



Lincoln Police Department

Standard Operating Procedures

Integrity, Competency, Fairness



Subject:	Reporting and Investigating Force	Policy #	O-2(A)
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MLEAP:			
	<i>Rescinds All Previous Policies Related To This Current Policy</i>		
Issuing Authority:	Chief of Police Lee Miller		

I. PURPOSE

The purpose of this policy is to provide officers and their supervisors with guidelines for reporting and investigating use of force incidents. In order to protect citizens and employees, the Lincoln Police Department ("Department") is committed to documenting and investigating use of force incidents.

II. POLICY

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and preserve the integrity of the Lincoln Police Department, as well as the jurisdiction that provides this authority. As such, it is this Department's policy that officers report ALL use of force incidents, as designated herein, in a timely, complete, and accurate manner, as prescribed by this policy. Any officer, who uses force, is a witness to a use of force incident, or who authorizes conduct leading to the use of force incident, when possible shall not conduct the review/investigation.

III. DEFINITIONS

Critical Firearm Discharge: When an officer discharges a firearm. Range and training discharges, and discharges at animals, are not included under this section.

Deadly force: Physical force, which a person uses with the intent of causing, or which he knows to create a substantial risk of causing, death, or serious bodily injury. Intentionally or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force. Vehicles intentionally ramming vehicles and roadblocks may in certain circumstances also constitute deadly force.

Force: Any physical strike, or contact with an instrument, of a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes: aiming of a firearm, discharge of a firearm, use of chemical agents, use of impact weapons, use of an electronic control weapon (ECW), taking a subject to the ground, and any physical contact that includes control techniques. The term does not include escorting or handcuffing a person with minimal or no resistance. Use of force is lawful if it is *objectively reasonable* under the circumstances to effect an arrest, or protect the officer or other person.

Harm: Injury inflicted upon a person, whether visible or not.

Hard Hand Control: Impact oriented techniques that include knee strikes, elbow strikes, punches, and kicks. Control strikes are used to subdue a subject and include strikes to pressure points such as: the common peroneal nerve (side of the leg), radial nerve (top of the forearm), or brachial plexus origin (side of neck).

Non-Deadly force: Any use of force not intended to cause, nor likely to cause, death or serious bodily harm.

Reportable Use of Force: All force used above non-resistant compliant handcuffing, with the exception of an incident involving drawing a firearm at low ready position. While it does not include un-resisted (cooperative) handcuffing, it does include handcuffing individuals to objects.

Resisted Handcuffing: When a person actively resists being placed in handcuffs and the officers must use “soft hand controls” to gain compliance by forcibly moving the subject’s wrists or arms, or to physically maneuver the subject’s body so the handcuffs can be applied. The “resistance” may range from an active struggle to a person simply “locking” his/her arms to prevent compliant handcuffing. Conversely, “unresisting (cooperative) handcuffing” occurs whenever the subject complies with the officer’s verbal commands and/or unresistingly allows the officers to position their arms in order to apply handcuffs, or the subject positions their arm as commanded for the application of handcuffs.

Serious bodily Injury: Injury that causes death or creates a substantial risk of death, permanent harm to health, disfigurement, permanent loss of functions by any organ in the body, or results in treatment at a medical facility. Note: minor treatment such as eye-washing, cleansing, and bandaging; evaluation with no injury discovered; etc., will be evaluated on a case-by-case basis by a supervisor, and absent extenuating circumstances, may not be designated as serious bodily harm.

Serious Use of Force: Any action by an officer that involves: a) the use of deadly force, including all critical firearm discharges; b) a use of force in which the person suffers serious bodily injury, or requires hospital admission; c) a canine bite; and d) the use of chemical spray or electronic control weapon against a restrained person.

Soft Hand Control: The use of physical strength and skill in defensive tactics to control arrestees that are reluctant to be taken into custody and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance pressure points, takedowns, joint locks, and simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive physical resistance.

Supervisor: A supervisor includes a Sergeant and above who is assigned responsibility for supervising officers.

Weapon: Any instrument, article or substance, including a vehicle, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other serious bodily injury.

IV. PROCEDURE

A. Responsibility for Reporting

1. Officers shall, as soon as possible, notify their shift supervisor of any Level 1 reportable use of force. In all cases, the notification shall be made by the end of the officer's shift.
2. Officers shall immediately notify their shift supervisor following any Level 2, or 3 reportable use of force.
3. Officers shall, immediately following all reportable use of force, complete a Subject Aggression and Resistance form.
4. The completed Subject Aggression and Resistance form shall be submitted to the shift supervisor prior to the officer completing his/her tour of duty. When completing the report, officers are also required to provide a written narrative statement of the event. The following additional procedures shall apply:
 - a. Each officer who uses force shall submit a separate written Subject Aggression and Resistance Report. The officer must articulate, in specific detail, the facts and circumstances surrounding the force used.
 - b. Any officer who witnesses a reportable use of force shall advise a shift supervisor, or appropriate commanding officer, and shall submit required reports.
 - c. If an officer uses force on more than one subject during the same event, the officer shall complete one Subject Aggression and Resistance form.
 - d. If an officer is unable to complete the report due to injury, the officer's immediate supervisor will complete it to the extent possible.
 - e. A reportable use of force shall be reviewed and investigated by a supervisor of a higher rank than the officer using force (the reporting officer).

