DAYTON POLICE DEPARTMENT
GENERAL ORDER

USE OF FORCE

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POLICY STATEMENT

The primary purpose of this policy is to establish guidelines relative to the use of force and an officer's duties before, during, and after the use of force. Sworn law enforcement officers have been granted the authority to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility of officers to comply with the laws of the State of Ohio regarding the use of force and to comply with the provisions of this policy. The responsible exercise of this authority is among the most critical aspects of law enforcement.

A strong partnership with the public is essential for effective law enforcement. Excessive or unnecessary force in response to resistance/aggression/non-compliance undermines that partnership and community confidence in the department and its officers and will not be tolerated. Officers will act with a high degree of ethics, professionalism, and respect for the public in a manner that promotes trust between the department and the communities that it serves.

Equally important is law enforcement's obligation to prepare individual officers in the best way possible to exercise that authority. In situations where law enforcement officers are justified in using force, the utmost restraint should be exercised. Use of force should never be considered routine. It is the policy of the Dayton Police Department that officers hold the highest regard for the sanctity of human life and the inherent dignity, liberty, and worth of all individuals.

It is the policy of this department to use only that force which is proportional to the level of resistance/aggression/non-compliance, and objectively reasonable based on the totality of the circumstances as outlined in the Supreme Court case of *Graham v. Connor, 490 US 386*, protecting both officers and the public. Proportional force is defined as the level of force used by each individual officer based on the totality of circumstances surrounding the immediate situation, including the presence of imminent danger to officers or others.

Because of the impact that incidents involving the use of force have on the department and the community, it is important that all incidents be promptly and completely documented, and fairly and accurately investigated. Thorough documentation and investigation are necessary to protect the rights of the public, the officer, and the interests of the department and the city.

The department recognizes that officers are often forced to make split second decisions about the use of force, in tense, uncertain, and rapidly evolving situations. Every incident will be reviewed based on the totality of the circumstances known by the officer at the time, and from the perspective of a reasonable officer in the same or similar circumstances. Any use of force that is not proportional and objectively reasonable and does not reflect reasonable de-escalation efforts, when safe and feasible to do so, is inconsistent with department policy.

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I. DEFINITIONS

A. **AGGRESSION** – the behavior of a subject to exert himself so as to counteract or defeat an officer's commands.

B. **COMPLIANT** – the subject is cooperative and voluntarily follows verbal commands.

C. **NON-VIOLENT PASSIVE RESISTANCE** – a method of protest commonly used during nonviolent demonstrations where a subject does not respond to an officer's commands, refuses to move, becomes limp or dead weight (i.e., nonviolent protests against government entities, abortions clinics).

D. **NON-COMPLIANT** – when placed under or being informed of their arrests, the subject refuses to cooperate and does not respond to verbal commands but takes no verbal/physical actions against an officer.

E. **ACTIVE RESISTANCE** – the subject actively resists arrest through their words and/or actions or takes aggressive action against an officer.

F. **RESPONSE** – means physical power or compulsion used to affect the behavior of a subject. Physical power is any physical control technique used to coerce or restrain a subject. Compulsion includes the officer's presence and verbal commands that are used to influence the behavior of a subject.

G. **NON-DEADLY RESPONSE** – means any response that is neither likely nor intended to cause death or serious injury.

H. **LESS-LETHAL WEAPONS** – are weapons that are used in a manner not intended to cause death or serious injury.

I. **DEADLY/LETHAL OPTIONS** – means any response, which creates a substantial risk that it will proximately result in the death of any person.

J. **SERIOUS PHYSICAL HARM** – means any physical harm that: carries a substantial risk of death, permanent partial or total incapacity; involves some temporary, substantial incapacity; involves some permanent or serious temporary disfigurement; involves acute pain of such duration as to result in substantial suffering; involves any degree of prolonged or unmanageable pain; or that involves any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment.

K. **OBJECTIVELY REASONABLE RESPONSE** – means the level of response that is within the bounds of what an ordinary and prudent officer would use in a similar way under similar circumstances as outlined in the Supreme Court case of *Graham v. Conner 490 U.S. 386, 109 S. Ct. 1865* and the guidelines set forth in the Supreme Court case of *Tennessee v. Garner, 471 U.S. 1 (1985)*.

L. **IN-CUSTODY DEATH** – The death of an individual while in custody or while attempts to effect custody are being made.

M. **ACCIDENTAL DISCHARGE –** any unintentional discharge of an officer's firearm.

N. **NECK RESTRAINT**- any act that may impede the normal breathing or circulation of the blood by applying pressure to the throat, neck, windpipe, arteries, or vascular system, or by covering the nose and mouth; including but not limited to chokeholds, strangleholds, carotid restraints, or lateral vascular restraint.

O. **SHOW OF FORCE –** Whenever an officer points a firearm at a citizen while in the performance of his or her duties. The specific intent is to decrease the officer's reaction time and, when used in conjunction with verbal commands, to encourage subjects to stop their aggression or non-compliance.

