



Ohio Attorney General's Office
Bureau of Criminal Investigation
Investigative Report



2022-1726
Officer Involved Critical Incident – 15266 Gilchrist Rd., Mt.
Vernon (L)

Investigative Activity: Document Review
Date of Activity: 09/27/2022
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Narrative:

On Tuesday, September 27, 2022, Ohio Bureau of Criminal Investigation (BCI) Special Agent John Tingley reviewed the Use of Force Policy utilized by the Dublin Police Department (DPD) at the time of the officer-involved critical incident. The DPD policy is attached to this Investigative Report for further review.

Attachments:

Attachment # 01: 2022-1726 DUBLIN POLICE USE OF FORCE POLICY

This document is the property of the Ohio Bureau of Criminal Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency except as provided by law – a statute, an administrative rule, or any rule of procedure.

 <p>City of Dublin POLICE</p>	<p>Policy and Procedure: 301.01</p>
	<p>Reasonable Response to Resistance and Subject Control</p>
	<p>Last Revision Date: 5/11/2021</p>
	<p>Effective Date: 1/4/2013</p>
	<p>Standard Reference: CALEA LE 1.3.1 and 1.3.2</p>
	<p>Approved by: Justin Páez, Chief of Police</p>

PURPOSE

The Dublin Police Department recognizes the value of human life and is committed to protecting those we serve. The purpose of this policy is to provide law enforcement officers with guidelines for the use of Response to Resistance and subject control techniques.

POLICY

When de-escalation techniques are not effective or appropriate an officer acting within the scope of his or her employment may use only the level of force that is objectively reasonable to effect an arrest, detention, or mission-specific seizure.

DEFINITIONS

- Active Aggression: Behavior to cause physical harm to another.
- Active Resistance: Physical, confrontational behavior to directly obstruct the lawful efforts of a law enforcement officer.
- Deadly Force: Any force that carries a substantial risk that it will proximately result in the death of any person ([Ohio Revised Code 2901.01](#)).
- De-Escalation: Taking action or communicating verbally or non-verbally during a potential physical encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use force or with a reduction in the level of force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- Force: (per [Ohio Revised Code 2901.01](#)) any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing Minor hand to hand control techniques, such as those used in handcuffing, physically touching, or gripping to overcome minor resistive tension or pointing of a firearm or Taser with no physical contact, are not considered a Use of Force.
- Imminent Threat: A threat that is mediate rather than immediate, impending, or on the point of happening. It may also be defined as impending rather than remote, uncertain, or contingent; that if circumstances remain unchanged, a result is reasonably certain (From Black's Law Dictionary).

- Neck Restraint: Any restraint applied to the neck that restricts the airway (e.g.: chokehold) or prevents bloodflow to the brain.
- Objectively Reasonable: The reasonableness of an officer's use of Response to Resistance and Subject Control techniques will be determined by the totality of the circumstances known to the officer at the time of his or her actions and decisions. Objectively Reasonable includes determining the necessity for an appropriate level of force, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.
- Response to Resistance and Subject Control: any physical force that is not intended as deadly force. Response to Resistance and Subject Control techniques include physical efforts used to control, restrain, or overcome the resistance of another. Minor hand to hand control techniques, such as those used in handcuffing, physical touching, or gripping to overcome minor resistive tension, are not considered Response to Resistance and/or Subject Control techniques for reporting purposes.
- Serious Physical Harm ([Ohio Revised Code 2901.01](#), Section A(5)).
 - Any mental illness or condition of such gravity would normally require hospitalization or prolonged psychiatric treatment.
 - Any physical harm that carries a substantial risk of death.
 - Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity.
 - Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement.
 - Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.
- Substantial Risk- A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist ([Ohio Revised Code 2901.01](#), Section A(8)).

PROCEDURE

- I.** Reasonable Response to Resistance and Subject Control (CALEA 4.1.1)
 - A.** General Provisions
 - Officers of the Dublin Police Department will not be allowed to carry a weapon in any status outside of training until they have been issued and trained in the contents of the agency's Response to Resistance and subject control policies.
 - Electronic copies of all policies, including Response to Resistance and subject control, are available for all employees (CALEA 4.3.4).
 - The agency prohibits the use of warning shots (CALEA 4.1.3).
 - B.** An officer is authorized to use agency-approved, Response to Resistance and Subject Control techniques, and equipment:
 - To protect the officer, subject(s), or others from immediate physical harm,
 - To restrain or control an individual who is actively resisting, evading arrest or detention, or

exhibiting active aggression.

- To bring a situation safely under control when articulable circumstances exist, which increases the risk to an officer and/or public safety.

C. Pointing of a Firearm

- Sworn officers of this agency should only point a firearm at a person when it is objectively reasonable. The most significant factor in establishing objective reasonableness when pointing a firearm at a person is a reasonable perception of the threat of death or serious physical harm to an officer or the public. Officers should consider the totality of the circumstances known at the time of the incident to include the following factors:

- The severity of the call or offense
- Proximity of weapons
- Prior knowledge of the suspect's propensity for violence

D. For considerations regarding the use of deadly force, please see DPD Policy 301.02, "Deadly Force / Officer-Involved Shooting.

E. Duty to Intervene: Any officer present and observing another officer using force that is beyond that which is objectively reasonable under the circumstances shall intervene to prevent the further use of unreasonable force.

F. Duty to Report: Any officer who observes or has knowledge of another employee using force that exceeds the degree of force permitted by policy or law shall promptly report these observations to a supervisor.

II. Use of Deadly Force

A. When de-escalation techniques are not effective or appropriate, a law enforcement officer acting within the scope of his or her employment may use deadly force when **objectively reasonable** only under the following circumstances:

- To defend themselves from a reasonably perceived threat of serious physical harm or death.
- To defend another person from a reasonably perceived threat of serious physical harm or death.
- To affect the capture, or prevent the escape of, a suspect, if there is a substantial risk that a suspect will cause death or serious physical harm if his or her apprehension is delayed.

B. When there is a perceived threat of death or serious physical harm to an officer or another person, and the use of trained Response to Resistance and Subject Control techniques is not possible or is not working, the officer may use whatever objectively reasonable means necessary to save that life from death or serious physical harm.

C. Restrictions

- Firearms shall not be discharged from or at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with serious physical harm or death by means other than the vehicle, except when discharging the firearm is the only reasonably perceived method to protect the officer's life or the life of another from serious physical harm or death.

- Deadly force should not be used against persons whose actions are a threat only to themselves or property.
- The use of neck restraints, including the lateral vascular neck restraint technique, is not included in this agency's Response to Resistance and Subject Control curriculum and is therefore prohibited.

III. Employee Removal Pending Review (CALEA 4.2.3)

- A. If an employee's actions, including Response to Resistance and Subject Control techniques, result in or are alleged to have resulted in the proximate death or serious physical injury of another, the employee shall be removed from line duty and placed on administrative duty or administrative leave.
- B. The employee shall be afforded the services of a professional psychologist and/or psychiatrist while the case is under investigation and pending findings by the Chief of Police. Professional assistance may include critical incident stress debriefing, if available.

REFERENCE:

None.

CROSS-REFERENCE TO FORMS:

None

REPLACES:

General Order 01, Sections 1.3.1, 1.3.2, 1.3.3, 1.3.8, and 1.3.12