

EXHIBIT D



CLEVELAND DIVISION OF POLICE GENERAL



EFFECTIVE DATE: 04-05-2019	CHAPTER: 2 – Legal	PAGE: 1 of 6	NUMBER: 2.01.05
SUBJECT: USE OF FORCE – REPORTING			
CHIEF:			

PURPOSE: To establish guidelines for the reporting of all use of force responses and for documenting objective reasonableness, necessity, and proportionality after a use of force response.

POLICY: Officers shall notify their supervisor when they have used force, except for *de minimis* force. Officers shall clearly, thoroughly and properly report use of force incidents. The necessity for each application of force shall be documented, identifying the uniqueness of each situation and justifying every force response.

PROCEDURES:

I. Use of Force Notification Guidelines

- A. Officers who use or witness force shall contact the Communication Control Section (CCS) and request that their supervisor respond to the scene as soon as practical following any use of force, except for *de minimis* force. (Refer to GPO 2.01.01, Use of Force: Definitions).
- B. An officer who becomes aware of an allegation of unreported, unreasonable, unnecessary or disproportionate force by another officer shall immediately notify his or her supervisor of that force or allegation. (Refer to GPO ?, Internal Complaints of Misconduct and GPO ? Retaliation).

II. Use of Force Reporting General Guidelines

- A. Officers shall report all uses of force except for *de minimis* force.
- B. All use of force reports shall be completed with sufficient detail for supervisors and the Division to understand the totality of the circumstances, events, and actions of the officer, subject, and other involved individuals during a use of force incident. The use of force report must also permit the Division to conduct a thorough and appropriate investigation and review of the force incident. The Division shall provide regular training (including roll call, in-service, or electronic-based instruction) on reporting writing.
- C. Officers shall not use conclusory statements, “boilerplate” or “canned” language (e.g., furtive movement, fighting stance), without supporting details that are well articulated in the required reports. When possible, and to ensure clarity, officers will minimize the use of unnecessary acronyms or jargons.
- D. Every application of force by an officer is classified according to the following levels:

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1. **Level 1 Use of Force:** Force that is reasonably likely to cause only transient pain and/or disorientation during its application as a means of gaining compliance, including pressure point compliance and joint manipulation techniques, but that is not reasonably expected to cause injury, does not result in an actual injury and does not result in a complaint of injury. It does not include escorting, touching, or handcuffing a subject with no or minimal resistance. Un-holstering a firearm and pointing it at a subject is reportable as a Level 1 use of force.
 2. **Level 2 Use of Force:** Force that causes an injury, could reasonably be expected to cause an injury, or results in a complaint of an injury, but does not rise to the level of a Level 3 use of force. Level 2 includes the use of a CEW, including where a CEW is fired at a subject but misses; OC Spray application; weaponless defense techniques (e.g., elbow or closed-fist strikes, kicks, leg sweeps, and takedowns); use of an impact weapon *or beanbag shotgun*, except for a strike to the head, neck or face with an impact weapon *or beanbag shotgun*; and any canine apprehension that involves contact.
 3. **Level 3 Use of Force:** Force that includes uses of deadly force; uses of force resulting in death or serious physical harm; uses of force resulting in hospital *confinement* due to a use of force injury; all neck holds; uses of force resulting in a loss of consciousness; canine bite; more than three applications of a CEW on an individual during a single interaction, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers, a CEW application for longer than 15 seconds, whether continuous or consecutive; and any Level 2 use of force against a handcuffed subject.
- E. Officers shall report uses of force in accordance with the reporting requirements of the highest level of force used during the incident. (For example, if an officer uses both Level 1 and Level 2 force during an incident, the incident is classified as a Level 2 force for reporting and review purposes).
- F. All officer use of force reports will be evaluated by the *reviewing/investigating* supervisor, chain of command, and/or department's Force Review Board. (See GPO#, forthcoming, regarding Supervisor responsibilities and response to use of force incidents).

III. Involved Officer Reporting Requirements

- A. Officers Using Level 1 and Level 2 Force shall:
1. By the end of their tour of duty, complete *and forward to the reviewing/investigating supervisor*, an individual use of force entry in the use of force tracking software, providing a detailed account of the incident from the officer's perspective and including all of the following information:
 - a. The reason for the initial police presence

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- b. A specific description of the acts that preceded the use of force, to include attempts to de-escalate
 - c. The level of resistance encountered
 - d. A complete and accurate description of every type of force used or observed
- B. Officer Using Level 3 Force shall:
- 1. By the end of their tour of duty, an individual use of force entry shall be completed as directed by the Officer-in-Charge of FIT. (Refer to GPO 2.01.07 Force Investigation Team)
 - 2. Comply with all additional directives from the Officer-in-Charge of FIT. (Refer to GPO 2.01.07 Force Investigation Team)