P. **REASONABLENESS STANDARD –** Officers may only point a firearm at a person when it is objectively reasonable to do so under the totality of the circumstances faced by the officer on the scene. While reasonableness is not capable of precise definition, officers may consider factors that include, but are not limited to, the nature of the incident, the risk of harm to the officer or others, and the level of threat or resistance presented or maintained by the subject (e.g., possession or access to weapons).

Q. **PROPORTIONAL FORCE -** The level of force used by each individual officer based on the totality of circumstances surrounding the immediate situation, including the presence of imminent danger to officers or others. Officers will use only the force that is proportional to the threat, actions, and level of resistance offered by a subject. This may include using greater force or a different type of force than that used by the subject. The greater the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be necessary to overcome it. When or if the subject offers less resistance, however, the officer will decrease the amount or type of force accordingly. Force used by an officer shall

proportionally decrease as the level of resistance by the subject decreases.

II. POLICE USE OF FORCE REQUIRING INVESTIGATION AND DOCUMENTATION

For the purpose of this policy, reportable Police responses to citizen resistance/aggression/non-compliance include the following:

A. FIREARMS

Anytime an officer discharges a firearm at another person, regardless of whether that person is struck by the projectile, and regardless of whether the officer is on or off duty.

1. Except as specified in Section II.A.3., investigations of discharges involving firearms will be reported and investigated as directed in General Orders 3.03-5 Officer Involved Shooting and 3.03-6 Firearms Discharges Involving Animals.

   a. Regardless of the crime or the legal justification for a deadly force response towards a suspected offender, officers are reminded that their basic responsibility is to protect the public. Officers are to be particularly cautious when discharging their firearm under conditions that would subject innocent bystanders to substantial danger. **Officers should not discharge their firearm indiscriminately without awareness of their intended target and all surroundings.**

   b. Officers will not discharge firearms except in the following circumstances, and then, ONLY AFTER ALL REASONABLE ALTERNATIVES HAVE BEEN EXHAUSTED**,** including verbal warnings where feasible**:**

      1) When it becomes **absolutely** necessary to protect themselves or other persons from death or serious physical harm.

      2) To arrest a suspect who has committed a **serious felony, involving the infliction or threatened infliction of serious physical harm,** or to prevent the escape of such a felony suspect, or to recapture such a felon while he/she is attempting to escape when a substantial risk exists that a person sought will cause death or great bodily harm to others if apprehension is delayed. An officer must have **witnessed the crime** or **firmly believe and be convinced** that the suspect has committed a serious felony for which the use of deadly force is permissible.

      3) An officer will not discharge firearms from or at a moving vehicle unless they reasonably believe that such an action is in defense of human life.

         - Officers must use tactical positioning of vehicles and tactical vehicle approaches in order to minimize the danger presented by occupied vehicles.

         - Officers must not deliberately place themselves in the path of a moving vehicle. An officer will attempt to move from the path of the motor vehicle and/or seek cover when possible.

      4) To kill a **dangerous animal** or one so badly injured that humaneness requires an immediate end to its suffering.

      5) During target practice at an approved target range.

   c. FIREARMS WILL NEVER BE DISCHARGED AS WARNING SHOTS.

   d. Discharge of a shotgun or other weapon for the delivery of **Less-lethal** munitions by a department member who has been trained and certified in their use by the Commander of the S.W.A.T. Team or the Range Staff and specifically authorized to deploy such weapons by the Chief of Police will be investigated as a *Use of Force* incident.

2. ACCIDENTAL DISCHARGE OF FIREARMS

a. **ON-DUTY OFFICER'S RESPONSIBILITIES**

1) Whenever an on-duty officer accidently discharges a firearm, or becomes aware of allegations that they have accidentally discharged a firearm, they must immediately notify an on-duty supervisor. In the event that a supervisory officer is involved in a use of firearms incident, a supervisor of higher rank will be notified of the incident.

2) In addition to any other reports submitted relating to the incident, the officer involved in the firearms discharge incident will complete a Special Report or other statement as directed by a supervisor or a member of the Professional Standards Bureau. That report will contain all information pertinent to the incident, including the names of all known witnesses to the incident. The report will be completed as soon as possible and not later than completion of the officer'(s) tour of duty.

3) Any on-duty officer who witnesses or has knowledge of a discharge of firearms by another officer or becomes aware of allegations of discharge of firearms by another officer will immediately ensure that an on-duty supervisor is aware of the incident.

b. **OFF-DUTY OFFICERS' RESPONSIBILITIES**

1) Whenever an off-duty officer accidently discharges a firearm, or becomes aware of allegations that they have accidentally discharged a firearm under those circumstances, they must notify the Regional Dispatch Center (RDC) of the incident as soon as possible and also request contact with an on-duty supervisor.

a) If the incident occurred in the City of Dayton, an appropriate supervisor will be notified by the RDC and will respond to the scene to investigate the incident.

b) If the incident occurred outside the corporate limits of the City of Dayton, the off-duty officer must contact an on-duty supervisor. The supervisor will contact the officer and determine the facts of the incident. The supervisor will then notify the Command Staff to determine notification of the outside jurisdiction and further investigation.

2) The involved officer(s) will completely and accurately report the details of the incident to the investigating supervisor.

