



Ohio Bureau of Criminal Identification & Investigation
INVESTIGATIVE REPORT



12/27/2012 REVIEW OF CPD USE OF FORCE POLICY

Summary

On December 27, 2012, Ohio BCI Special Agent Thomas Verhiley assisted with the Cleveland Police Officers involved in the shooting that occurred on November 29, 2012.

Details

During the course of this investigation, Special Agent Supervisor Dennis Sweet and Special Agent Thomas Verhiley reviewed the Cleveland Police Department Use of Force Policy. A copy of the aforementioned policy 2.1.01 was obtained on December 18, 2012, with a revised date of May 7, 2007. The portion of the policy regarding the use of Use of Force reads as follows:

Cleveland Police Department Use of Force Policy

The purpose of the Cleveland Police Department Use of Force Policy is to establish guidelines for members of the Cleveland Division of Police for the use of non-deadly and deadly force.

A reverence for human life shall guide members in the use of force. Division members shall use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the life of the member or others. Excessive force shall not be tolerated. A member's responsibility is the protection of the public. Standards for the use of force are the same on and off duty. Members shall not use deadly force that may injure or kill bystanders or hostages, except to preserve life or prevent serious bodily injury. Deadly force is never justified solely to protect property. It must be stressed that the use of force is not left to the unregulated discretion of the involved member. This is not a subjective determination. The use of force must be objectively reasonable. Justification for the use of force is limited to the facts actually known or reasonably perceived by the member at the moment that force is used. Deadly force shall not be used to affect an arrest or prevent the escape of a person unless that individual presents an imminent threat of death or serious bodily injury to members or others. At the scene of a police incident, many officers of the division may be present and some officers may not be directly involved in taking police actions. However, this does not relieve any officer present of

File Number: SI-18-12-82-1493	File Title: Timothy R. Russell (S) Malissa A. Williams (S)
Case Agent: Mark Kollar	Authoring Agent: Verhiley, T. #76 <i>TV</i>
Date of Report: December 27, 2012	Exhibit #: N/A
Investigative Activity: Review of Cleveland Police Use of Force Policy	Supervisor Approval: Dennis Sweet <i>D Sweet</i> JAN 14 2013

This document is the property of the Ohio Bureau of Criminal Identification and Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency.

the obligation to ensure that the requirements of the law and Divisional regulations are complied with. Officers of the Division of Police are required to maintain control if the use of force against a subject clearly becomes excessive.

Cleveland Police Officers shall be trained and tested yearly on the law and Division policy regarding the use of force, appropriate methods to effect arrests, and the apprehension of fleeing subjects. The Division mandates strict knowledge and compliance with this order. Immediate supervisors are responsible for clarifying misunderstandings associated with this order.

Deadly force

Deadly force is an action likely to cause death or serious physical harm. It may involve firearms, but it also includes any force that falls within this definition. Deadly force includes firing at or in the direction of a person.

Objectively reasonable force

Objective reasonable force is that level of force that is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who actually used force. Objective reasonableness is not analyzed with hindsight, but will take into account, where appropriate, the fact that officers must make rapid decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations. This policy guideline applies to all uses of force, not only the use of deadly force.

Force Level

Members shall determine the level of force necessary to protect themselves or others, or gain compliance from combative, resistant or violent individuals.

Use of Deadly Force/Firearms

Officers who meet the Division's physical and mental requirements and demonstrate proficiency shall be allowed to carry firearms. Officers shall carry and use only weapons, holsters and ammunition furnished by the City of Cleveland or authorized by the Chief of Police. Officers may draw, display or point a weapon if they fear for their own safety or the safety of others.

Vehicle Stops

Vehicle stops, (felony, misdemeanor, or suspicious circumstances) present tactical dilemmas for officers. Officers shall not unreasonably place themselves in a position where a threat of imminent danger of death or serious physical injury is created when attempting to stop a motor vehicle or apprehend a felony suspect. While conducting a felony stop or stop for suspicious circumstances, the officer shall employ tactics that promote safety for the officer and the public. Firing at or from a moving vehicle is rarely effective and presents extreme danger to innocent persons, particularly if the officer driving the vehicle is attempting to fire a weapon. Many

vehicles involved in violations are driven by persons whose age or reasons for fleeing do not justify the use of firearms as a means of apprehension. Intentionally firing at a moving vehicle is prohibited unless there is imminent danger of death or serious injury to officers and/or other persons, where other means are not available to avert or eliminate the threat, and, where feasible, some warning has been given. Officers shall not fire at a vehicle that is no longer an imminent threat. Officers shall not fire warning shots.

In summary the Cleveland Police Department Use of Force Policy:

Use of Deadly Force

1. An officer may use deadly force when necessary to defend themselves or others when the officer reasonably believes that imminent danger of death or serious physical harm exists.
 2. Deadly force shall not be used to affect an arrest of a person unless that individual presents an imminent threat of death or serious bodily injury to members or others.
 3. Police are required to provide a warning, if feasible, before using deadly force.
 4. Deadly force is permissible only for as long as the threat remains.
 5. When the threat is over, the use of deadly force must stop.
-