



# Graham Police Department

## Standard Operating Policies and Procedures

### Policy 17 Use of Force

#### DEPARTMENT POLICY

It is the policy of the Graham Police Department to value and preserve human life. Employees shall only use reasonable force to accomplish lawful objectives while protecting the safety of the employee and others. Employees shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force that a reasonably prudent officer could use under the same or similar circumstances.

#### PURPOSE

The purpose of this policy is to provide employees with guidelines for the use of less-lethal and deadly force.

#### I. DISCUSSION

- A. North Carolina state law ([NCGS 15A-401](#)) specifically limits the Use of Force by police officers. When police officers go beyond the limits set by the law, they no longer are protected by their office and their badge; they are subject to civil and criminal liability. A police officer who uses force in excess of that allowed by law or who uses force in a situation where it is not permitted by law is liable for damages to the person against whom force is used and may be subject to criminal prosecution.
- B. The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”
- C. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.” [[Graham v. Connor, 490 U.S. 386 \(1989\)](#)].

## II. DEFINITIONS

- A. Deadly Force - Any use of force that causes, or would create a substantial risk of causing, death or serious physical injury, including the use of lethal weapons.
- B. Less-Lethal Force - Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.
- C. Objectively Reasonable - The determination that the necessity for using force and the level of force used is based upon the employee's evaluation of the situation in light of the totality of the circumstances known to the employee at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.
- D. Serious Physical Injury - Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.
- E. De-escalation - The application of verbal and non-verbal techniques or strategies to reduce the intensity of an interaction and the potential for a physical altercation. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- F. Exigent Circumstances - Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts. [Based on the definition from [\*United States v. McConney\*](#), 728 F.2d 1195, 1199 (9th Cir.), cert. denied, 469 U.S. 824 (1984).]
- G. Choke Hold/Neck Hold/Strangle Hold - A physical maneuver that restricts oxygen or blood flow to the head or neck for the purposes of incapacitation. ***This agency strictly prohibits neck holds unless deadly force is authorized.***
- H. Warning Shot - Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury. ***This agency strictly prohibits warning shots.***
- I. Excited delirium - "A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength and endurance without apparent fatigue" ([\*Morrison and Sadler, 2001\*](#)).
- J. Oleoresin Capsicum (OC) – A less-lethal, temporarily disabling, aerosol that is composed partly of capsicum oleoresin and causes irritation of the eyes and irritation and/or inflammation of the nose, throat, and skin.

- K. Conducted Electrical Weapon (CEW) - A device that deploys electric current into a subject's body to affect the central nervous system.
- L. Impact Munitions- A less-lethal projectile designed to subdue potentially dangerous individuals and to disperse unruly crowds with less chance of injury or death to suspects, innocent bystanders, or the officer.

### **III. GENERAL PROVISIONS**

- A. Use of force should be discontinued when resistance ceases or when the incident is under control.
- B. Personnel actively engaged in the application of force must ensure the use of force does not continue beyond the point that is reasonable. Personnel must continually reassess the situation and ensure the level of force being used meets the objectively reasonable standard.
- C. Force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent physical injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
- D. As quickly as reasonably possible following any law enforcement action in which injuries have been sustained, an employee shall provide appropriate medical aid consistent with his or her training to any individual who has visible injuries, is in apparent medical distress, is unconscious, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
- E. All uses of force beyond standard handcuffing procedures shall be documented and investigated pursuant to this agency's policies.
- F. Officers will not utilize any force option punitively or as a means of improper coercion.

### **IV. SUBJECT RESISTANCE LEVELS**

- A. A subject may exhibit various types of resistance levels during the arrest process. The type and level of resistance, the behavior of the subject(s) involved, and all relevant factors known to the officer making the arrest will be considered by the officer in determining the appropriate use of force. Levels of resistance are as follows:
  - 1. Passive Resistance – Non-compliance with the officer's verbal commands, but no overt or physical acts to prevent the officer from making the arrest. For example, when a subject is taken into custody, goes limp, and must be carried away. To include non-verbal/non-compliance and verbal non-compliance.

