

# PINEVILLE POLICE DEPARTMENT

**GENERAL ORDER: 600-01**  
**SUBJECT: USE OF FORCE**  
**DISTRIBUTION: All Personnel**  
**EFFECTIVE DATE: 03-01-2007**  
**LAST REVISION DATE: 03-30-2016**  
**BY ORDER OF: Robert Merchant, Chief of Police**

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## PURPOSE

The purpose of this Order is to explain the law and departmental policy regarding the use of force by Pineville Police Officers. Understanding the law and departmental policy will allow officers to perform their duties confidently and wisely, without subjecting themselves to criminal or civil liability.

## POLICY

Police Officers are delegated the authority and responsibility to protect life and property, and to apprehend criminal offenders. However, the apprehension of criminal offenders and the protection of property must at all times be subservient to the officer's duty to protect life, including his own. Consistent with this principle, it is the policy of the Pineville Police Department that officers shall use force only to the extent reasonably necessary to achieve the lawful objectives of the Department.

## DEFINITIONS

The following definitions are for the limited purpose of this General Order and may not apply in all cases:

1. Deadly Force: Force that is plainly likely to cause serious physical injury or death.
2. Non-Deadly Force: Any physical force other than deadly force. The use of a collapsible baton or similar weapons normally is non-deadly force, but can constitute deadly force, depending on the manner of use.
3. Reasonable Belief: The facts or circumstances known to the officer are such as to cause an ordinary and prudent person to act or think in a similar way under similar conditions.
4. Reasonably Necessary: Force that might be used only to accomplish lawful objectives and only to the extent reasonably necessary in light of the circumstances confronting the officer. Force is reasonably necessary only if lesser force would not likely lead to safe control of persons and situations.

5. Serious Physical Injury: An injury that creates a substantial risk of death, serious and protracted disfigurement, or impairment of the functions of any bodily organ or limb.

## PROCEDURES

### A. STATEMENT OF AUTHORITY

1. A Pineville Police Officer is authorized to use **non-deadly force** upon another person when that force is, or reasonably appears, to be necessary:
  - a. to prevent the escape from custody or to effect the arrest or an investigative detention of a person who he reasonably believes (or reasonably suspects; in the case of an investigative detention) has committed a criminal offense; or
  - b. to overcome resistance to his lawful authority; or
  - c. to defend himself or a third person from what he reasonably believes to be the use of physical force while effecting or attempting to effect an arrest or investigative detention, while preventing or attempting to prevent an escape, or while otherwise engaged in the lawful performance of his duties.
2. A Pineville Police Officer is authorized to use **deadly force** upon another **ONLY** when that force is, or reasonably appears, to be necessary:
  - a. to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or
  - b. to effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon; **OR** who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay.
3. Any use of force which is not reasonably necessary in conformance with the laws and Constitution of North Carolina and the United States of America is prohibited. Nothing in this policy shall be construed to permit, excuse or justify the use of unreasonable or excessive force.

### B. ELECTRONIC CONTROL DEVICES:

1. Use of the TASER is permitted when a reasonable officer would perceive an immediate threat of harm to himself or others, including self-inflicted injury by the subject he is trying to control. The TASER should not be deployed where a person is merely non-compliant or resistant, unless the non-compliance or resistance creates and immediate safety risk that can be reduced by the use of the TASER. Members of the agency are also instructed that the use of a TASER, whether in drive stun or probe mode, is considered an intermediate level of force, the same as OC Spray or an impact weapon.