3) The officer should request that copies of any reports completed by any responding local police agency be forwarded to the investigating supervisor.

4) The officer(s) involved in the incident will complete a Special Report as soon as possible and not more than 24 hours after the incident occurred. In the event the officer will be out of the city for a period of time on pre-approved leave or business travel, the report will be submitted within 24 hours of the officer's return to the city.

c. The minimum disciplinary action for an accidental discharge of a firearm at a location other than the Training Academy range will be a Written Reprimand. The Chief of Police and/or their designee has the option of accepting the Written Reprimand or ordering the Use of Firearms Review Committee to convene for further investigation and recommendation.

d. If the accidental discharge occurs at the Training Academy range, an investigation will be completed and recommendations made dependent upon the severity of the incident. The Chief of Police and/or their designee has the option of accepting the recommendation of the investigating supervisor or ordering the Use of Firearms Review Committee to convene for further investigation and recommendation.

B. LESS-LETHAL

Discharge of a shotgun or other weapon for the delivery of **Less-lethal** munitions by a department member who has been trained and certified in their use by the Commander of the S.W.A.T. Team and/or range staff and specifically authorized to deploy such weapons by the Chief of Police will be investigated as a *Use of*

Force incident. The use of **Less-lethal** weapons will be consistent with the training received.

1. The use of **Less-lethal** munitions is placed at the high intermediate level of the action-response continuum, akin to an extension of the impact weapon allowing extra distance between the officer and the individual. Their use will almost certainly result in injuries. As with any impact weapon, the potential exists for serious physical harm or death to result from its use or misuse.

2. Officers deploying **Less-lethal** munitions may respond to resistance or aggression in accordance with the objective reasonableness standard and in compliance with applicable state law, department policies and training, as determined by the actions of the individual, the environment in which the individual is encountered and the totality of the circumstances.

    a. Officers will be especially mindful of shot placement in order to avoid serious physical harm and/or death. The groin area should not be intentionally targeted.

    b. Shots delivered to a subject's head, spine, and upper chest carry the greatest potential for serious or fatal injury and shall be avoided when possible. These areas should only be considered in circumstances where the use of deadly force is justified.

3. It is the individual officer's responsibility to inspect the ammunition to ensure that **Less-lethal** ammunition is in or carried with the **Less-lethal** shotgun or other weapon prior to use.

4. Officers deploying Less-lethal munitions will communicate over the radio to on scene personnel, "**I have Less-lethal, I have Less-lethal, I have Less-lethal**".

5. A cover officer armed with a lethal weapon must always remain with the officer using a **Less-lethal** weapon.

6. Spent munitions and shell casings will be collected and tagged into the property room as evidence.

7. The following is a non-exclusive list of circumstances that may require the use of **Less-lethal** munitions:

    a. To subdue an actively hostile individual who has resisted other control means.

    b. To de-escalate a dangerous individual or situation to protect officers or others from harm, including an individual from serious self-inflicted injury.

    c. Individuals armed with blunt or edged weapons.

    d. Violent and/or combative, intoxicated or mentally disturbed individuals.

    e. Selective intervention in crowd control situations.

        1) To be employed only upon decision from the on-scene commander, preferably in consultation with the SWAT (Special Weapons and Tactics) Commander.

        2) It is to be used only against individuals or small groups specifically identified as agitators or leaders and preferably by SWAT team members only.

        3) Supervisors must authorize deploying Less-lethal munitions ("beanbag" shotguns, 40mm foam rounds) into a crowd. A verbal warning must be given unless it would present a danger to police officers or others to give such a warning.

            Any deployment of the "beanbag" shotgun (Patrol Operations or SWAT Personnel), 40mm foam round during crowd management / control requires:

            - Specific targeting of a subject by the officer.

            - Under no circumstances should any of these devices be deployed into a crowd without first

identifying a specific target that represents an imminent risk of death or physical injury to the officer or others.

- The officer must be reasonably sure that the weapons will not strike other individuals in the crowd who pose no threat of violence.

C. ON DUTY NON-FIREARMS

Anytime an on-duty officer knowingly strikes, injures, or uses Oleoresin Capsicum (OC Spray) or the TASER X-26 or TASER 7 on another person.

1. The unmitigated or indiscriminate striking of an individual in the head with any flashlight, baton, or related safety equipment carried by any officer, is strictly prohibited and constitutes deadly force.

2. Strikes directed at the head or face present a significant risk of injury to both the officer and the subject. Accordingly, these techniques may only be used when a subject is actively aggressive toward an officer or another person. Officers must be able to articulate and justify the necessity of each individual strike directed at the head or face.

3. OLEORESIN CAPSICUM (OC Spray)

   Dayton police officers that have been trained and certified by the Dayton Police Academy are authorized to carry and use Oleoresin Capsicum (OC Spray). The use of all other chemical agents is restricted to specially trained and authorized personnel and members of the SWAT Team.

   a. The following is a non-exclusive list of when the use of OC Spray is appropriate:

      - To subdue individuals engaged in active resistance who have ignored verbal commands and are being arrested.
      - When physical control techniques are warranted (physical resistance).
      - When officer injury is possible and/or anticipated.
      - OC may be used on animals when officers would be justified in shooting an attacking animal.

   b. Unless a substantial risk of escape, injury and/or property damage exists, officers are not to use OC spray on a handcuffed person.

   c. Officers in a situation where use of OC spray is anticipated, will, if circumstances permit, verbally warn the individual they will be sprayed if they do not cease their actions.

   d. OC use is appropriate only to the extent needed to bring an individual under control/arrest.

   e. Replacement OC spray canisters can be obtained from the Academy during normal business hours, officers will be required to complete Form F-521 for replacement.

