

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the 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, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Active Resistance - Active Resistance occurs when an officer encounters behavior that physically counteracts his or her attempt to control a subject.

Compliance Controls - Joint locks, pressure points, etc.

Dangerous Animal - An animal that bites or attacks a person or another animal. However, "dangerous animal" does not include any of the following:

- An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner or who bites and attacks another animal that is on the property of the animal's owner without permission.
- An animal that bites or attacks a person who provokes or torments the animal.
- An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Intermediate Controls - Intermediate Controls is the utilization of a department issued baton, Taser, ASR or impact munitions.

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Weapons of Necessity (Last Resort) - Situations may occur where certain immediate and drastic measures must be taken by an enforcement member in order to protect human life. Force used in these situations may involve the use of techniques or weapons not covered in this policy. These situations will also be judged by the “objectively reasonable” use of force standard.

Objectively Reasonable Force - 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. The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident.

Passive Resistance - Passive Resistance is passive, i.e. a subject is not physically resisting in any way, lacking in energy or will.

Physical Controls - Strikes, kicks, takedowns, etc.

Serious Bodily Injury - Bodily damage that creates substantial risk of death; cause significant permanent disfigurement; or results in long term loss or impairment of the functioning of any bodily member or organ.

Totality of the Circumstances - All facts and circumstances known to the officer at the time, taken as a whole, including conduct of the officer and the subject leading up to the use of force.

300.2 POLICY

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 interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Battle Creek Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

300.2.1 DUTY TO INTERVENE AND REPORT

Any officers who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.2.2 PERSPECTIVE

When observing or reporting force by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that the other law enforcement officers may have additional information regarding the threat posed by the subject.

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300.2.2 PERSPECTIVE

When observing or reporting force by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that the other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

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.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving. The reasonableness of force used includes, but is not limited to, the severity of the crime, whether the subject was an immediate or perceived threat to officers or others, how the offender was actively resisting arrest, and how the offender was attempting to evade arrest by flight.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. All use of force incidents, will be evaluated using the Objective Reasonableness Standard outlined by the United States Supreme Court. According to *Graham v. Connor* (490 U.S. 386; 1989), the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 hindsight. An officer's use of force will also be evaluated under the totality of the circumstances known by the officer at the moment force was used.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to de-escalate and avoid or minimize injury. Nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force. Conversely, nothing in this policy prevents an officer from retreating or requires an officer to stand their ground further exposing themselves or others to possible physical injury.

300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

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- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drugs or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.2 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Battle Creek Police Department for this specific purpose.

300.3.3 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication,

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reduce the need for force, and increase voluntary compliance, such as summoning additional resources, formulating a plan, attempting verbal persuasion, the use of distance and cover, tactical repositioning, or "slowing down" situations that do not pose an immediate threat.

300.4 CRITERIA FOR USE OF DEADLY FORCE

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual 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 risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.
- (c) Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:
 1. The individual has a weapon or is attempting to access one and it is reasonable to believe the individual intends to use it against the officer or another person.
 2. The individual is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the individual intends to do so.

300.4.1 RESTRICTIONS ON THE USE OF DEADLY FORCE

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

Members of this department shall not fire warning shots.

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The intentional use of any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted shall be considered the use of deadly force.

300.4.2 CRITERIA FOR THE USE OF LESS LETHAL DEVICES/WEAPONS

The application of a necessary amount of less lethal force may be used in the following situations, or when other alternatives are not available or have failed. The reasonableness of the force is a factor to be considered in determining the degree of force to be used. Officers are authorized to use department-approved control techniques and authorized equipment for resolution of incidents as follows:

- A. To stop potentially dangerous and/or unlawful behavior.
- B. To protect the officer or another from injury or death.
- C. To prevent a person from injuring themselves.
- D. During the process of effecting an arrest when a subject offers resistance.
- E. Another officer or other person is assaulted.
- F. To control the attack of animals against officers, other persons, or property.
- G. To prevent escape from custody.
- H. Anytime a canine is used to gain compliance will be considered as a use of force.

300.4.3 AUTHORIZED LESS THAN LETHAL WEAPONS

Oleoresin Capsicum (OC) is an issued/authorized self-defense spray device. It is to be utilized in accordance with policy and department-approved training. All sworn personnel authorized to carry OC will receive annual training in its use and will only carry OC issued by the Battle Creek Police Department. Officers will carry their department-issued OC when responding to calls for service. [Battle Creek MI Police Department: 303.7 OLEORESIN CAPSICUM \(OC\) GUIDELINES](#)

Collapsible baton is the issued baton authorized and approved for all sworn personnel. [Battle Creek MI Police Department: 303.5 BATON GUIDELINES](#)