2. When deploying a TASER in either drive stun or probe mode, officers are instructed to be aware of foreseeable risks of secondary injury, especially falls from elevated positions or on hard surfaces, or the ignition of flammables.
4. When the TASER is used in probe deployment mode, the preferred target area of the body is the back of the person. However, frontal shots are allowed in situations of active physical resistance to arrest and defense of self or others, including the prevention of self-inflicted injury. Absent justification for the use of deadly force, members of the Pineville Police Department are prohibited from intentionally deploying the TASER at a person's head, neck, eyes, throat, or genitals.
5. Before resorting to a TASER deployment (probe or drive stun), officers must consider four factors:
  - a. the severity of the crime at hand;
  - b. whether the suspect poses an immediate threat to the safety of others or himself;
  - c. whether the suspect is actively physically resisting arrest and poses an immediate danger of harm; and
  - d. the likely extent of injury to the suspect.
6. After each TASER deployment, the officer shall surrender the TASER to his or her immediate supervisor so that the data pertaining to that specific deployment can be downloaded and submitted for review during the supervisor's investigation of the incident.

**C. LIMITS ON THE USE OF FORCE:**

1. **WARNING SHOTS:** Warning shots may be fired in an effort to stop a person **only** when the officer is authorized to use deadly force, and then only if the officer reasonably believes a warning shot will eliminate the need for deadly force and can be fired safely in light of the existing circumstances.
2. **FIRING AT OR FROM MOVING VEHICLES:** Firing at or from a moving vehicle is prohibited except where the officer reasonably believes there is an imminent threat of death or serious injury to themselves or a third person if the officer does not do so. Officer safety is best served by finding a position of safety rather than firing at or from a moving vehicle.
3. **CHOKER HOLDS:** Choke holds and similar techniques which restrict a person's ability to breathe are prohibited except when the officer reasonably believes that there is an imminent threat of serious physical injury or death to themselves or a third person if he or she does not do so, and that such action is the only reasonable means of protecting themselves or a third person.
4. **HEAD BLOWS WITH IMPACT WEAPONS:** The use of a baton or other impact weapon by an officer to strike an intentional blow to a person's head is prohibited except when the officer reasonably believes there is an imminent threat of serious

physical injury or death to themselves or a third person, and there is no other reasonable alternative for defending him or herself or a third person. Depending upon the method of use and other circumstances, a flashlight, handgun, baton, or other similar object used as a club to strike a head blow could be considered use of deadly force.

5. CHEMICAL MUNITIONS AND DISTRACTION DEVICES: While intended to be non-deadly weapons, these may have potentially deadly capabilities, especially where the delivery method is a projectile or grenade that could seriously injure a person upon impact or explosion. The use of chemical munitions or distraction devices must be authorized by the on-scene incident commander after careful assessment of the existing conditions. *(Note: For the purpose of this section, the term "chemical munitions" does not include individually issued duty canisters of OC aerosol spray).*
6. OFF-DUTY ACTIONS: Off-duty officers shall refrain from taking forcible police action except in those circumstances that occur within the territorial jurisdiction of the Department and which seriously threaten life, valuable property, or public order. In other circumstances, the appropriate police action is to request the assistance of an on-duty officer at the first opportunity.
  - a. Before taking any action while off-duty, officers should carefully consider the risks to themselves and to others that may be caused by a sudden confrontation with armed criminals or suspects. If feasible, the off-duty officer should identify him or herself as a law enforcement officer before taking any action.
  - b. No un-armed off-duty officer will be subject to disciplinary action for failure to take law enforcement action if such action would reasonably require the officer to be armed.
7. DISPLAY AND BRANDISHMENT OF WEAPONS: Except for general maintenance, storage, inspection or authorized training, officers shall not draw, point, or exhibit their firearm or other weapon unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance with the law and with Departmental policy.
8. WEAPONS AND DEVICES PERMITTED: Officers may carry and use only those weapons and control devices which have been issued by the Pineville Police Department, or which have been specifically authorized in accordance with departmental directives.
9. SHOTS TO DESTROY ANIMALS: Shots to destroy animals may be fired only when it is reasonably necessary to do so in order for the officer to defend himself or another person against an immediate threat of significant physical injury, or to relieve a badly injured animal from great suffering.
  - a. Before destroying a badly injured domestic animal, the officer shall make reasonable efforts to notify the animal's owner and/or any appropriate agencies or authorities (Humane Society, nearby veterinary office, Animal Control, etc.) in order to involve more appropriate persons in the decision. If no suitable

alternative is identified, the officer may, upon supervisory approval, proceed with the destruction of the animal.

