



Ohio Attorney General's Office Bureau of Criminal Investigation Investigative Report



2024-1474

Officer Involved Critical Incident - 16100 Van Aken Blvd.,
Shaker Heights, OH

Investigative Activity: Records Received
Involves: Elyria Police Department
Activity Date: 05/17/2024
Activity Location: 4055 Highlander Parkway, Richfield, Ohio 44286
Authoring Agent: SA Andrew J. Harasimchuk #170

Narrative:

On May 17, 2024, at approximately 0740 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Andrew Harasimchuk (Harasimchuk) received the Elyria Police Department's Use of Force Policy from Elyria Police Department Lieutenant Eric Palmer #242. The Use of Force Policy was added as an attachment to this report for further review.


References:

None

Attachments:

1. Elyria Police Department General Order - 4.30 - Response to Resistance and Aggression

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<p>NUMBER: 4.30</p>	<p>ELYRIA POLICE DEPARTMENT GENERAL ORDER</p>	
<p>EFFECTIVE: 09/01/1996 REVISED: 04/24/2024 DISTRIBUTION: ALL PERSONNEL</p>		
<p>Chief: William R. Pelko <i>William R. Pelko #243</i></p>	<p>RESPONSE TO RESISTANCE/AGGRESSION</p>	

AUTHORITY

- Ohio Revised Code (ORC) 2935, Power of Arrest
- Ohio Revised Code (ORC) 2917.05, Justifiable Use of Force to Suppress Riot
- United States Supreme Court 471 U.S. 1 (1985) Tennessee v. Garner
- United States Supreme Court (409 U.S. 386, 109 S. Ct. 1865) Graham V. Connor

PURPOSE: The purpose of this order is to identify when force may be used in the course of an employee's duties, and the types of force authorized under given circumstances. This order outlines the procedures for reporting and investigating the response to resistance/aggression and the alleged response to resistance/aggression by employees; what less lethal tools are authorized for use by employees; and to identify the training and qualifications required to carry and use those less-lethal tools.

POLICY: It is recognized by the Elyria Police Department that officers, in the performance of their official duties, have the need to overcome resistance and aggression presented to them. Officers are therefore authorized to use force which is reasonably necessary to accomplish lawful objectives. Officers need not desist in their attempt to arrest merely because resistance is offered, but it is their duty to neutralize such resistance and bring the arrestee under control. An officer shall only use such force as is objectively reasonable to overcome and neutralize the encountered resistance.

DEFINITIONS:

"Department" means the Elyria Police Department.

"Employee" means any sworn officer, auxiliary officer, civilian employee or volunteer individual or group working under the general direction of the Chief of Police.

"Firearm" means any firearm issued or authorized by the department for the on-duty or off-duty use by qualified employees.

"Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing. This includes:

1. The detention or restraint of a person if physical force beyond that normally required is used and/or which may cause physical harm or serious physical harm.
2. The striking of another with hands or other limbs of the body, or, throwing or pushing a person, causing them to collide with the ground or another object.
3. The use of Less Lethal Tools.

“Deadly force” means any force that carries a substantial risk that it will proximately result in the death of any person. (ORC §2901.01 (A)(2)).

"Physical Harm to Persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

“Reasonable belief” is similar to “probable cause”, in that it depends on the specific facts and circumstances within the knowledge of the individual officer and that would warrant a “reasonable person” to exercise the same or similar action.

“Serious physical harm to persons” means any of the following:

1. Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
2. Any physical harm that carries a substantial risk of death;
3. Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
4. Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;
5. Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain. (ORC §2901.01 (A)(5))

“Substantial risk” means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist. (ORC §2901.01 (A)(8))

“Imminent threat (danger)” means impending; or on the point of happening. It may also be defined as impending rather than remote, uncertain, or contingent; that if circumstances remain unchanged, a result is reasonably certain. (From Black’s Law Dictionary)

"Probable Cause to Believe" means that the facts or circumstances that the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

"Less Lethal Weapon/Technique" means any weapon or device, or technique other than a firearm, used to control persons or defend the officer or others from physical harm. This includes, but is not limited to, the ASP Defensive Weapon, Pepper Ball Gun, Conducted Electrical Weapons, Oleoresin Capsicum, as well as joint manipulation and physical control techniques.