The Taser is the department-issued conducted energy weapon (CED). Only those officers certified in the use of Taser will be authorized to carry and deploy it. Officers will carry their department-issued Taser when responding to calls for service. All sworn personnel authorized to carry Taser will receive annual training in its use. [Battle Creek MI Police Department: 304.5.1 APPLICATION OF THE Conducted Energy Device](#)

Kinetic Energy Device is authorized to be used by trained members of the Battle Creek Police Department. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used to de-escalate a potentially deadly situation. [Battle Creek MI Police Department: 303.9 KINETIC ENERGY PROJECTILE GUIDELINES](#)

Pepper Projectiles are considered special munitions. Only trained members of the Battle Creek Police Department are authorized to use this device. [Battle Creek MI Police Department: 303.7.2 PEPPER PROJECTILE SYSTEMS](#)

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Chemical Munitions may be used for crowd control, crowd disbursement or against barricaded suspect, based on the reasonableness of their usage. Only trained members of the Battle Creek Police Department are authorized to use this device. [Battle Creek MI Police Department: 303.6 CHEMICAL MUNITIONS GUIDELINES](#)

300.5 DESTRUCTION OF ANIMALS

Animal Control Officers should normally handle situations involving stray or injured animals, but there are situations when circumstances require immediate action. Therefore, members are authorized to use firearms:

- To stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety, destruction of evidence, or a department tracking dog and alternative methods are not reasonably available or would likely be ineffective.
- A dog is in the act of:
 - Molesting wildlife and not legally hunting, and all reasonable efforts to stop such actions have failed.
 - Pursuing, worrying, or wounding any livestock or poultry, and all reasonable efforts to stop such actions have failed.
- A domestic animal is severely injured and the owner expressly authorizes its destruction.
- A domestic animal is severely injured and must be destroyed for humane purposes, and the owner cannot be located.
- It is ordered by the court.
- It is immediately necessary to destroy a wild animal that has been injured or suspected of having rabies.
- Enforcement members discharging a firearm at an animal shall ensure the safety of all persons and property.

Any aggressive animals encountered may pose a serious concern to both officer safety and the preservation of evidence. Officers movement, especially under circumstances where a space must immediately be cleared and made safe must be unobstructed or delayed. In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER (TM), oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

300.6 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. Use of force shall be documented in the officer's report and in the RMS Internal Affairs Use of Force Module. All Use

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of Force beyond complainant handcuffing shall be documented. This shall include discharge of a firearm for other than training or recreational purposes, negligent discharges of a firearm, deadly force, and less lethal devices/weapons.

The Battle Creek Police Department shall participate in the DOJ/FBI National Use-of-Force Data Collection program. Reports shall be made on a monthly basis by the Office of Professional Standards

300.6.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application 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 complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER (TM) or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.
- (j) Negligent discharge of a firearm or conducted energy device.

300.6.2 USE OF FORCE REVIEW

The application of force shall be reviewed by each level of the employee's chain of command. The employee shall enter the use of force in the Records Management Systems (RMS) Use of Force Module. The employee's sergeant and lieutenant shall conduct a meaningful review of the use of force incident. The supervisor shall review the use of force and either approve with an electronic signature, return it with questions, or disapprove the use of force. The Deputy Chief of Police and the Office of Professional Standards Inspector shall conduct the final review and electronic signature on each Use of Force Module Report.

The Use of Force criteria set forth in this policy shall be the criteria used to determine the reasonableness of the force used by the officer. The Office of Professional Standards shall be notified at any review level if the supervisor feels the use of force was unreasonable.

300.6.3 PERSONNEL REMOVED FROM DUTY

Any employee whose action(s) or use of force in an official capacity results in death or serious physical injury, shall be removed from line-duty assignment, pending a documented meaningful review or investigation.

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300.7 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. 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 a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:

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1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

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.

300.8.1 SHIFT COMMANDER RESPONSIBILITY

The Shift Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.9 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

All sworn personnel must demonstrate proficiency in the use of force and all equipment the officer is certified to use associated with use of force. Officers shall participate in Use of Force training exercises as scheduled by the training unit, at least once during each calendar year. Training and proficiency assessment shall be completed by a certified instructor.

Members who fail to demonstrate proficiency with all equipment associated with use of force the member is certified in the use of or knowledge of the Use of Force Policy will be provided remedial training. If a member cannot demonstrate proficiency with the equipment associated with the use of force the member is certified to carry or knowledge of the Use of Force Policy after

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remedial training, the member will be restricted from carrying such equipment and may be subject to discipline.

Subject to available resources, officers should receive periodic training on:

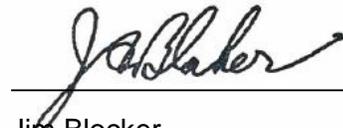
- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.10 USE OF FORCE ANALYSIS

At least annually, the Office of Professional Standards should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

300.11 ISSUING AUTHORITY



Jim Blocker

Chief of Police

Effective Date

July 27, 2018

July 13, 2020

September 4, 2020