2. Active Resistance – The suspect is taking some type of physical action to prevent his arrest, but is not assaulting or attempting to assault the officer. For example, when a subject is twisting or pulling their hands away, holding onto a fixed object, or running away. This includes defensive resistance.
3. Active Aggression– The suspect is taking some type of physical action that poses a risk of immediate danger to the officer, another person, or themselves. For example, when a subject is punching, kicking, or striking and the subject has the immediate means to injure an officer, another person, or themselves.
4. Aggravated Active Aggression– The suspect is taking some type of physical action that is likely to cause serious injury or death. For example, when a subject is discharging a firearm, using a blunt or bladed weapon, or otherwise using extreme physical force.

## **V. DE-ESCALATION**

- A. An employee shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and reducing the need for force.
- B. Whenever possible and when such delay will not compromise the safety of the employee or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an employee shall allow an individual time and opportunity to submit to verbal commands before force is used.

## **VI. LESS LETHAL FORCE**

- A. When de-escalation techniques are not effective or appropriate, an employee may consider the use of less lethal force. An employee is authorized to use agency-approved, less-lethal force techniques and issued equipment:
  1. to protect the employee or others from immediate physical harm,
  2. to restrain or subdue an individual who is actively resisting, or
  3. to bring an unlawful situation safely and effectively under control or any other mass gathering which is no longer peaceful and needs to be disrupted/stopped.
- B. Less Lethal Force Options/Weapons
  1. Physical Control through Pain/Discomfort/Distraction: the use of:
    - a. “soft” hand techniques such as the application of pressure through joint locks and pressure points

- b. “hard” hand techniques such as punches, kicks or stuns. NOTE: Stunning techniques to the neck (brachial plexus origin) are appropriate in cases of active resistance, active aggression, or aggravated active aggression of such a manner the assault/resistance approaches a situation in which deadly force would be appropriate.

## 2. Oleoresin Capsicum Spray/Fog/Foam

- a. Oleoresin Capsicum (OC) Spray/Fog/Foam provides a means to disrupt resistance to lawful commands and/or apprehension with very low risk of lethal or serious injury to the officer, bystanders, or the person(s) actively resisting.
- b. OC Spray/Fog/Foam disperses a scattered pattern of cayenne pepper particles suspended in liquid carrier. This mixture is a chemical irritant which has a proven history of effectiveness in its intended purpose and very low risk of the mixture causing harm when applied to a person.
- c. The function of OC is to irritate the eyes, nose, mouth, and skin of a person when applied, which in most cases will temporarily reduce or eliminate the ability of a person to successfully and/or dangerously resist lawful commands or apprehension.
- d. OC permits an officer to disrupt resistance in a manner which is reasonably expected to reduce the need for other potentially dangerous methods of compliance, apprehension, such as use of physical force or impact weapons.
- e. OC Fog is authorized, when de-escalation techniques are not effective or appropriate, to gain control of a crowd/group of individuals performing an unlawful act and resistant to lawful commands to disperse or other lawful commands.
- f. Officers are cautioned against using OC Spray in a crowd control situation except when necessary to effect a lawful arrest, to prevent escape from custody, or to defend the officer or another person from what the officer reasonably believes is the imminent use of physical force.
- g. Verbal persuasion and a warning are required before using OC if circumstances allow verbalizing and warning without risk to the safety of the officer or others.
- h. Non-threatening suspects who do not pose a significant risk to officer safety should not be directly sprayed with OC Spray/Foam unless verbalizing, warning, and soft hand techniques have been attempted and resisted. This category includes individuals who are non-threatening and are very young, or old, or infirm or disabled in an obvious manner.

