipment needs and look for potential improvement in policy and or practice. The analysis shall also identify the following [4.2.4a-e]
1. Date and time of incidents. [4.2.4a]
 2. Types of encounters resulting in the use of force. [4.2.4b]
 3. Trends or patterns related to race, age, and gender of subjects involved. [4.2.4c]
 4. Trends or patterns resulting in injury to any person including employees, and [4.2.4d]

5. Impact of findings on policies, practices, equipment, and training. [4.2.4e / 4.2.2 / 4.2.5]

Violations of this directive will be handled as prescribed in the Burleson Police Department Code of Conduct, applicable City personnel policy rules, or other written directives that apply including Texas State Statutes.

Officer Signature

Date