5. All use of force reports shall specify the actions of the suspect that necessitated the use of force, the reasons why the officer(s) used force, as well as any suspect or officer complaints of injury, medical treatment received, or refusal of medical treatment.
6. The arresting officer shall notify transporting officers if force was used on the arrestee or if the arrestee has an injury or complains of pain.
7. Shift supervisors shall investigate and report any reportable use of force as directed in Section (C) of this policy.
8. Any officer(s) who engages in or witnesses a reportable use of force, but fails to notify a shift supervisor and/or fails to complete the form as outlined by this policy, shall be subject to disciplinary action.
9. A supervisor who uses force, authorizes the use of force, authorizes conduct leading to the use of force, or is a witness to the use of force shall not be allowed to conduct the investigation.
10. Officers who are the subject of an allegation of excessive force shall immediately notify a shift supervisor to document the incident as a citizen complaint. The supervisor shall investigate the incident in accordance with applicable policies.

B. Force Levels

1. Level 1
 - a. A firearm is intentionally pointed at a person;
 - b. A weaponless defense technique is applied to a vulnerable area, excluding strikes (e.g., hair grab, pressure to mastoid or jaw line; and shoulder muscle grab).
 - c. A weaponless defense technique control hold is applied:
 1. Escort (elbow);
 2. Twist lock;
 3. Arm-bar; or
 4. Bent-wrist.

NOTE: Unresisted handcuffing is not considered a reportable use of force.

2. Level 2

- a. Chemical agent is applied to a person;
- b. The use of an ECW involving any of the following circumstances;
 - 1. When one or more probes impacts or penetrates the subject's clothing or skin;
 - 2. When the push stun arc touches the subject's clothing or skin; or
 - 3. An ECW is fired at a person, but misses.
- c. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but no contact is made; or
- d. The impact weapon is used for a non-striking purpose (e.g., prying limbs, moving, or controlling a person);
- e. A weaponless defense technique, other than control holds, but excluding strikes to the head. Examples include:
 - 1. Hand/palm/elbow strikes;
 - 2. Kicks;
 - 3. Leg sweeps; and
 - 4. Takedowns
- f. An on-duty firearm discharge at an animal, other than to dispatch an injured animal. Any strike to the head (except for an intentional strike with an impact weapon);
- g. Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and contact is made, regardless of injury.
- h. A police canine bites the clothing or the skin of a subject, or otherwise injures a subject.
- i. Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance.

Note: For the purposes of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency medical treatment.

4. Level 3

- a. Any use of force resulting in death;
- b. Any critical firearm discharge regardless of injury;
- c. Any force which creates a substantial risk of causing death;
- d. Any force which causes serious bodily injuries as identified in this policy
- e. Any intentional impact weapon strike to the head.
- f. Any use of force investigation that is elevated to a Level 3 approved by a Sergeant.

C. Referral/Transport for Medical Attention

1. Arresting and transporting officers shall ask prisoners, against whom force was used, whether they are injured or ill.
2. A suspect shall be examined by a physician or qualified health care provider prior to interrogation or prisoner processing for purposes of detention when suffering from, or complaining of, injury or illness or when, among other instances, the individual:
 - a. is struck on the head or other body parts with an impact weapon or other hard object;
 - b. is restrained about the neck or throat;
 - c. is sprayed with a chemical agent;
 - d. is subject to an ECW application;
 - e. is struck with any non-lethal weapon projectile such as an ECW dart, pepper ball, or
 - f. is bitten by a police canine.
3. An injured prisoner shall not be admitted to, or held in, detention without being examined and released by a physician or qualified health care provider.
 - a. Whenever there is doubt concerning the need for medical attention, it should be resolved through examination of the

subject by a physician or qualified health care provider.

- b. Refusal of treatment shall be documented and verified by the officer s and attending physician or qualified health care provider.

D. Supervisory Responsibilities

1. General

- a. The Supervisor, after being notified of a Level 2 or 3 use of force, shall determine if they need respond to the scene and conduct a preliminary investigation into the use of force. All Level 3 use of force will require the response to the scene by a supervisor if one is not already on duty.
- b. The supervisor, after being notified of a Level 3 Officer Involved Shooting, shall follow the procedures set forth in A-12 Deadly Force Incident Procedure.
- c. While at the scene of a Level 2 or 3 use of force, the supervisor shall visibly inspect the subject(s) for injury, interview the subject for complaints of pain, and ensure that the subject receives needed medical attention.
- d. While at the scene of a Level 2 or 3 use of force, the Supervisor will photograph or videotape all claimed or visible injuries, and all areas where the officer reports striking the subject. Photographs of the subject shall be taken even when there are no signs of injury.