- i. OC is authorized when it is needed to prevent any officer or person from being attacked by a dog or other animal.
- j. OC Spray/Foam cannot be used against a person who:
  - i. Submits peacefully to arrest and complies with lawful commands during a lawful arrest.
  - ii. Complies with lawful commands.
  - iii. Is expressing mere verbal disagreement that does not threaten or incite others to threaten an officer and is not significantly delaying or obstructing discharge of duty.
- k. OC issued by the Graham Police Department shall be non-flammable from an approved manufacturer.
- l. Only officers who have successfully completed a departmental approved OC course, instructed by a Certified Subject Control and Arrest Techniques (SCAT) Instructor, and demonstrate proficiency in the use of OC shall be allowed to carry and use OC.
- m. All Uniformed Officers are required to carry OC Spray and shall carry the department issued OC Spray while on duty in the department issued carrying case.
- n. Carrying OC Spray while on duty is optional for CID and Administrative personnel.
- o. No officer shall draw, point, or discharge OC except in compliance with the guidelines outlined in this policy and only when reasonably necessary for performance of official duty. Any unnecessary, frivolous or careless use or handling of OC is expressly prohibited.
- p. Officers shall not place or store OC in a manner so as to be exposed or readily accessible to the public or prisoners.
- q. For any individual affected by OC Spray/Foam, whether intentionally or accidentally, as soon as conditions of safety will permit, the officer shall immediately:
  - i. Reassure the affected individual(s) that the effects of the product are temporary and will subside within a short period of time; and
  - ii. Ask the affected individual(s) if they are asthmatic, have any other respiratory disease, or abnormally sensitive to pepper products.
- r. Any individual affected by OC Spray/Foam, shall be taken directly to the

nearest water facility to allow them to flush the affected area(s). Officers should monitor individuals on whom pepper spray/foam has been used for any signs of unusual or allergic reaction, difficulty in breathing, or any type of medical distress. Should this occur, or if the individual requests, they will be transported to a hospital to ensure that the appropriate medical treatment is obtained.

- s. If the individual is wearing contact lenses and circumstances allow, handcuff the individual in front so that he/she may remove contact lenses. Trained medical personnel may be able to help to remove contact lenses.
- t. If an individual complains of medical problems or requires medical attention as a result of being sprayed with OC, the officer who utilized the force shall complete a GPD Form 70 (Report of Injury to Prisoner) and submit same through the Chain of Command with other required Use of Force paper work.

### 3. Other Chemical Munitions

- a. Agency personnel assigned to the Regional SWAT Team are issued other chemical munitions such as CS or CS/OC blends. These chemical munitions are maintained by the Burlington Police Department and are utilized in accordance with the policies and procedures of the Regional SWAT Team.
- b. Select trained agency personnel are issued other chemical munitions such as CS or CS/OC blends. These munitions are utilized primarily in crowd control situations. They will be utilized in a similar manner as OC Spray/Fog/Foam, therefore, officers issued additional munitions will follow the same guidelines listed above for OC.

### 4. Impact Weapons

- a. Impact Weapons used in compliance with the guidelines of this policy is lawful less lethal force.
- b. Impact Weapons are authorized, when de-escalation techniques are not effective or appropriate, to effect a lawful arrest, to prevent escape from custody, to disperse unruly crowds, or to defend the officer or another person from what the officer reasonably believes is the imminent use of physical force.
- c. **When utilizing an impact weapon, employees shall not intentionally strike to the head, neck, spine, sternum, or groin unless deadly force is justified.**
- d. ASP/Police Baton
  - i. The baton is a formidable, as well as, a versatile less lethal weapon. It

may be used to apprehend, restrain, defend, or counterattack. A trained officer who is proficient in the use of the baton is better able to protect himself/herself and is less likely to resort to the use of his/her firearm. The main purpose of the baton is to stun and/or temporarily disable rather than cause lasting injury.