4. TASER X-26 and TASER 7

   Dayton police officers that have been trained and certified by the Dayton Police Academy are authorized to carry and use the TASER X-26 and/or the TASER 7.

   a. The following is a non-exclusive list of when the use of a TASER is appropriate:

      - To subdue individuals engaged in active resistance who have ignored verbal commands and are being arrested.
      - When physical control techniques are warranted (physical resistance).
      - When officer injury is possible and/or anticipated.
      - Persons who have expressed the intent and have the means to commit suicide.

   b. Officers deploying a TASER will communicate their deployment to other on scene personnel if the situation permits.

   c. Except in extreme circumstances, officers should not use the TASER when it is reasonable to believe

that incapacitation of the person may result in serious injury or death due to their physical location (i.e., on a ladder, roof, bridge, or in water more than several inches deep, or deployment from a moving vehicle). Officers should be mindful if the individual is visibly or known to be pregnant, elderly, physically frail, developmentally disabled, of very low body mass, or of very young age, and may consider alternative less-lethal control options before deploying a TASER. TASER energy weapon use on these individuals could increase the risk of death or serious injury.

d. Other unapproved uses:

1) Against persons who are known to be contaminated with flammable liquids,

2) Against persons that are operating a motor vehicle,

3) Against anyone as a means of punishment,

4) In horseplay of any kind.

Subsections 1) and 2) may not apply if the use of the TASER can be justified as a means to reduce the chance of a higher level of response.

e. TASER use is appropriate only to the extent needed to bring an individual under control/arrest. If, after a single application of the TASER, an officer is still unable to gain control of an individual, the officer should consider whether or not the TASER is making proper contact, whether the TASER is limiting the person's ability to comply, or if other tactics may be more appropriate or effective.

Except in extreme circumstances, after three (3) consecutive discharges, the officer will employ a different response tactic to bring the individual under control/arrest.

f. Except in extreme circumstances, only one (1) officer at a time should discharge their TASER at a person. If more than one TASER is unholstered for potential use, officers should communicate with each other in order to avoid multiple or unintended discharges of other TASERs.

- If practical, officers assisting the TASER operator will attempt to gain physical control of the individual while the TASER is being activated or immediately thereafter.

g. Unless a substantial risk of escape, injury and/or property damage exists, officers are not to use the TASER on a handcuffed person.

h. Officers in a situation where use of the TASER is anticipated, will, if circumstances permit, verbally warn the individual to cease their actions.

i. The TASER also has the ability to be used as a stun gun after the probe cartridge has been deployed or if the probe cartridge is removed.

j. Discharges involving a suspect will be documented by the sergeant investigating the discharge.

1) For any discharges where a suspect was struck with a probe or the TASER in stun mode, the report must be documented in a *BlueTeam Internal Investigation Incident Report* (BTR).

2) The investigation must include a description of any injuries - both initial and secondary and the circumstances surrounding the use of the TASER.

3) For incidents where the TASER was deployed and missed the intended suspect and no other response occurred, the officer "Presented an *arc*" to gain compliance and no other response occurred or, the TASER was used on an animal, then the TASER use is to be documented in a *BlueTeam Internal Complaint Report*.

- Supervisors will provide the officer with a copy of the *BlueTeam Internal Complaint Report* so that they can report to the Academy (during normal business hours) to replace their

expended TASER cartridges. Supervisors may contact the Academy to obtain a stock of replacement cartridges for the Division. Any exchanges must be documented in a *BlueTeam Internal Complaint Report* and a copy sent to the Academy with the expended cartridge.

k. Accidental discharges will be documented in a Special Report to the sergeant investigating the discharge.

l. Anytime a discharge occurs, the serial numbers of both the TASER and any expended cartridge(s) will be documented in a *BlueTeam Internal Investigation Incident Report* or *BlueTeam Internal Complaint Report.*

m. Only sworn personnel trained and certified by the Dayton Police Academy to use the TASER 7 are authorized to carry the TASER 7. While carried on-duty, each TASER 7 will be loaded with one (1) Close-Quarters (CQ) cartridge in Bay 1, and one (1) Stand-Off (SO) cartridge in Bay 2.

n. Discharge of the TASER 7 against a person, successful of not, and in either drive stun or spiral dart mode, will be considered a deployment. Those issued a TASER 7 will ensure the battery is docked after every deployment, or once every 30 days regardless of deployment. Docking the TASER 7 battery allows for software updates to be uploaded to the TASER 7 and permits Department personnel assigned as TASER 7 Administrators to remotely see reports regarding its use and critical faults that may require maintenance.

o. Personnel equipped with the TASER are required to test the device for operability when donning the TASER during preparation for duty. Personnel will remove TASER cartridges prior to testing.