"Environmental Tools" means any item man made or from nature that is readily at hand.

"Emergency Impact Tool" means any piece of police equipment in the officer’s hands at the time of contact or interaction with the community. These include the department issued flash light, handcuffs, clip board, ticket book, or any other piece of equipment.

“Objectively Reasonable” means the determination that the necessity for using force and the level of force used is based upon the officer’s evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations. This policy guideline applies to all uses of force, not only the use of deadly force.

“Control” means physical measures employed by officers to overcome resistance, aggressive/combatative behavior or actual or attempted flight while effecting a lawful arrest, including any application of verbal commands, physical

direction or escort techniques, joint manipulation/pain compliance, chemical weapons, conducted energy weapons, hard empty hand control, impact weapons, or deadly force.

“De-escalation”: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

“Passive Resistance offered during nonviolent demonstrations” means a method of protest commonly used during nonviolent demonstrations where a subject does not respond to an officer’s commands, refuses to move, or becomes limp or dead weight.

I. RESPONSE TO RESISTANCE/AGGRESSION PROCEDURES (CALEA 4.1.1)

POLICY: Employees may use only that amount of force which is **reasonably necessary to accomplish lawful objectives**. This includes but is not limited to effecting a lawful arrest, overcoming resistance to a lawful arrest, the execution of legal processes, enforcing an order of the court, executing any duty imposed upon the officer by law, preventing the escape of an arrestee, or protecting or defending his/herself or others from physical harm. No employee shall use unreasonable or excessive force. (OLEC 8.2015.1.A)

The following procedures apply to the response to aggression incidents by all employees of the Elyria Police Department in the course of their official duties.

A. Employee Responsibilities

1. All employees of the department are responsible and accountable for all instances where they use force or deadly force in the course of their duties.
 - a. All employees have a duty to intervene to prevent or stop the use of unreasonable force by another employee when it is safe and reasonable to so. (CALEA 1.2.10)
 - b. All employees shall notify their immediate supervisor as soon as practical after they observe an incident involving the use of unreasonable force.
 - c. Upon notification of the incident, the immediate supervisor shall ensure that the, Division Commander and Chief of Police are notified of the incident as soon as practical; in the event that the use of unreasonable force results in injury to the subject, the Division Commander and Chief of Police shall be notified immediately.
2. All employees of the department are responsible for notifying their superiors and completing the appropriate reports concerning the response to resistance/aggression any time they use any force in the course of their duties or when they observe, or have knowledge of, force being used by another employee.
3. The Officer-In-Charge is responsible for initiating a review of all response to resistance/aggression incidents occurring during his/her shift and making the proper notifications as warranted.
4. The Division Commander is responsible for ensuring the completion of all response to resistance/aggression investigations within their respective Division in an accurate and timely manner.

B. Non-violent Demonstrators:

1. If a nonviolent demonstrator refuses to move or uses the weight of his body to defeat the control of the officer, escort techniques, joint manipulations and pressure point controls may be used.

2. Officers, however, are not authorized to use weaponless strikes to muscle groups, stun techniques or to use takedown techniques with nonviolent demonstrators.

NOTE: This exception only applies to nonviolent demonstrators. If at any time the demonstration becomes violent, Officers are authorized to use force that is objectively reasonable.

C. Use of Verbal Commands

1. In dealing with people, each employee must attempt to inspire respect and generate the cooperation and approval of the public. Employees shall be courteous and civil in their relationships with the public.
2. Verbal commands may be in the form of advice, persuasion, and/or warnings. Volume and tone control may, in and of itself, be progressive in nature depending upon the circumstances.
3. By using reasonable and necessary verbal commands, officers may not have to resort to the use of other forms of force.
4. When practical, officers should give and continue to give loud, repetitive, verbal commands ordering the subject to stop resisting and to comply with further orders. Tell the subject what you want them to do.