- ii. Only officers who have successfully completed a departmental approved basic course, instructed by a certified ASP instructor or Certified Subject Control and Arrest Techniques (SCAT) Instructor, and demonstrate proficiency in the use of ASP/Baton shall be allowed to carry and use an ASP/Baton.
- iii. All Uniformed Officers are required to carry ASP/Baton and shall carry the department issued ASP/Baton while on duty in the department issued carrying case.
- iv. Carrying ASP/Baton while on duty is optional for CID and Administrative personnel.

e. Flashlight

- i. A rechargeable flashlight is primarily issued to officers for use as an illumination device. When necessary, however, the flashlight may be used as an impact weapon.
- ii. The flashlight is not intended to replace any other departmentally issued subject control equipment, but its use as such may be appropriate when the officer cannot safely or practically obtain one of his/her other subject control weapons.

f. Impact Munitions

- i. With the authorization and approval of the Chief of Police, officers who have been specially trained, successfully completed training, and demonstrated proficiency in Impact Munitions will be authorized to carry Impact Munitions.
- ii. Trained personnel issued less than lethal shotguns shall not have any lethal shotgun rounds with in the shotgun or their assigned patrol vehicle at any time.
- iii. Only shotguns designated as less than lethal shotguns that have been equipped with orange stocks and forearm/slide will be utilized for less than lethal purposes. No regularly equipped lethal shotgun will be utilized for less than lethal rounds.

5. Conducted Electrical Weapon

- a. Conducted Electrical Weapon, hereafter referred to simply as CEW, is a device which deploys electric current into a subject's body to affect the central nervous system. The U.S. Fourth Circuit Court of Appeals has ruled that the Conducted Electrical Weapon is characterized as a weapon that has the



potential to inflict serious injury. [Estate of Armstrong v. Village of Pinehurst, 810 F. 3d 892 - Court of Appeals, 4th Circuit 2016].

- b. There are three approved methods of use of a CEW. These methods are as follows;
  - i. Spark Display- The cartridge is removed from the unit and the CEW is activated to demonstrate its ability to discharge electricity. The purpose of the spark display is to convince a subject to comply with the officer without the need for further force.
  - ii. Drive Stun- The cartridge is removed or the probes have been previously discharged from the unit. Contact with the target subject is made with the front of the CEW or cartridge, and the CEW is activated. Use of the CEW in this manner causes localized pain in the area contacted, but does not affect the central nervous system, unless the area contacted is a motor nerve point location or at least one of the probes is close to or touching the subject.
  - iii. Probe Deployment- The cartridge is discharged from the unit causing the probes to make contact with the target subject. The CEW is then activated as needed to discharge electric current into the subject. When properly used in this manner, the CEW affects the central nervous system causing motor skill dysfunction.
- c. All applications of the CEW shall conform to the principles outlined in the CEW training and certification program.
- d. Some examples of situations when the CEW may be used in accordance with policy are:
  - i. When confronted with a subject(s) armed with knives, bottles, or other objects other than a firearm, and where the subject(s) pose an imminent threat to officers or citizens.
  - ii. When attempting to control violent persons who may be under the influence of drugs and/or alcohol and are exhibiting aggressive behavior, or subjects whose aggressive behavior indicates that other subject control options may reasonably result in injury to the subject(s) or officers.
  - iii. When a subject resists arrest and has the apparent ability to retrieve a weapon, and the officer reasonably believes the subject has access to a weapon.
  - iv. When confronted with a person expressing intent to commit suicide and the person has the immediate and reasonable means to commit suicide.
- e. Absent compelling, clearly articulable reasons; the CEW should not be deployed for more than two 5 second cycles (this includes deployments by multiple officers) and should not exceed 5 seconds duration for any cycle. In

all circumstances, the officer must be able to articulate the justification for the initial CEW deployment, and each additional cycle as well. Prior to any additional deployments of the CEW, the officer will assess the effectiveness of the CEW after the prior deployments.