- Any malfunctions are to be reported to a supervisor immediately.
- Officers are to discontinue carrying the inoperative TASER until it can be replaced.
- Supervisors will contact the Academy during normal business hours to secure replacement TASERS.
- Personnel issued the TASER 7 will only carry the TASER 7 in the Department issued Safariland Holster or a Blackhawk TASER 7 Holster.

4. NON-LETHAL PEPPERBALL SYSTEM

Dayton police officers that have been trained and certified by Dayton Police Department Certified PepperBall Instructors are authorized to carry and use the PepperBall System Launcher, and deploy PepperBall projectiles, a hard plastic frangible sphere that is designed to burst upon impact. These PepperBall projectiles may include organic irritant made of non-flammable, PAVA powder.

a. Officers deploying PepperBall launchers will communicate to on scene personnel, “I have PepperBall, I have PepperBall, I have PepperBall.”

b. It is required to have at least one cover officer armed with a lethal weapon accompanying the officer deploying a PepperBall launcher. It is preferable to have an additional officer equipped with a less-lethal weapon providing additional coverage.

c. PepperBall projectiles can be utilized for direct impact or area saturation deployment.

1) For direct impact, the targeting of PepperBall projectiles should mainly focus on areas below the sternum.
2) Targeting the head, neck, and spine should be strictly avoided when possible.

d. The following is a non-exclusive list of when PepperBall System is appropriate:

1) When dealing with barricaded individual(s)
   - In vehicles
   - In structures
   - In rooms

2) When area denial is necessary to keep individual(s) away.

3) When individual(s) are engaged in active resistance and who have ignored verbal commands—whether or not they are being arrested.

4) When crowds become disorderly.
   - A disorderly crowd is a group of individuals whose collective behavior disrupts public order or threatens public safety. This behavior may include loud or aggressive actions, physical altercations, vandalism, blocking thoroughfares, and failure to comply with lawful orders from authorities.

D. OFF-DUTY NON-FIREARMS

Anytime an off-duty officer knowingly strikes or injures, or uses Oleoresin Capsicum (OC Spray) or a TASER on another person under any of the following circumstances:

1. When in police uniform.

2. When taking or attempting to take law enforcement action (i.e., in the course of off-duty employment, making an off-duty arrest, etc.).

3. When the officer identifies themselves as a police officer and a *Use of Force* incident results.

4. When the officer uses any issued Oleoresin Capsicum (OC Spray) or TASER.

III. ON-DUTY OFFICER'S RESPONSIBILITIES

Whenever on-duty officers are involved in, witness or are informed of a complaint regarding a *Use of Force* incident (including chemical irritant or TASER accidental discharges), they must immediately notify an on-duty supervisor.

In the event that a supervisory officer is involved in a *Use of Force* incident, a supervisor of higher rank will be notified of the incident. In the event that a Watch Commander or appropriate Division / Bureau Commander is not available, the Professional Standards Bureau will be notified of the *Use of Force*.

A. Unless hostile conditions or serious injuries dictate otherwise, officers should remain on the scene of the *Use of Force* incident with suspects and witnesses until the arrival of the investigating supervisor.

1. Once the scene is safe and as soon as practical, whenever an individual is injured, complains of injury, or requests medical attention, officers will immediately request appropriate medical aid for the injured person and may provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid and/or arranging for transportation to an emergency medical facility. Officers will treat injured persons, whether another officer, a member of the public, or a subject, with dignity and respect.

2. If possible, in the event that immediate medical attention is required, someone other than the involved officer(s) should remove the person against whom a response was directed to the hospital.

3. The person against whom a response was directed should be advised that they will receive medical treatment as soon as possible.

   a. Chemical Irritant Medical Treatment - If possible, officers will commence cleansing techniques at the scene, prior to transporting the subject to the jail. All persons who have been sprayed with OC will be treated with the chemical agent neutralizer to have the OC residue removed from the skin, eyes, etc.

      1) Eyewash stations will be used prior to booking the person into the jail if they are having difficulties with their eyes **(Remember, water will wash away the chemical agent neutralizer).** An eyewash station is available in the MCSO jail sallyport.

2) If a prisoner is having medical difficulties after first aid is rendered, then the supervisor will have the option of either having the prisoner transported to a medical facility or calling a paramedic from the Dayton Fire Department.

3) The MCSO jail has medical staff that checks prisoners prior to booking and can make a determination if further medical intervention is necessary. If their staff determines that a prisoner needs to be removed to a medical facility, then the transporting officer will notify their supervisor and transport the prisoner to a medical facility immediately.

b. TASER Medical Treatment

1) Persons that have been struck with the TASER probes should be immediately removed from the scene to a hospital if the probes are located in a sensitive area of the body (anything involving the head, neck, breast or nipples, groin or genitals), otherwise, an officer or supervisor may remove the probes and render first aid procedures.

- If the probes are being removed at the scene, officers shall wear latex gloves when removing probes from the skin. A sanitizing spray or gel shall be administered to each puncture site along with a Band-Aid (if needed) as soon as practical.