D. De-escalation

1. Whenever practical and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training before resorting to force.
2. Whenever practical and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

E. Use of Physical Force

1. Physical Force involves actual physical bodily contact with an individual and forcibly subduing that individual until resistance is overcome without the use of firearms or less lethal devices or objects that could be construed as weapons or less lethal devices.
2. Employees are authorized to use physical force, when reasonable, to accomplish lawful objectives. After a lawful arrest is made, employees may use that force which is reasonable to control and prevent the arrested individual's escape.
3. Handcuffed subjects whose resistance is limited to spitting of bodily fluid should not be subjected to the use of chemical agents (OC) for control. In such situations, employees are authorized to utilize transport hoods (commonly referred to as spit shields) to protect themselves from possible exposure to airborne pathogens.
 - a. Prior to utilizing the transport hood, employees should attempt to use other alternatives to stop the subject's actions. These include verbal warnings or placing an object (shirt, towel, etc) between the suspect and the employee.
 - b. The transport hood is to be used only for protection of the employee/others. It is not to be used as a form of punishment.

- c. Transport hoods are placed into all marked cruisers and are to be disposed of after use. Any employee using or disposing of a transport hood is required to seek a replacement hood from his/her Officer in Charge.
 - d. Any use of a transport hood must be documented on the department EPD Form 549 – Action-Response Report.
4. When possible, the suspect should be transported to a medical facility if necessary or the detention facility and processed by officers not involved in the use of force.

II. USE OF DEADLY FORCE (CALEA 4.1.2) (Ohio Collaborative 8.2015.1.A)

POLICY: The preservation of human life is of the highest value in the State of Ohio and the City of Elyria. Employees **MUST** have an objectively reasonable belief deadly force is necessary to protect human life in imminent danger of serious physical injury or death, before the use of deadly force. Employees shall be justified and may use deadly force only under the following circumstances:

- 1. To defend themselves from an imminent danger of serious physical injury or death, **OR**;
- 2. To defend another person from an imminent danger of serious physical injury or death, **OR**;
- 3. An employee is justified in using force, including deadly force, upon a subject when the employee is engaged in suppressing a riot or in protecting persons or property during a riot when, and to the extent that, the employee has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm or death to persons (Ohio Revised Code 2917.05), **OR**;
- 4. To stop a fleeing suspect if the officer has probable cause to believe all of the following, and, if feasible, a warning to stop is given:
 - a. The suspect has committed or is alleged to have committed a felony, **AND**;
 - b. The response is necessary to prevent the escape of the suspect, **AND**.
 - c. The suspect poses significant threat of death or serious physical harm to the officer or others should arrest be delayed.

III. LESS LETHAL WEAPONS & MUNITIONS (CALEA 4.1.4)

POLICY: The Elyria Police Department authorizes the use of less lethal weapons and munitions to provide officers with additional use of force options, alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy. In accordance with this directive less lethal weapons and munitions may be used to accomplish lawful objectives. Only those less lethal weapons and munitions that are authorized by the department may be carried or utilized by an employee. Officers are allowed to use authorized less lethal weapons and munitions only after completing training from a certified weapons instructor.

- A. The use of less lethal weapons will be restricted to quelling physical confrontations where lesser verbal or physical force have been, or would have been, ineffective or inappropriate. Unless impractical, unreasonable or dangerous to do so, a verbal warning shall be given before less lethal weapons or munitions are deployed.
- B. The use of any less lethal weapons shall be in accordance with the recommendations of the manufacturer, the guidelines established in the approved training courses of the department, and the guidelines as stated in this order. Any other use is prohibited and could subject the employee to disciplinary action or civil action.

C. Prohibited Techniques

- a. Vascular Neck Restraint, a maneuver that restricts the flow of blood by applying pressure to the carotid arteries is prohibited with exception to when the use of deadly force would be authorized
- b. **CHOKER HOLD:** A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. The use of a choke hold is expressly prohibited with exception to when deadly force would be authorized.

