

MARQUETTE CITY POLICE DEPARTMENT POLICY & PROCEDURE		
SUBJECT: USE OF FORCE		
ORDER: 03-03A		
Accreditation Standards: 3.3.1, 3.3.2, 3.3.3, 3.3.4, 3.3.5		
BY THE ORDER OF: R. Blake Rieboldt Chief of Police	EFFECTIVE DATE: 05/14/17 REVISED 11/05/20 RG, MW	# OF PAGES: 11

I. Purpose

To guide officers in de-escalation techniques; the use of force to overcome the resistance offered; to effect a lawful arrest, and/or accomplish the lawful performance of duty; to provide for officer and subject safety; and to provide for the treatment of any injury or complaint of injury arising from the use of force. To establish a reporting and review mechanism that shall be applied when personnel use compliance controls, physical controls, or a weapon to overcome resistive behavior.

II. Policy

It is the policy of the Marquette City Police Department that its officers will use only that amount of force which is reasonable and necessary to overcome physical resistance or attack, up to and including the use of deadly force, to affect a lawful arrest and/or to accomplish the lawful performance of duty. Officers are authorized to use reasonable levels of force to protect themselves, other officers, or other persons while under attack, or threat of attack by persons or animals. In support of this policy the Department provides a wide array of training, techniques and implements with the intent of minimizing the intensity and duration of physical confrontations for its officers and citizens.

Except as defined within this directive, officers shall not use force that would needlessly expose bystanders, other officers, or hostages to death or injury. An officer's decision to use force must be limited to those situations where a "reasonable officer on the scene" would conclude that the force is necessary.

This directive applies whenever an officer is performing his/her duty as a police officer, regardless of whether the officer is on or off duty. Marquette City Police Officers assigned to duty with special cooperative units or other law enforcement agencies are also governed by this directive.

III. Definitions

- A. *Control*: The method/methods personnel use to direct, manage, oversee and/or restrict actions of a subject, or to protect the subject from injuring himself or others.
- B. *De-escalation*: Taking action 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 resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- C. *Deadly Force*: Force used that has a reasonable probability to cause serious bodily injury or death.
- D. *Force*: The attempt to establish control through physical means, in the presence of resistance. All force is a means of control, however, control can at times be achieved without the use of physical force.
- E. *Last Resort*: Situations where certain immediate measures must be undertaken by an officer to protect human life. Force used in these situations may involve the use of techniques or weapons not covered by policy; however, they remain to be measured by "reasonable" and "necessary" use of force standards.
- F. *Less Lethal Force*: Force used that will not reasonably be expected to or have the likely potential to cause death.
- G. *Objectively Reasonable*: In determining the necessity for and appropriate level of force, officers shall evaluate each situation in light of the totality of the circumstances known to the officer at the time, 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 officer or others.
- H. *Reactionary Gap*: A safety zone between the officer and subject which affords the officer time to react to aggression.
- I. *Resistance*: The subject's failure to comply with an officer's attempt to establish control.

- J. *Inactive Resistance*; Resistance that may include psychological intimidation and/or verbal resistance.
- K. *Passive Resistance*: Any type of resistance whereby the subject does not attempt to defeat the officer's attempt to control the subject, but still will not voluntarily comply with verbal and physical attempts to control.
- L. *Active Resistance*: resistance demonstrated by a subject(s) who physically resists by evasive movements that attempt to physically counteract or defeat an officer's attempt to detain a subject or place them in custody or threatens to physically resist by assuming an aggressive posture, and who does not comply with verbal direction.
- M. *Active Aggression*: Physical action/assaults against an officer or another person with less than deadly force.
- N. *Compliance Control*: Use of soft empty hand techniques (e.g., joint locks, pressure points, etc) to control resistance and gain compliance where the subject has not demonstrated an intent to injure or harm personnel.
- O. *Intermediate Control*: Use of less lethal weapons (e.g., baton, etc.) to control resistance.
- P. *Physical Control*: Use of hard empty hand techniques (e.g., takedowns, punches, kicks, etc.) to control resistance.
- Q. *Neck Restraint/Choke Hold*: any technique that attempts to control or disable a person by applying force or pressure against the trachea, windpipe, or neck with the purpose or intent of controlling a person's movement or rendering a person unconscious by restricting oxygen or blood flow to the head or neck.
- R. *Intervene*: To come between, either verbally or physically, to prevent or alter a result or course of events.

IV. Authorization for the Use of Force

Preservation of life and the protection of the public are the cornerstones of the Marquette Police Department's Use of Force policy. Officers must recognize and respect the sanctity of life and value of all human life, and the need to treat everyone with dignity and without prejudice.

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 others from injury or death;
- C. to protect subjects from injuring themselves;
- D. in the process of effecting a lawful arrest when a subject offers resistance;
- E. to prevent escape from custody.