- Only sworn personnel trained and certified with the TASER 7 will be allowed to remove probes from a person after a TASER 7 deployment. In addition, TASER 7 certified personnel should carry a probe removal tool on their person or in a police vehicle where the probe removal tool can be easily retrieved.

- TASER X-26 probes will be collected and safely stored in the TASER X-26 cartridge or other "Sharps" container and marked, tagged and placed in the property room as per the guidelines for submitting "Biohazard" evidence in General Order 1.06-1 Evidence and Impounded Property.

2) Individuals who have been subjected to a Taser and exhibit signs of drug and/or alcohol intoxication or display symptoms of an unknown medical condition to the extent of near-incoherence should be transported to the hospital for medical assessment. (See Section B below)

4. Every attempt should be made to contact and identify witnesses to the incident and to request that they remain on the scene until the investigating supervisor arrives.

B. Officers should be cognizant of serious and potentially deadly medical conditions, often complicated by drug intoxication, involving psychotic behavior, elevated body temperature, and an extreme fight-or-flight response by the nervous system. Failure to recognize these symptoms and involve emergency medical services (EMS) to provide appropriate medical treatment, may lead to death. If a person exhibits some or all of these symptoms, immediate medical attention may be warranted:

- Incoherent or irrational speech
- Aggressive, agitated or disorderly behavior
- Extraordinary strength or resistance to pain
- Profuse sweating
- High heart rate
- Public disrobing (partially or fully naked, even in the winter months)
- Attraction to lights, mirrors, glass and water

If you observe someone exhibiting these symptoms, remember:

- Rapid control of the situation and timely execution of medical evaluation are important
- Subjects often do not respond to verbal redirection
- Attempts at physical control may not be as effective given extreme levels of strength and resistance to painful stimuli
- Ongoing physical struggle can worsen a subject's innate fight-or-flight system, which can raise a

patient's temperature, cause changes in the body's acid-base balance, and increase the risk of sudden death
- Call for EMS and get medical treatment as soon as possible
- The safety of officers and the general public is paramount

C. When the investigating supervisor arrives, the officer(s) involved in the incident will provide a complete and accurate description of the incident.

D. In addition to any other reports submitted relating to the incident, a *BlueTeam Internal Investigation Incident Report* will be initiated for each individual against whom a response was directed or who has alleged a *Use of Force* incident against them by the officer(s) employing the response or involved in the allegation.

- That report will contain all information pertinent to the *Use of Force* incident and will indicate the type of incident. The report will be completed as soon as possible, and not later than the next business day.
- The investigating supervisor may require additional information by requesting a Special Report from officers involved in or witnessing the incident.
- All individual reports arising out of the same incident will be directed to the investigating supervisor.

E. For OC spray accidental discharges where no non-departmental personnel were sprayed, the officer will fully describe the circumstances to his supervisor, who will then detail the incident in a *BlueTeam Internal Complaint Receipt*.

F. Any on-duty officer who witnesses a *Use of Force* incident by another officer or becomes aware of allegations of a *Use of Force* incident by another officer will ensure that an on-duty supervisor is aware of the incident.

G. Duty to Intervene- Any officer present and observing another officer engaging in an excessive or unnecessary use of force must, when in a position to do so safely, intervene to prevent the violation. Failure to do so may result in disciplinary action up to and including dismissal. Officers must promptly report any such violations to a supervisor.

H. Use of Force-Prohibitions

1. Officers may not use or threaten to use force for the following reasons:

- To prevent a person from resisting or fleeing in the future
- Against persons who are handcuffed, and/or restrained and compliant, where their actions present no substantial risk of escape, injury, and/or property damage

I. De-escalation- De-escalation is a desired outcome achieved by utilizing decision-making, communication, and tactics to attempt to resolve conflict, or potential conflict, ethically based on the preservation of life and life priority system. De-escalation tactics and techniques are actions used by officers, when safe and feasible without compromising law enforcement priorities, that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance. General Order 2.01-10 (De-Escalation) is incorporated herein in its entirety by reference.

J. **Show of Force**

1. Officers are required to document a Show of Force by completing a Field Interview Card (FIC) before the end of the officer's shift. This FIC will include the lethality of firearm pointed and reason. In situations where multiple officers point a firearm at a citizen, one FIC screen will allow up to nine (9) additional PDAs to be entered. If there are more than ten officers involved, additional FIC entries will be necessary.

   a. Officers enter the FIC, choosing the "1-DETL/JUV" option at the bottom of the screen to navigate to the DETAIL screen.

   b. On the DETAIL screen, complete the sections for weapon information and the addition of other officer's PDAs

2. The unholstering, display of a firearm, having the firearm in a "ready" position (e.g., low ready position), or any other position during the course of an incident will not be considered a Show of Force unless the

firearm is pointed at a citizen.

3. Officers are reminded that officer safety is imperative and to rely on their training. Officers should not keep their firearm at a low-ready position or not point it at a citizen in dangerous situations to avoid completing the Show of Force FIC.

4. Officers should be aware that completion of this Show of Force FIC will not show in the in-car MDCs (Mobile Data Computers) on future inquiries. If this is desired, the completing officer should use the "duplicate" function at the bottom of the screen and change the FIC type.