- f. Officers will attempt to avoid discharging the CEW upon sensitive areas of the body such as the face, groin, or breast area on females. The neck area shall not be intentionally targeted in the probe deployment mode.
- g. In any situation, the CEW will not be used:
  - i. When the officer cannot, for safety or other reasons, approach the subject to within the effective range of the CEW.
  - ii. In the proximity of flammable liquids, gases, or any other highly combustible materials that may be ignited by the device, including any individual that the officer knows, or should know, may have been exposed to combustible substances or liquids such as gasoline.
  - iii. In situations where deadly force is the most reasonably necessary option, unless another officer is in position to use deadly force against the subject.
  - iv. Solely to prevent the escape of a subject who is otherwise not displaying active aggression or active aggravated aggression towards the officer or others.
- h. In less than lethal force situation, the CEW will not be used:
  - i. On persons who do not pose an imminent threat of physical harm to officers, themselves, or others.
  - ii. When the target subject is in a position where a fall may reasonably be expected to cause serious injury or death unless deadly force is authorized.
  - iii. Punitively or as a means of coercion.
  - iv. To awaken unconscious or impaired persons.
  - v. In less than lethal force situations, officers should be cognizant if the subject is visibly pregnant, at the extremes of age, or of small stature and consider other less than lethal force options before deploying the CEW.
  - vi. On persons operating a motor vehicle.
  - vii. Absent compelling, clearly articulable reasons; the CEW will not be used in the drive stun mode with the cartridge removed as a pain compliance tool. The CEW may be used in the drive stun mode when the cartridge is still attached and is used only to complete the NMI (neuro-muscular incapacitation) circuit once probes have been discharged.
- i. To prevent officer's duty weapon from being confused for the CEW during escalated situations, any officer that is carrying the CEW will wear it in such a

manner as to be drawn with their support hand. This may be accomplished by either wearing the CEW on their support hand or non-duty weapon side or in a cross-draw on their duty weapon side in the agency provided/approved CEW holster.

- j. CEWs will be issued to all officers who are assigned to work within the Patrol division. Issuance of a CEW to School Resource Officers, Administrative personnel and CID is optional and will be reviewed based on need and availability of CEWs. Before being issued a CEWs, sworn officers must successfully complete the department's authorized training course administered by a certified instructor and demonstrate proficiency in the use of CEWs.
- k. When the CEW is deployed on an individual, the subject should be placed in handcuffs to prevent any further injury to his/herself or others.
- l. At the earliest practical opportunity, a supervisor, if not already on scene, shall be notified and shall respond to the scene.
- m. The on duty supervisor shall remove the probes from the individual and dispose of the probes in an approved sharps container.
- n. Officers are required to clean the location where the probes made contact with an alcohol swab. A topical antibiotic and band aid will then be applied to the area.
- o. If the probes become lodged in any location that a reasonable officer believes could cause serious injury, or the ends of the probes break off and remain in the suspect, EMS will be called and the individual will be transported to the Emergency Room for probe removal.
- p. If the CEW has been used on a subject, they will be continuously monitored during their time in our custody. If the subject appears to be ill, EMS will be called immediately so medical personnel can evaluate the subject.
- q. If the subject is brought to the jail after use, the officer should notify the jail staff that the CEW has been used. If the subject is being taken to mental health or the hospital the transporting officer will notify the staff that the CEW was used on the subject.
- r. If a subject complains of medical problems or requires medical attention as a result of the CEW being utilized, the officer in which utilized the force shall complete a GPD Form 70 (Report of Injury to Prisoner) and submit same through the Chain of Command with other required Use of Force paper work.