IV. Witness Reporting

- A. Officers Witnessing or Present During a Use of Force shall:
- 1. By the end of their tour of duty, complete *and forward to the reviewing/investigating supervisor, a Witness Statement Form (Attachment A)* providing a detailed account of the incident from the officer's perspective and including all of the following information:
 - a. The reason for the witnessing officer's police presence.
 - b. A specific description of the observed acts that preceded the use of force, to include any observed attempts to de-escalate.
 - c. Level of resistance observed; and
 - d. A complete and accurate description of every type of force observed.
 - 2. Submit the *Witness Statement Form* to the *reviewing/investigating supervisor or Officer-in-Charge of FIT for review/signature and attach the statement to the use of force entry.*
- B. Officers Witnessing Level 3 Force - In addition to completing a *Witness Statement Form* as described in IV, A, 1 (a – d), officers shall comply with all directives from the officer-in-charge of FIT. (Refer to GPO 2.01.07 Force Investigation Team)
- C. Citizens and Non-Division Law Enforcement Officers

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1. Citizens and non-division law enforcement officers who witness force and are unable or unwilling to give a video recorded statement may make a written statement on a Witness Statement Form (Attachment A)
2. The Witness Statement Form will then be submitted to the reviewing supervisor.

V. Additional Reporting Requirements

- A. Officers deploying their CEW shall clearly articulate in their use of force entry justification for the following:
 1. Each CEW cycle of any length used on a subject or attempted on a subject.
 2. Use of the CEW in drive stun mode.
 3. Each CEW cycle in excess of three 5-second CEW cycles in total on any one subject during a single incident.
 4. Continuous cycling of the CEW beyond 5 seconds.
 5. Use of the CEW on a fleeing subject.
 6. CEW application by more than one officer.
- B. Deployment of a Canine (Refer to GPO 2.01.01 Use of Force: Definitions, GPO ??, Supervisory Review and Investigations, and the CDP Canine Unit Manual)
 1. Other than during training, if a canine deployment does not involve contact, the canine officer shall document the incident using the canine management software program;
 2. Deployment of a canine that involves physical contact shall be reported as a Level 2 use of force; and
 3. A canine bite shall be reported as a Level 3 use of force.
- C. Pointing of a Firearm
 1. Un-holstering a firearm or un-holstering and keeping the firearm at the low ready position, high ready position, or “SUL” position, without pointing it at an individual, is not a use of force. *Un-holstering a firearm is subject to the data collection process and shall be included in the officer’s disposition when clearing an assignment using the Mobile Computer Aided Dispatch System or by notifying CCS.*

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2. Un-holstering and pointing a firearm at a subject is considered a Level 1 reportable use of force. The following are exceptions to this reporting requirement:
 - a. SWAT Unit officers are not required to report the pointing of a firearm at a subject as a use of force during the execution of SWAT Unit duties;
 - b. Officers who are deputized and assigned to a Federal Task Force are not required to report the pointing of a firearm at a subject as a use of force when conducting task force operations during which a supervisor is present. The task force supervisor shall forward any reports or forms regarding any such incidents to the commander in their chain of command.
 - c. Officers assigned to the Gang Impact, Narcotics, Homicide, Sex Crimes, Domestic Violence, and Financial Crimes Units shall not be required to report the pointing of a firearm at a subject as a use of force if done solely while entering and securing a building in connection with the execution of an arrest or search warrant and a supervisor prepares a report detailing the incident provided to the commander in their chain of command.
 - d. These exceptions shall apply to uniformed officers assigned to duties with all of the above listed exempt units while performing duties assigned by the supervisor during the execution of the warrant(s).
- D. Off-Duty Police Action Involving a Use of Force Outside the City of Cleveland
1. When safely able to do so, the officer shall immediately notify CCS of the incident and when the member is scheduled or expected to return to duty. CCS shall inform the member's commander.
 2. Upon return to duty, the officer shall:
 - a. Notify their immediate supervisor of the incident.
 - b. Complete a use of force database entry. The use of force entry shall contain the following information about the incident: date, time, location, and jurisdiction. No details of the incident are to be included in the use of force entry; the entries are for tracking and documentation only.
 - c. Obtain a copy of the incident report from the reporting agency.
 3. Provide all the materials described here to their immediate supervisor to be routed via the tracking software, to the Internal Affairs Unit. (Refer to GPO 2.01.06 Supervisory Review & Investigation).

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VI. Failure to Report Use of Force

- A. Officers shall be subject to the disciplinary process, up to and including termination, for material (significant) omissions or misrepresentations in their Use of Force Reports, regardless of whether the force was objectively reasonable, necessary and proportional.
- B. Officers who use or observe force and fail to report it shall be subject to the disciplinary process, up to and including termination, regardless of whether the force was objectively reasonable, necessary and proportional.

VII. Heightened Responsibilities for Reporting Exceptional Uses of Force

- A. In the rare and exceptional circumstances that officers use force that would otherwise be prohibited by Division policy, they must justify the use of force by articulating the specific facts that led to such a use of force. Officers must describe, in detail, the objective reasonableness, necessity, and proportionality of the force that was used, the actions of the subject that constituted immediate danger and grave threat to the officers or others, the officer's efforts to de-escalate the encounter, why the officer believed that no other force options, techniques, tactics or choices consistent with Division policy were available, and how rapidly the officer was able to return to compliance with Division policies.
- B. Failure to adequately document and explain the facts underlying any use of force that conflicts with Division policies may subject the officer to the disciplinary process, possible criminal prosecution, and /or possible civil liability.