IV. OFF-DUTY OFFICERS' RESPONSIBILITIES

A. Whenever an off-duty officer is involved in a *Use of Force* incident under circumstances described in Section II.C. of this policy, or becomes aware of allegations of a *Use of Force* incident against them under those circumstances, they must notify the RDC of the incident as soon as possible. If the incident occurred outside the corporate limits of the City of Dayton, the officer involved will ensure the appropriate local police jurisdiction is notified and requested to respond to the scene.

1. If the incident occurred within the City of Dayton an appropriate supervisor will be notified by the RDC Supervisor and will respond to the scene to investigate the incident.

2. If the incident occurred outside the corporate limits of the City of Dayton but within 15 miles of the city, the investigating supervisor will respond to the scene and proceed with the investigation to the extent that the investigation does not conflict with the policies and procedures of the outside police jurisdiction.

3. If the incident occurred more than 15 miles from the City of Dayton, the involved officer will provide the RDC Supervisor with a telephone number where they can be contacted by the investigating supervisor as soon as is possible.

B. The involved officer(s) will completely and accurately report the details of the incident to the investigating supervisor. In cases as described in Section IV.A.3. above, the officer(s) will make their report to the investigating supervisor by telephone as soon as is practical.

C. If the incident occurred outside the City of Dayton, the involved officer will request that photographs be taken of the person against whom a response was directed or who made allegations of a *Use of Force* incident against the officer. The officer should also request that copies of any reports completed by the local police agency be forwarded to the Dayton Police Professional Standards Bureau.

D. The officer(s) involved in the incident will submit a Special Report to their supervisor as soon as possible and not more than 24 hours after the incident occurred. In the event the officer will be out of the city for a period of time on pre-approved leave or business travel, the report will be submitted within 24 hours of the officer's return to the city and a copy forwarded to the Professional Standards Bureau.

V. SUPERVISOR'S RESPONSIBILITY

A. The prompt and thorough investigation of *Use of Force* incidents, allegations of a *Use of Force* incident and use of chemical irritants or a TASER require that an appropriate supervisor be immediately notified and respond to the scene, except as provided in Section IV.A.3. of this policy.

1. In the event the immediate supervisor of the officer(s) involved in the incident is not available to respond, the RDC Supervisor will dispatch another supervisor of appropriate rank to the scene or notify the Professional Standards Bureau to respond.

2. The supervisor who is dispatched to the scene will conduct and submit a full investigation of the incident, regardless of whether the involved officer(s) are under their command.

B. Certain incidents may require the response of personnel from the Professional Standards Bureau or other specialized units, who will assume responsibility for completing the investigation. The supervisor who initially responds to the scene will submit a summary of their observations to personnel from the Professional

Standards Bureau or other specialized units prior to clearing the scene.

1. The investigating supervisor will contact the involved officers and assess the seriousness of the incident. In the event that a *Use of Force* incident has resulted in serious injury (requiring hospitalization) to a citizen or an officer, the Professional Standards Bureau will be requested at the scene. In the event a citizen or an officer has received injuries, which are life threatening or fatal, the Homicide Unit will also be requested at the scene.

2. If serious physical harm or death results from **Less-lethal** use, the Homicide Unit, the Professional Standards Bureau, and the Range Supervisor will be notified. The Homicide Unit will have authority over any criminal investigation. The Professional Standards Bureau will have authority over any administrative investigation. The Range Supervisor will assist and provide technical expertise specific to **Less-lethal** munitions.

3. The Professional Standards Bureau will be responsible for forwarding a copy of the *BlueTeam Internal Investigation Incident Report* to the Range Supervisor.

C. The investigating supervisor will separately interview the officer(s) involved in the incident and any officers witnessing the incident; civilian witnesses to the incident; and the person against whom a response was directed or who has alleged a *Use of Force* incident against them. Whenever possible, written statements should be taken from all civilians interviewed during the investigation and documented in the supervisor's summary and attached to their file.

D. Supervisor Responsibilities when a TASER is Utilized:

1. The report must indicate if the TASER was deployed with the probes or as a stun gun and how many times the individual was shocked.

2. Supervisors, only when needed, can contact the Academy for the TASER to be downloaded. Currently TASER's are only downloaded if there is a malfunction or in a use of force case or alleged case that requires it.

3. Supervisors responding to a TASER 7 deployment will ensure the TASER 7 operator that deployed the device returns to his/her respective District to dock the battery at the earliest possible convenience. Supervisors conducting a BlueTeam Internal Investigation related to a TASER 7 deployment will download the involved battery log and attach it to the related Case File in Evidence.com. This will also be documented in the narrative portion of the associated BlueTeam Internal Investigation. The Investigating Supervisor will also email the Dayton Police Academy email group so replacement cartridges can be ordered and distributed.

4. If the supervisor is not a certified TASER operator, they are to have the dispatcher contact a certified TASER supervisor or officer to respond to their location to consult on the TASER usage and assist in downloading the unit's data.