V. Use of Force Considerations

- A. Officers will consider the use of force from two (2) perspectives; resistance and control.
- B. Officers should assess the incident to determine the level of control that is objectively reasonable for the resistance encountered. Officers should identify themselves as a police officer and attempt to gain control by means of verbal directives or commands. Subjects should be given a reasonable opportunity to comply with commands.
- C. If verbal directives or commands are ineffective, or not feasible given the circumstances of the situation, the officer may find it necessary to escalate to control methods that involve the use of physical force. If force is necessary, the officer must decide which technique(s) or authorized equipment will bring the incident under control.
- D. Variables to be considered when deciding to engage a subject and to escalate or de-escalate the level of force used include:
 - 1. Officer/Subject: size, physical abilities, tactical advantage, level of threat or resistance;
 - 2. Individual's mental state or capacity; the effects of drugs or alcohol;
 - 3. Environmental Conditions: such as close or confined areas, number of subjects in immediate vicinity;
 - 4. Nature of contact: criminal or caretaking;
 - 5. Probability of safely overcoming the resistance encountered;
 - 6. Proximity of weapons or dangerous improvised devices;

7. Whether it is safe and appropriate to attempt to slow down or stabilize the incident.
8. Number of officers present, number of subjects involved, the danger to the officer or others, availability of back-up;
9. Reaction Time: the officer must consider that action is faster than reaction;
10. Reactionary Gap: safety zone between officer and subject.
11. The risk and reasonably foreseeable consequences of escape;
12. The perceived need for immediate control of the individual or a prompt resolution of the situation;
13. Prior contacts with the individual or awareness of any propensity of violence.

VI. Duty to Intervene

- A. All sworn members of the Department must recognize and act upon the duty to intervene to prevent or stop a member or other law enforcement officer from conducting any act that is unethical, or that violates law or policy (e.g., excessive force, theft, fraud, sexual misconduct, harassment, falsifying documents, inappropriate behavior, etc.) when they have the means and opportunity to do so.
- B. Intervention may be verbal and/or physical.
- C. Personnel shall immediately notify the supervisor and submit a written incident report.
- D. After conducting a review of the circumstances, the supervisor shall submit a written report to the Chief or designee.
- E. Off duty personnel will consider the totality of the circumstances before deciding to intervene. An officer will not place themselves in a situation which would create a substantial risk of injury to the officer or others. Regardless if action is taken, an officer, without delay, will report an incident to a supervisor.

VII. Escalation and De-Escalation in the Application of Force

- A. Officers authorized to use weapons or force may use the level of force that is objectively reasonably necessary to accomplish a lawful objective, based on the level of resistance encountered.
- B. Escalation of force may be justified when an officer reasonably believes that the level of force being used is insufficient or unsafe to stop or control subject resistance.
- C. As the subject's resistance is overcome, the officer shall de-escalate in a safe and appropriate manner. When it is objectively reasonable that a subject is fully in law enforcement's control, then the force must terminate.
- D. Without compromising officer safety or public safety, officers shall consider de-escalation tactics as a technique to try and slow down or stabilize an incident and/or obtain additional resources, reducing the likelihood of the need for force and increasing the potential for gaining voluntary compliance. When feasible officers should focus on distance, cover or concealment to de-escalate a situation. Verbal persuasion, advisements and warning should be utilized to gain voluntary compliance.
- E. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or imminent bodily injury to the individual, the officer, or another person.

VIII. Deadly Force Procedures

- A. Deadly Force is limited to:
 - 1. protect the officer or another from what is reasonably believed to be an imminent threat of death or serious bodily injury;
 - 2. prevent the escape of a subject who is fleeing from an inherently violent felony crime, and the officer has probable cause to believe that the subject poses a threat of death or serious physical injury to the officer or others.
- B. Where feasible, officers shall identify themselves and provide a verbal warning before deadly force is applied.

- C. Deadly force should not be used against individuals whose actions are a threat only to themselves or property.
- D. Firearms may not be used to shoot at or from a moving vehicle, except as a “Last Resort” for preservation of human life. Officers shall:
 - 1. not tactically position themselves directly in front of or behind a driver-occupied, stationary vehicle;
 - 2. when possible, first attempt to move out of the path of a moving vehicle before discharging their weapon. Situations will be evaluated from a “reasonable” and “necessary” use of force standard.
- E. Warning shots are prohibited.

IX. Neck Restraints and Choke Holds

- A. Neck restraints and choke holds are prohibited except in last resort situations where the use of deadly force is allowed by law. Situations involving this technique will be evaluated from a “reasonable” and “necessary” use of force standard.