D. Carrying approved weapons:

1. Sworn members of this Department, on uniformed duty, shall carry only the approved less lethal weapons authorized by the Chief of Police, as recommended by the Defensive Tactics Team, for the purpose of accomplishing lawful objectives.
2. **Plain clothes carry:** Officers working plain-clothes (non-uniform) details are encouraged but not required to carry a less lethal weapon, due to issues of concealment, etc.
3. The **use of other instruments** readily at hand, for defensive purposes, is only authorized when an authorized less lethal weapon is not immediately available or accessible and only within the scope of training received by an officer with regard to the response to resistance/aggression.
4. Sworn employees in police uniform shall carry a canister of OC spray and one additional less lethal weapon (ASP baton or TASER) on their duty belt while performing field operations. Staff employees, as determined by the Chief, may be exempt from the requirement of carrying less lethal tools on their person while performing general duties. Staff personnel shall be required to maintain two less lethal weapons on their duty belt when assigned field responsibilities.

E. Authorized Less Lethal Weapons

1. Oleoresin Capsicum (OC): Employees are authorized to carry Department-issue Oleoresin Capsicum after successfully completing the department's approved training program. The department shall require biennial recertification. **(CALEA 4.3.1.A)**
 - a. Oleoresin Capsicum may be utilized by an employee under circumstances consistent with the Action-Response Continuum outlined in this directive.
 - b. The utilization of Oleoresin Capsicum shall be consistent with the manufacturer's recommendations and the training guidelines of the Elyria Police Department.
 - c. Once Oleoresin Capsicum has been utilized and control of the individual has been established and/or resistance has ceased, the employee shall make reasonable efforts to allow the affected subject relief from the discomfort associated with the application of the Oleoresin Capsicum, as set forth in the manufacturer's recommendations and the training guidelines of the Elyria Police Department.
 - d. Under normal circumstances, medical treatment of subjects subjected to Oleoresin Capsicum should not be required. Medical treatment shall be made available to subjects subjected to Oleoresin Capsicum under the following conditions:
 1. The subject does not show signs of relief, other than mild after-effects, after the normal recovery period of approximately 45 minutes.

2. The subject requests medical attention or the employee has reasonable cause to believe the subject requires medical attention.
2. ASP: Employees are authorized to carry the ASP Defensive Weapon as the duty baton after successfully completing the department's approved training program. A biennial recertification is required. All sworn personnel not issued a Conducted Electrical Weapon (C.E.W.) are required to carry the ASP baton as a second less lethal weapon. **(CALEA 4.3.1.A)**
 - a. The ASP Defensive Weapon may be utilized by an employee under circumstances consistent with the Action-Response Continuum outlined in this order.
 - b. The utilization of the ASP Defensive Weapon shall be consistent with the manufacturer's recommendations and the training guidelines of the Elyria Police Department.
 - c. A color photograph shall be taken of the area of application of the ASP Defensive Weapon on all persons subjected to the ASP Defensive Weapon.
 3. Straight Baton (Riot Baton): Employees are authorized to utilize a straight baton as part of the authorized riot-control equipment after successfully completing the department's approved training program. A biennial recertification is required. **(CALEA 4.3.1.A)**
 - a. The straight baton may be utilized by an employee under circumstances consistent with the Action-Response Continuum outlined in this order.
 - b. The utilization of the straight baton shall be consistent with the manufacturer's recommendations and the training guidelines of the department.
 - c. A color photograph shall be taken of the area of application of the baton on all persons subjected to the Straight Baton.
 4. Conducted Electrical Weapons (CEW): Employees are authorized to carry the department issued TASER in accordance with General Order 4.30.2- Conducted Electrical Weapons. **(CALEA 4.3.1.A)**
- F. Authorized Less Lethal Munitions **(CALEA 4.3.1.A)**
1. Less Lethal Impact Projectiles are authorized less lethal munitions that can be fired, launched or otherwise deployed for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing a significant potential of causing death. These include beanbag rounds, wooden baton rounds, rubber pellets and foam/rubber baton rounds that can be fired with a 12-gauge shotgun, 37 MM or the Pepperball system.
 2. Chemical Agent Projectiles are authorized less lethal munitions dispensed from projectiles fired from various weapons systems (e.g., 12-gauge, 37 MM, or the Pepperball system). These munitions are commonly used at incidents involving large civil disturbances, barricaded suspects, and high-risk entry situations and are used to effectively gain the compliance of combative subjects, the mentally unstable, or person(s) under the influence of drugs or alcohol who pose a physical threat to citizens, themselves or officers.
 3. Chemical Agent Canisters are authorized less lethal munitions that are commonly used in large civil disturbances, barricaded suspects, and high-risk entry situations (e.g., hand thrown or launched grenades).
 4. Employees who have successfully completed the department's approved training program may use less lethal munitions. A biennial recertification for less lethal munitions is required.