E. When a *Use of Force* incident occurs against an individual, the supervisor will assure that the individual is conveyed to a hospital for medical treatment **if warranted** (i.e., no visible injuries, minor injuries requiring first aid only, etc.). If an individual refuses treatment to medical personnel at the hospital, officers must document the refusal and to whom they refused. In cases where a *Use of Force* incident has been alleged, the supervisor will evaluate the need for medical treatment and make appropriate arrangements for such treatment if necessary.

The transporting crew will advise intake personnel at the jail of the alleged injury and stand by until the jail paramedic examines the prisoner. For juveniles, refer to General Order 2.05-1 Juveniles, Section III.B.2.

F. All actual or claimed injuries will be photographed by the investigating supervisor, a FST (Forensic Services Technician) or Bureau of Identification personnel using a digital camera. In the event the incident occurred outside the City of Dayton, the supervisor will request that the outside police agency obtain those photographs.

1. Photographs of visible injuries should include a scale of measurement. The body area of claimed injuries

or injuries that are not visible should be similarly photographed.

- Photographs of the areas of the body where TASER probes connected will be taken.

2. Injuries concealed by clothing should be uncovered when photographed.

3. Photographs of injuries to private body areas will be taken and witnessed only by a supervisor or FST of the same sex as the individual being photographed or by hospital personnel.

4. Uncooperative individuals should be photographed "as is" without physical restraint to document their lack of cooperation.

5. When no injuries are claimed, a full-length photograph will be taken of the individual.

6. The attending physician or head nurse should be notified prior to taking any photographs of a patient in the hospital.

G. Guidelines For Use of Digital Cameras In Administrative Investigations

1. The supervisor taking the photograph will document in their report the date/time, description of the subject of the photograph and the location where the photograph was taken.

2. Do not rename photograph files when attaching them to a report.

3. The camera disk is to be reused and not kept as the original. The photograph files in BlueTeam will become the original photographs.

H. The investigating supervisor will prepare and submit a *BlueTeam Internal Investigation Incident Report* Administrative Investigation detailing their investigation, including a synopsis of:

1. The physical evidence available;

2. Statements of officer(s) who were involved in or witnessed the incident;

3. Statements of known witnesses to the incident; and

4. The statement of the person against whom a response was directed or who has alleged a *Use of Force* incident against them.

5. The supervisor's conclusions based on the facts as submitted in their investigative summary.

   a. Conclusions as to what response was used by the officer(s), and whether allegations of a *Use of Force* incident in addition to that reported by the officers are true;

   b. Conclusions as to whether the response was justified by the circumstances (was the officer acting legally and appropriately when the incident began);

   c. Conclusions as to whether the response was excessive, or more than was necessary to overcome resistance;

   d. Conclusions as to whether the response was applied within the constraints of departmental policy and standards of training (authorized equipment utilized by the officer, officer properly trained and authorized to carry the equipment, etc.);

   e. Conclusions as to whether this incident indicates the need for general or specialized training for any of the officers involved;

   f. Conclusions as to whether disciplinary action is warranted against any of the officers involved in the incident. In the event disciplinary action is recommended, the officer's Performance History should be obtained from the Department Advocate along with the recommendation for appropriate discipline.

6. In cases where a person was only pepper sprayed or received minor injuries (i.e. small shallow cuts,

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scrapes, abrasions, etc.) as a result of their apprehension (i.e. pushed, wrestled, tripped, tackled or having a limb twisted.) **and** there are no allegations of an excessive response, supervisors will need to complete a brief *BlueTeam Internal Investigation Incident Report* detailing the events, ensuring that they have an interview of the suspect, witness information if any and a synopsis of the incident.

- An investigating supervisor will seek witnesses and include their information and statements in the comments section of the addendum. Written witness statements will not be necessary unless the witnesses' statements do not corroborate the officer's statement about the apprehension/OC spray.

7. Any Disciplinary or Training issues should also be included with the investigation packet.

I. The completed Administrative Investigation, including all attached reports **(EXCEPT Officer Injury Reports)**, statements and photographs, are submitted via a *BlueTeam Internal Investigation Incident Report* entry to the originating Division Commander within 14 calendar days of the event. After review and approval, the reports are forwarded to the Professional Standards Bureau, which is the official repository for all such reports.

The Professional Standards Bureau will also maintain reports of Chemical Irritant usage and reports of TASER usage. The Professional Standards Bureau will report these usages as separate from other *Use of Force* incidents and note that the incident was a use of OC spray or a TASER usage.

VI. USE OF NECK RESTRAINT

A. The use of a neck restraint is prohibited except where deadly force would be authorized and where necessary to protect an officer or member of the public from an imminent threat of death or serious physical harm.

B. This prohibition includes any incident where an individual attempts to ingest narcotics or other evidence. Any subject that ingests evidence will be taken immediately to the nearest hospital.

VII. ANNUAL REPORTING

A. The Professional Standards Bureau will conduct an annual analysis of Use of Force incidents to identify patterns or trends, training needs, policy concerns, equipment issues, and opportunities for improvement. The Director and Chief of Police or designee will provide an Annual Use of Force report to the City Commission.

B. Sworn personnel will receive in-service training, at least annually, on the department's use of force policy.