2. Level 1 Use of Force

- a. When notified of a Level 1 use of force, the shift supervisor shall do the following:
 - 1) Document and review the officers Subject Aggression and Resistance form;
 - 2) Obtain, review, and sign the completed Subject Aggression and Resistance form from each officer prior to the end of the tour of duty;
 - 3) Evaluate the basis for the use of force and determine whether the officer's actions were within Department policies;
 - 4) Forward a copy of the signed completed Subject Aggression

and Resistance Report form to the Deputy Chief prior to the end of the tour of duty.

- b. The Chief shall review the Subject Aggression and Resistance and the supervisor's findings and:
 - (1) if necessary, return the report to the shift supervisor to correct any identified deficiencies, or
 - (2) approve the report and place in Power DMS for review by the Chief
- c. The Chief may in his or her discretion return the Level 1 use of force investigation to the supervisor for further review and investigation.

3. Level 2 Use of Force

- a. When notified of a Level 2 use of force the supervisor will respond to the scene on a priority basis and shall do the following:
 - 1) document, as necessary, the scene of the incident;
 - 2) interview any physician or qualified health care provider concerning the injuries sustained and their consistency with uses of force reported;
 - 3) collect or cause to be collected all evidence of use of force;
 - 4) identify and interview witnesses other than officers as appropriate;
 - 5) obtain, review, and sign the completed Subject Aggression and Resistance form from each officer s prior to the end of the tour of duty;
 - 6) forward a copy of the signed completed Subject Aggression Report Form to a supervisor prior to the end of the tour of duty;
 - 7) Summarize his or her investigation and findings
- b. In some situations, a use of force that is a level 2 may not need a supervisor respond (i.e. prying arm with baton). In those circumstances, if approved by the Chief it may be treated like a

level 1 response.

c. The Chief shall review a supervisor's Level 2 reports/reviews within thirty (30) calendar days.

d. The report will be place in Power DMS.

4. Level 3 Use of Force

a. In cases involving a Level 3 or a serious use of force as defined by this policy, the supervisor shall:

1) immediately respond to and secure the scene;

2) insure that officers and citizens receive appropriate medical attention;

3) notify the dispatch that an officer has been involved in a confirmed Level 3 use of force;

4) document, as necessary, the scene of the incident;

5) secure, or cause to be secured, all evidence of use of force for appropriate processing by the investigative units;

6) identify witnesses, both officer and civilian, and insure that they are segregated for interview by investigating units;

b. The supervisor, after being notified of a Level 3 officer involved shooting, shall follow the procedures set forth in A-12 Deadly Force Incident Procedure.

E. Chief

1. Ensure that the supervisors respond to the scenes of reportable use of force as required.

2. Review Use of Force investigations submitted by the immediate supervisor, and:

a. Verify that all applicable Subject Aggression and Resistance Forms and accompanying paperwork were submitted within the specified timelines;

b. Ensure that the Subject Aggression and Resistance and

accompanying paperwork were reviewed and signed by the immediate supervisor; and

- c. Verify that the use of force is reported accurately and completely, and that all information concerning the incident/arrest is consistent in all reports.

- 1) Where there are discrepancies between the reports, or the Supervisor determines that further investigation is required, he/she shall return the investigation to the appropriate supervisor for corrections, clarification, and additional investigative steps as needed.

- 3. Once the investigation is approved, determine the disposition for each allegation of use of force:
 - a. Justified, Within Department Policy – a use of force is determined to be justified, and during the course of the incident the subject officers did not violate the Lincoln Police Department policy.
 - b. Justified, Policy Violation – a use of force is determined to be justified, but during the course of the incident the subject officers violated a Lincoln Police Department policy;
 - c. Justified, Training Opportunity – a use of force is determined to be justified, no Lincoln Police Department policy violations occurred, but the investigation revealed tactical error(s) that could be addressed through non-disciplinary, tactical improvement training; or
 - d. Not Justified, Not within Department Policy – a use of force is determined to be not justified, and during the course of the incident the subject officer violated Lincoln Police Department policy.
- 4. Appropriate non-disciplinary corrective action and/or disciplinary action will be taken when a supervisor fails to conduct a timely and thorough investigation, neglects to recommend appropriate corrective action, or neglects to implement appropriate corrective action.

F. Raid and Warrant Situations

- 1. Each officer who uses force will fill out a separate reportable Subject Aggression and Resistance Form including pointing of firearms at subjects during raids, or execution of search and/or arrest warrants.
 - a. Officers are advised that the reportable use of force report does not take the place or substitute for the completion of an Incident Report.

An incident report should be prepared and the incident report number must be included in the Subject Aggression and Resistance Form.

- b. The use of force investigations shall be conducted in accordance with and pursuant to applicable Department policies.

G. Training

- 1. The Department shall coordinate and review all use of force policies and training to ensure quality, consistency, and compliance with applicable law and Department policy. Department shall provide the appropriate training that will enhance the abilities of supervisors to conduct effective, complete, and thorough use of force investigation