- a. Less Lethal Munitions may be utilized by an employee under circumstances consistent with the Action-Response Continuum outlined in this order.
 - b. The utilization of less lethal munitions shall be consistent with the manufacturer's recommendations and the training guidelines of the Elyria Police Department.
 - c. When possible, a color photograph should be taken of the area of application on any person subjected to less lethal munitions in accordance with department directives.
- G. **Review, Inspections and Approval:** Services shall assign a qualified weapons instructor to review and inspect all less lethal weapons and munitions. Prior to carry, the weapons instructor must approve, as appropriate, each weapon and munitions ensuring that it meets the department standards. Approved items will then be placed into inventory and be made available for issuance into the field. This process may be accomplished during the initial inventory of newly obtained weapons or periodically as required for inventory purposes. During training sessions, qualified weapons instructors shall visually inspect less lethal weapons and ensure that they are in proper operational order. **(CALEA 4.3.1.C)**
- H. If any less lethal weapon or munitions is found to be deficient or unsafe, the weapon shall be held from issuance, or removed from service and replaced as necessary. The employee shall notify the OIC or a Division Supervisor to seek a replacement. Deficient less lethal weapons shall be placed in the Patrol Supply Room in the area designated for out of service items. The notified supervisor shall replace the weapon in accordance with established Department issuance procedures. **(CALEA 4.3.1.D)**
- I. **Securing and Storage:** All employees shall secure and store less lethal weapons and munitions, both on and off-duty, in such a manner as to ensure that no unauthorized person will have access to, or gain control over them.

IV. **RENDERING MEDICAL AID (CALEA 4.1.5)**

- A. Any time an employee uses force on any person or the person is injured during an apprehension, the employee shall evaluate the subject and determine if medical aid is necessary or required. Employees must use sound judgment and should err on the side of caution if unsure about a subject's status. Medical treatment shall be provided under the following circumstances:
- 1. If there is any obvious visible injury that requires medical treatment.
 - 2. If the subject requests medical attention.
 - 3. If the subject is incapable of communicating his/her well-being and an officer has reason to believe the subject needs medical attention.
 - 4. If the subject is unconscious any time during the contact.
- B. Officers shall ensure EMS is called to the scene if emergency medical aid is required.
- a. In the event that lifesaving aid is needed prior to the arrival of EMS, Officers should render such aid; this may include the use of issued field trauma supplies (C.A.T. Tourniquet, Quick Clot, etc.)
- C. At no time shall an in-custody-subject be handcuffed and placed face down or on his/her stomach for any extended period. Officers shall always be alert for signs of positional asphyxia. This condition is generally believed to be caused by placing a subject face down while maintaining a significant amount of weight on the subject.

- D. A sworn supervisor shall be detailed to the scene of the incident as soon as practicable for all incidents where any injury has occurred, or is suspected, or where the subject is to be transported to a medical facility. If a supervisor was involved in the use of force, a senior supervisor shall be detailed as described above.
- E. Any incident that results in serious injury or death of a subject shall be reviewed by the Professional Standards Committee.