## **VII. DEADLY FORCE**

- A. An officer may only use deadly force when an officer reasonably believes the action is in defense of any human life in imminent danger of death or serious physical injury. Use of deadly force by a law enforcement officer is defined in state law in [NCGS 15A-401 \(d\) \(2\)](#) and is justified when one or both of the following apply:
1. To defend the employee or a third person from what the officer reasonably believes to be the use or imminent use of deadly physical force;
  2. To effect an arrest or prevent the escape from custody of a person who the officer reasonably believes is attempting to escape by means of a deadly weapon, or who by their conduct or any other means indicates that they present an imminent threat of death or serious physical injury to others unless apprehended without delay; or
  3. To prevent the escape of a person from custody imposed upon them as a result of conviction for a felony.
- B. Where feasible, the employee shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force. [[Tennessee v. Garner](#), 471 U.S. 1 (1985)]
- C. Deadly Force Restrictions
1. Deadly force should not be used against persons whose actions are a threat only to themselves or property.
  2. Firearms shall not be discharged at a moving vehicle unless;
    - a. a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
    - b. a person in the vehicle has attempted to flee through the use of a firearm and it reasonably appears deadly force is necessary to prevent escape; or
    - c. the vehicle is operated in a manner deliberately intended to strike an employee or another person, and all other reasonable means of defense have been exhausted (if present or practical), which includes moving out of the path of the vehicle.
  3. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an employee must have an articulable reason for this use of deadly force.

## **VIII. DUTY TO INTERVENE**

- A. Officers have a sworn duty and obligation to protect members of the public ([NCGS 15A-401 \(d1\)](#)). Consistent with this obligation, employees should take a preventive approach, whenever possible, if observing behavior that suggests that another employee is about to engage in unlawful or inappropriate behavior, as described more

fully below.

- B. Employees of the Graham Police Department are required to intervene within their scope of authority and training when necessary to prevent or stop another employee from using a level of force that the employee knows, or should reasonably be expected to know, is excessive or unwarranted under the existing circumstances.
- C. A sworn officer, while in the line of duty, who observes another law enforcement officer use force against another person that the observing officer reasonably believes exceeds the amount of force authorized by policy and by law and who possesses a reasonable opportunity to intervene, shall, if it is safe to do so, attempt to intervene to prevent the use of excessive force.
- D. Failure to intervene, as required by this policy, may result in disciplinary action up to and including dismissal.
- E. The observing officer or employee shall, within a reasonable period of time not to exceed 72 hours thereafter, report what the employee reasonably believes to be an unauthorized use of force to a supervisor at the Sergeant or above level, even if the observing employee did not have a reasonable opportunity or authority to intervene. If the Chief of Police was involved or present during what the observing employee reasonably believes to be unauthorized use of force, the observing employee shall make the report to the agency's highest ranking law enforcement officer who was not involved in or present during the use of force.
- F. Duty to Report
  - 1. Graham Police Department employees shall immediately notify a supervisor after conducting any type of intervention, when safe to do so.
  - 2. Graham Police Department employees have a duty to immediately report any conduct in violation of federal, state, or local law or agency policy observed or learned about, when safe to do so. Notification shall be made to a supervisor, documented, and submitted through the Chain of Command and/or internal affairs process on [Form 29F](#).
  - 3. All types of interventions, whether physical or verbal, shall be documented and submitted through the Chain of Command and/or internal affairs process.
  - 4. Failure to report, as required by this policy, may result in disciplinary action up to and including dismissal.

## IX. PROHIBITIONS ON USE OF FORCE

- A. ***Warning shots prohibited*** - Warning shots are inherently dangerous. Therefore, a warning shot is strictly prohibited by this agency.
- B. ***Neck holds prohibited*** - Officers shall not use choke holds, strangle holds, chest compressions, or any other tactics that restrict oxygen or blood flow to the head or

neck unless deadly force is authorized.

## **X. MEDICAL ASSESSMENT**

- A. Whenever an officer uses force on an individual in custody, the officer will ensure the individual receives appropriate medical treatment. The officer in which utilized the force shall complete a GPD Form 70 (Report of Injury to Prisoner) and submit same through the Chain of Command with other required Use of Force paper work.
- B. If an individual is affected by a use of police force, and is not in-custody, officers will make reasonable efforts to ensure any associated medical issues are addressed. A subject who has not been arrested may not be forced to receive post exposure care or medical treatment.