X. Motor Vehicles as Force

Intentional collisions, partial or complete roadblocks, “boxing in”, rolling roadblocks, or other similar methods, techniques, or actions may constitute the use of force and must be justifiable and in accordance with departmental guidelines. Evaluation of the tactics used will be measured by the “reasonable” and “necessary” use of force standards.

XI. Medical Considerations

- A. Officers using force shall make medical treatment available when:
 - 1. The subject requests medical treatment;
 - 2. The subject complains of injury or continued pain;
 - 3. Any officer observes or suspects injury to the subject;

4. The deployment of a less lethal weapon on the subject;
 5. Directed by a supervisor or acting supervisor.
- B. When physical force is used:
1. An officer shall be designated to monitor the subject;
 2. Subjects exhibiting signs of unusual distress shall be transported to UPHS Marquette ER for treatment.
- C. All medical treatment or the refusal of medical treatment, shall be documented, along with the nature of the injury or complaint of injury, in the incident report and the Use of Force report. In addition to the written description, documentation may include photograph, video or sketch.
- D. Medical treatment will be provided by a UPHS Marquette.
- E. Prior to removing the subject from the medical provider, officers shall receive written authorization from the attending medical authority stating the person is being released from medical care.
- F. Officers shall notify their supervisor of the incident.

XII. Reporting Procedure

- A. Personnel shall submit a written incident report and the Use of Force Report Form to the on-duty supervisor, on-call supervisor in the absence of an on-duty supervisor, as soon as practical, whenever they:
1. Discharge a firearm or CED, intentional or unintentional, except during authorized training, dispatching a wounded animal, or off-duty recreational use.
 2. Take any law enforcement action, while either on or off duty, which results in an injury, complaint of an injury, or the death of another person.
 3. Apply force using a deadly or less lethal weapon.
 4. Apply a control technique at or above the level of compliance controls.
- B. The supervisor will review all incidents in which personnel uses force to control subject resistance.

- C. After conducting a review of the circumstances surrounding the use of force, the supervisor shall sign and approve it, re-assign it back to the submitting officer for additional information, or investigate the incident further if deemed appropriate.

XIII. Post Firearm Discharge Procedure

Whenever any firearm is discharged for law enforcement purposes, except during training:

- A. Personnel shall verbally notify the on-duty supervisor or on-call supervisor as soon as time and circumstances permit.
- B. The personnel who discharged a firearm shall file a written report of the incident by the end of the tour of duty, as established by the Department, or as soon as reasonably possible unless otherwise authorized by the Chief or designee.
- C. If the personnel who discharged a firearm is hospitalized or fatally injured and incapable of filing the report as required above, the supervisor is responsible for filing as complete a report as possible pending further departmental investigation.

XIV. Death or Serious Injury of a Person

- A. The Department's response should be as outlined in the Critical Incident policy, located elsewhere in this manual.
- B. The Chief shall be notified of the incident by the supervisor in charge, as soon as practical.
- C. Any employee, whose action(s) or use of force in an official capacity results in death or serious injury shall be relieved of duty by the Chief or designee, and placed on administrative leave pending a documented meaningful review and investigation.
 - 1. While on administrative leave, personnel shall remain available and in communication with the Chief or designee.
 - 2. The Chief may reinstate personnel to administrative duty during the investigation of the incident, or
 - 3. The Chief may fully reinstate personnel when the Chief determines the personnel were acting in a reasonable manner based upon the totality of the circumstances.

- D. The involved personnel shall turn over the weapon(s) used, if any, in the incident to the first available supervisor. The Chief may provide the personnel with a replacement weapon.
- E. Personnel shall provide reports of the incident.
- F. Such incidents shall be investigated by persons designated by the Chief. Consideration shall be given to having an outside law enforcement agency investigate incidents involving the discharge of a firearm by Department personnel.

XV. Incident Review

- A. A documented, meaningful review will be conducted as soon as reasonably possible by the on-duty supervisor after each use force incident.
- B. The review shall consist of an examination of the circumstances surrounding the incident and the reasonableness of the use of force. The documented meaningful review is to determine whether policy, training, equipment or disciplinary issues need to be addressed.
- C. Annually, the Chief or a designee shall conduct an analysis of the previous year's use of force incidents to determine if there are any policy concerns, training issues, or individual personnel issues. This analysis will be documented in a summary of all use of force incidents and a written annual analysis of all use of force incidents in the aggregate.

XVI. National Use of Force Data Collection

The Department will report monthly to the DOJ/FBI National Use-of-Force Data Collection program.

XVII. Compliance

Violations of this policy, or portions thereof, may result in disciplinary action.

XVIII. Officers Assigned to Other Agencies

Officers of this department assigned to or assisting other law enforcement agencies will be guided by this policy.

XIX. Application

This order constitutes Department policy and is not intended to enlarge the employer's or employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employer's or employee's legal duty as imposed by law.