V. **REPORTING (CALEA 4.2.1) (Ohio Collaborative 8.2015.1.B)**

POLICY: Anytime an employee takes an action that results in, or is alleged to have resulted in, the injury to or death of another person, and/or applies force through the use of any less lethal and/or deadly weapon, or applies weaponless physical force by means of a defensive tactic or technique, or any other bodily force to overcome resistive tension, the Officer-In-Charge shall be immediately notified, or notified as immediately as practical, either directly by the involved employee or another employee.

- A. Except for incidents covered by Section V subsection E, the primary (arresting) officer who takes any action that results in, or is alleged to have resulted in, the injury to or death of another person, and/or applies force through the use of any less lethal and/or deadly weapon, or applies weaponless physical force by means of a defensive tactic or technique or any other bodily force to overcome resistive tension, shall properly complete and submit an Action-Response Report on the approved EPD Form 549.
- B. Unless the subject claims injury, minor hand-to-hand control techniques, such as handcuffing, physically touching, or gripping to overcome minor resistive tension, or escort techniques shall not require completion of an Action-Response Report form but shall be documented in the officer's report narrative.
- C. Any additional employee present shall complete and submit a Patrol narrative within the case report.
- D. These reports shall be completed by the employee prior to the end of the employee's tour of duty. If the employee is injured or unable to complete the Action-Response Report, the OIC will assign a supervisor to complete the report.
 - 1. The Action-Response Report serves to summarize the general "Actions" of the Subject and the "Response" employed by all employees present at the time force was used.
 - 2. In the event that more than one employee discharges a firearm or Conducted Energy Weapon during an incident, those employees **WILL** be required to complete an Action-Response Report (EPD Form 549), completing the appropriate sections.
 - 3. The officer shall complete a narrative within the Case Report which shall address, but not be limited to:
 - a. All circumstances leading up to and surrounding the use of force or the alleged use of force.
 - b. The specific type of force that was used and how that force was administered.
 - c. All possible injuries to the employee, the subject or others involved.
 - d. Documentation of all medical treatment required. Medical treatment offered and refused shall also be documented.
 - 4. The completed Action-Response Report shall be submitted to the Officer-In-Charge.
 - 5. Any employee who witnesses and/or has personal knowledge of a response to aggression or resistance incident shall report same immediately or as immediately as practical, to the Officer-In-Charge and shall

complete any requested reports to the Officer-In-Charge prior to the end of the employee's tour of duty, unless otherwise directed.

E. Use of Force Incidents that Result in Criminal Investigation

1. If an officer is involved in a use of force that results in the criminal investigation of said use of force, the officer's statement to criminal investigators will serve as their documentation of their use of force. The officer will not be required to provide a written narrative, nor complete the Elyria Police Department Form 549 – Action Response Report, in addition to their verbal statement to criminal investigators. However; this does not preclude officers from completing a written narrative if they believe it is necessary to accurately depict their actions or state of mind during the use of force incident. Should an officer decline to speak with criminal investigators, the officer will be required to complete a written narrative as well as the Elyria Police Department form 549 – Action Response Report as documentation/reporting of the incident.
2. If the officer finds that there are inaccuracies, lack of specific detail or any other discrepancy upon review of the criminal investigators' report, the officer should bring the issue(s) to the attention of the investigators. The officer may do this at the direction of their legal counsel.
3. An officer involved in a use of force incident, which results in the criminal investigation of said use of force, may be required to complete a written probable cause narrative to support the criminal charges against the suspect(s) involved in the incident. This written narrative will not require documentation of the officer's use of force, and will be limited to the suspect(s) actions leading to, and during, the incident or arrest.
4. It is acknowledged that an officer might complete a written narrative and EPD Form 549 prior to knowing that the use of force incident will be investigated criminally. In such a case, the officer may review said documentation prior to their statement to the criminal investigators. It shall be understood that any incident involving the use of deadly force, by an officer, will result in a criminal investigation of said force.

VI. INVESTIGATION & REVIEW PROCEDURE (CALEA 4.2.2) (Ohio Collaborative 8.2015.1.C)

POLICY: An administrative review will be completed for all response to resistance/aggression incidents in effort to determine whether there are policy, training, weapon/equipment, or discipline issues that should be addressed.