## **XI. REPORTING AND DOCUMENTATION OF USE OF FORCE**

- A. Whenever an employee uses force against another person, immediate notification of the employee's supervisor is required.
- B. A written report shall be submitted when an employee applies use of force through:
  - 1. Discharging a firearm for other than training or recreational purposes.
  - 2. The use of a firearm by pointing the weapon at a person.
  - 3. When taking action that results in, or is alleged to have resulted in, injury or death of another person.
  - 4. The use of any lethal or less-lethal weapons including ASP baton, OC, or the Taser.
  - 5. The use of weaponless physical force that results in injury or complaint of injury, or when using any force other than handcuffing or searching a suspect.
- C. The employee shall submit reports to his/her supervisor before the end of the tour of duty (unless extended by the supervisor). The reports shall consist of an Incident Report and a Graham Police Department Use of Force Report.

## **XII. INVESTIGATION AND REVIEW OF ALL USE OF FORCE INCIDENTS**

- A. All cases of use of force (less-lethal and deadly) shall be investigated and reviewed by the Chief of Police or his designee. A report of findings will be forwarded to the Chief of Police. This investigation will be performed to ensure that department procedures and State Statutes have been followed.

The investigation shall include at a minimum:

1. Victim(s) statements
2. Statements of all Employees present
3. Witness statements
4. Forensic evidence such as photographs, video footage, etc.

**B. Less-Lethal Force**

1. Investigations involving less-lethal force that does not result in injury to the employee or another person may be investigated beginning the next business day. The format of the investigation shall be determined by the Chief of Police.
2. If less-lethal force is used and it results in an injury to the employee or another person, the employee will notify his supervisor and the supervisor shall immediately begin an initial investigation.
  - a. If during the investigation it appears that the action was justified, then the shift supervisor may allow the employee to remain or return to duty. This is not to be confused with the official departmental investigation which will also be conducted.
  - b. If during the investigation it appears that the action was not justified, the supervisor will notify the Chief of Police (or his designee) through the chain of command. The Chief of Police shall immediately place the member on non-disciplinary suspension until such time as a decision is made and the investigation is complete.

**Note: Refer to [City of Graham Policy Manual](#) Sec. 8-17. Non-disciplinary Suspension.**

- c. A Use of Force Report will be submitted by the employee to the shift supervisor describing the incident, articulating and substantiating the force used and any medical services rendered. The shift supervisor will review and forward detailed reports of any such incident with appropriate comments to the Chief of Police through the chain of command.

**C. Deadly Force and Force Resulting in Serious Physical Injury**

1. In all cases where deadly force is used or the employee's action(s) result in death or serious physical injury, the shift supervisor will immediately be notified. The shift supervisor will immediately respond to the scene and will conduct/supervise the preliminary investigation of the incident.

2. The supervisor will secure and retain all weapons and ammunition on the employee's person and will remove the employee to a secure location to be interviewed. Other involved employees should refrain from discussing the incident amongst themselves or other members of the department.
3. The supervisor will notify the Chief of Police (or his designee) through the chain of command. An immediate internal investigation will be initiated.
4. The Chief of Police will remove the employee from the line of duty during the investigation and until the investigation has been completed. This will be done to protect both the employee's and the community's interest until the situation is resolved. The member will be placed on a suspension with pay or special assignment pending administrative review and during any investigation by the North Carolina SBI.

**Note: Refer to [City of Graham Policy Manual](#) Sec. 8-17. Non-disciplinary Suspension.**

5. Debriefing - In cases in which the employee has either shot and/or killed a suspect in the line of duty or been involved in a critical or traumatic incident such as a fatal motor vehicle accident, the employee will be required to attend a debriefing session with a licensed mental health professional. The appointment will be scheduled as soon as possible by the Chief of Police. This section is not only limited to shooting incidents. A post-incident debriefing can be arranged as soon as feasible to discuss the incident and the aftermath of the incident. The employee's family members may also participate in the (EACP) Employee Assistance Counseling Program. Expenses for the debriefing will be paid for by the city.
6. The Assistant Chief shall notify the NC Criminal Justice Education and Training Standards Commission of any critical incident involving any use of force by an officer that results in the death or serious body injury to a person for inclusion in a statewide database as required by NCGS 17C-15.