- A. Preliminary Review: The Officer-In-Charge, upon notification that force was used, shall immediately or as immediately as practical, review the Action-Response Report and the known circumstances surrounding the incident. The scope of the review and investigation required will depend on the amount of force used, the type of force used, and the extent of injury, if any, sustained, and any claims of abuse by the subject. The Officer-In-Charge's review and investigation should include, but is not limited to the following.
 1. Reviewing of submitted Action-Response Reports.
 2. Interviewing of involved employee(s), as necessary.
 3. Interviewing of involved subject(s), as necessary.
 4. Interviewing of any witnesses, as necessary.

5. Ensuring that color photographs are taken of any injuries or alleged injuries of either the subject(s) or the employee(s), as necessary.
 6. Ensuring that any potential evidence involved is preserved, as necessary.
 7. Ensuring that the Injury on Duty packet is completed by any injured employee, as necessary.
 8. Completing a Supervisor's Review documenting findings and recommendations in regards to the incident. For incidents requiring minimal review by the Officer-In-Charge, the completed Action-Response Report, once signed by the Officer-In-Charge, will serve as the Supervisor's Review for the response to resistance/aggression incidents. If any department directive was violated, or alleged to have been violated, the OIC shall ensure that a separate Supervisor's Report is completed detailing the circumstances of the incident. The Supervisor's Report shall be forwarded through the Chain of Command.
 9. The Officer-In-Charge shall forward the original Action-Response Report(s) submitted by the involved employee(s) through the proper Chain of Command.
- B. The Division Commander shall review all submitted reports in regards to a reported response to resistance/aggression incidents, ensuring that correct procedures were followed by all employees involved in physical confrontations with subjects, that the employee's or employees' actions were properly documented, and that any preliminary review into the employee's use of force or allegations of same is accurate and complete. The Division Commander shall submit his/her findings, including any conclusions and/or recommendations, as soon as is practical to the Chief of Police.
- C. The Chief of Police, upon receipt and review of all documentation pertaining to any response to resistance/aggression incident, shall have the final determination as to whether the incident was within the scope of the department's directives, as outlined in this order. In the event that it is determined that the incident was not in compliance with directives, the Chief of Police shall initiate appropriate disciplinary action.

VII. EMPLOYEE REMOVAL PENDING REVIEW (CALEA 4.2.3)

In the event that any employee's actions, including the use of force, result or are alleged to have resulted in the proximate death or serious physical injury of another, the employee shall be removed from his/her line-duty (operational) assignment by the Officer in Charge and placed on administrative leave pending an administrative review of the incident.

VIII. LESS-LETHAL WEAPON/DEFENSIVE TACTICS PROFICIENCY (CALEA 4.3.2)

- A. All employees authorized and required to carry less lethal weapons shall be required to demonstrate proficiency with those weapons. Only those personnel who demonstrate proficiency shall be approved to carry the weapon. Any failure to demonstrate proficiency shall result in the employee being restricted from carrying or utilizing the weapon and may result in disciplinary action being taken.
- B. Biennially, employees who are authorized to carry less-lethal weapons, other than the TASER, shall complete proficiency training with those weapons. In-service training for weaponless control techniques (Defensive Tactics) shall be completed biennially. **(CALEA 4.3.3)**
- C. All proficiency training must be monitored by a certified weapons or defensive tactics instructor. **(CALEA 4.3.3.A)**

D. All training and proficiency must be documented by the instructor and submitted to the Training Officer as Pass/Fail. **(CALEA 4.3.3.B)**

E. Remedial Training: Any failure to demonstrate proficiency shall result in the employee being restricted from carrying or utilizing the weapon and may result in disciplinary action being taken. **(CALEA 4.3.3.C)**