### **XIII. REVIEW AND ANALYSIS OF USE OF FORCE AND ASSAULTS ON EMPLOYEES**

- A. The agency shall conduct an annual analysis of all use of force activities, policies related to use of force, and agency practices. The Patrol Operations Captain shall conduct this analysis by March 1<sup>st</sup> each year and forward same to the Chief of Police. The analysis shall identify the following:
  1. Date and time of incidents
  2. Types of encounters resulting in use of force
  3. Trends or patterns related to race, age and gender of the subjects involved



4. Trends or patterns resulting in injury to any person including employees; and
  5. Impact of findings on policies, practices, equipment, and training.
- B. The agency shall conduct an annual review of all assaults on law enforcement officers to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues. The Patrol Operations Commander shall conduct this review by March 1<sup>st</sup> each year and forward same to the Chief of Police.

#### **XIV. Issuance and Maintenance of Weapons**

- A. Before being issued to an employee, all lethal and less lethal weapons will be inspected and approved for issuance by a qualified weapons instructor or armorer.
- B. Officers are responsible for maintaining agency issued weapons in proper working order. Officers who discover that a department issued weapon is not in proper working order may notify their supervisor orally but must also file a written memo with the supervisor. The supervisor will insure that the issue related to the weapon is corrected. Correction may include removing the weapon from service and submitting the weapon to the appropriate weapons instructor, armorer, manufacturer, or repair center.
- C. Record on each weapon approved for official agency use are maintained by the Support Services Commander.
- D. While on duty, officers shall not place or store any weapons in a manner so as to be exposed or readily accessible to the public or prisoners. While off duty, all weapons should be secured and stored in a safe manner and in compliance with manufacturer recommendations and agency guidelines.

#### **XV. Training**

- A. Pre-Service Training - All employees authorized to carry lethal and less lethal weapons shall receive all use of force policies and related instruction before agency authorization to carry a weapon. Training must be conducted and proficiency must be observed and documented by a certified instructor. Policy receipt and curriculum delivery will be documented in the employee's orientation materials and/or training file as appropriate.
- B. In-Service Training
1. All employees authorized to carry lethal and less lethal weapons shall receive in-service training, at least annually, on this agency's use of force policy and related legal updates.
  2. This policy is to be reviewed annually during in-service training and any questions or concerns should be addressed to the instructor or the employee's immediate supervisor for clarification.

3. All employees authorized to carry approved lethal weapons and CEWs must demonstrate proficiency on those weapons at least annually.
  4. Authorized employees who carry less lethal weapons (other than CEWs) shall receive in-service training on the use of less lethal weapons and weaponless control techniques at least biennially.
  5. In addition, in-service training shall be provided on a regular and periodic basis and designed to:
    - a. Provide techniques for the use of and reinforce the importance of de-escalation;
    - b. Simulate actual use of force situations and conditions; and
    - c. Enhance officers' discretion and judgment in using less-lethal and deadly force in accordance with this policy.
- C. All use of force training shall be documented and the documentation must be maintained by the training division.
- D. Remedial training is required for employees who are unable to qualify with an authorized weapon prior to resuming official duties.
1. Remedial firearms training is addressed in [Policy 33](#).
  2. If an officer fails to demonstrate proficiency and successfully pass the OC course of instruction, they will be required to retake and successfully pass the training course prior to carrying OC.
  3. If an officer fails to demonstrate proficiency and successfully pass the ASP/Baton course of instruction, they will be required to retake and successfully pass the training course in order to carry the ASP/Baton.