1. Based on the training type, environmental conditions and extenuating circumstances outside of the employee control should be taken into consideration. For these instances, it is recommended that the employee be rescheduled to a later date, time and/or location as appropriate.
2. The instructor shall take reasonable steps to allow personnel to qualify with the weapon(s).
3. Any Defensive Tactics/Weapons Instructor shall be entitled to suspend authorization to utilize weapons, based on an employee's inability to qualify/certify with their issued weapon.
4. Should the employee fail to qualify after reasonable attempts to qualify, the instructor shall inform the employee that he/she cannot carry the weapon at matter in the performance of their duties. The instructor shall inform the employee that he/she will prepare a written correspondence to the employee and the employee's Division Commander identifying the failure to demonstrate proficiency along with his/her observations.
5. The Division Commander shall ensure that a Supervisor Report is prepared and the matter shall be addressed.
 - a. The Division Commander shall determine if the employee needs to be removed from his/her assignment based on the deficiency.
 - b. The Division Commander will forward the Supervisor Report to the Chief of Police for review along with his/her recommendations (remedial training, disciplinary action, etc.).
 - c. The Chief of Police shall make the final determination.
 - d. The employee shall not be authorized to carry the weapon until proficiency has again been demonstrated.
 - e. These actions should be documented in the employee's Performance Evaluation.

F. Disciplinary actions: At any time during the qualification/certification process, disciplinary actions may be initiated if the failure to perform satisfactorily is due to a failure to follow the directions or suggestions of the defensive tactics/weapons instructors(s), a failure to follow established rules, a lack of willingness to participate or cooperate with the instructor(s), an apparent attempt to deliberately fail to qualify/certify, or any other conduct that would violate the disciplinary code of conduct of this Department or that would indicate the member cannot or will not qualify with Department weapons.

IX. DIRECTIVE ISSUANCE & TRAINING **(CALEA 4.3.3 & 4.3.4)**

All personnel authorized to carry lethal and less-lethal weapons during the performance of his/her duties shall be provided with a copy of related use of force directives, either in hard copy or electronic form. Employees shall not be authorized to carry weapons in any status outside of training until they have received proper instruction and have acknowledged the related directives. Annually, sworn employees shall be tasked with completing a review of related use of force directives. This review shall include reading, completing a test on the content of this directive, and signing acknowledgement of this directive. **(OLEC 8.2015.1.D)**

X. ANNUAL ANALYSIS OF REPORTS **(CALEA 4.2.4)**

The Chief of Police shall assign an employee to conduct an annual documented analysis of response to aggression

activities, directives and practices. The review should identify:

- date & time of incidents;
- types of encounters resulting in use of force;
- trends or patterns related to age, gender and race of subjects involved;
- trends or patterns resulting in injury to any person including employees;
- Impact of findings on policies practices, equipment and training.

SUPERCEDES: GO 4.30-Response to Resistance and Aggression with revision date of 2-22-2018

CROSS REFERENCE TO DIRECTIVES: GO.4.30-Response to Resistance and Aggression & GO 4.30.2-Conducted Electrical Weapons, Ohio Revised Code (ORC) 109.801, Re-qualification; Ohio Administrative Codes (OAC) §109:2-1-11, §109:2-1-12, and §109:2-1-16 regarding initial certification as a peace officer; Ohio Administrative Code §109:2-13 regarding annual re-qualification and certification as a peace officer; and Ohio Revised Code §109.801 regarding re-qualification

CROSS REFERENCE TO STANDARDS: CALEA 4.1.1, 4.1.2, 4.1.4, 4.1.5, 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.3.1, 4.3.2, 4.3.3, 4.3.4, OLEC Standard 8.2015.1

CROSS REFERENCE TO FORMS: Action-Response Report Form- EPD 549

REVISIONS:

DATE	REVISIONS FROM PREVIOUS VERSION
2-22-2018	Defensive Tactics training added to section VIII
2-22-2018	Section VI renamed to Investigation & Review Procedure
2-22-2018	Section II deadly force revised to include specific CALEA language
10-01-2020	Removed Use of Force Continuum
10-01-2020	Minor language changes
10-01-2020	Duty to Intervene added
10-01-2020	LVNR (Vascular Neck Restraints) use changed to deadly force option only
04-24-2024	Added language from and replaces Special Order 2024-001