- b. No weapon shall be fired to destroy any animal, wild or domestic, unless the weapon can be fired safely with respect to human life and other property. Following destruction, the officer will be responsible for arranging the removal or other appropriate disposition of the animal prior to leaving the scene.

**D. PROCEDURES FOLLOWING THE USE OF FORCE**

1. **PERSON IN NEED OF MEDICAL ATTENTION:** If any person on whom an officer used force needs medical attention, the officer shall assist such person where appropriate and notify a supervisor. The supervisor shall order or otherwise arrange transportation of such person to a place where necessary medical care can be obtained. If the officer is in doubt as to the necessity of medical treatment, the officer shall seek guidance from a supervisor. In no event, however, shall apparently necessary medical attention be unreasonably delayed in order to notify or obtain guidance from a supervisor.
2. **PHOTOGRAPHS OF INJURIES:** With the consent of the injured person, the police supervisor shall, when feasible, have photographs taken of the injuries. Photographs may also be taken to document the absence of visible injuries when a complaint of injury is made and no injury is apparent. Officers with visible injuries should also be photographed.
3. **CHARGING FOR RESISTANCE AND ASSAULT:** If an officer exercising police authority encounters resistance that clearly justifies a charge of resisting arrest or assaulting an officer, these charges should be made immediately.
4. **NOTIFICATION OF SUPERVISOR:** An officer who uses force on a subject shall notify his immediate supervisor at once. The supervisor shall conduct appropriate investigation into the incident. If the officer's immediate supervisor is unavailable, the officer shall notify the next higher supervisor in his chain of command. Off-duty officers involved in use of force situations are subject to the same notification and reporting procedures as on-duty officers. When an off-duty officer uses force, he shall notify an on-duty supervisor immediately.
5. **CUSTODY OF FIREARMS DISCHARGED:** Any officer who has discharged a firearm during a use of force incident shall, once the threat to his/her safety has been eliminated, maintain custody and preserve the weapon in the same condition it was following the use of force. The involved officer will hold the weapon until such time as it can be turned over to authorities charged with the responsibility of investigating the discharge. In the event that the officer is injured or otherwise unable to maintain custody and control of the weapon, a supervisor shall secure the weapon as evidence and submit it to investigators.
6. **DOCUMENTATION/REPORTING REQUIRED:** All use of force by officers other than deadly force shall be documented and reported on a Use of Force Report. The purpose of filling out the report is to immediately document the use of force so that, should any questions arise concerning the force incident, the pertinent facts will be

readily available. The report will also be used to assist in identifying training and equipment needs.

- a. Not every touching by an officer requires completion of a Use of Force Report or notification of a supervisor. Some examples of situations which **DO** require supervisory notification and completion of a Use of Force Report include:
  - i. an officer exercising police authority uses an impact weapon, flashlight, hand, fist, foot, or other object to strike a blow to a subject;
  - ii. an officer exercising police authority bodily removes or drags a resisting subject from one place to another, or uses force which in any way causes a subject to suffer a blow to the head, or to lose consciousness;
  - iii. an officer exercising police authority uses any chemical agent, conducted energy weapon, or distraction device;
  - iv. an officer discharges his firearm, regardless of duty status and regardless of whether the discharge was accidental or intentional, and no one is struck by any round(s) fired. (Exceptions: lawful hunting activity, approved firearms range activity, other lawful/safe private target practice).
    - (a) An officer who uses force on a subject shall complete the applicable portions of the Use of Force Report and forward it to his supervisor no later than the end of the tour of duty on which the force was used. Off-duty officers are subject to the same reporting procedures as on-duty officers, and shall forward a completed Use Of Force Report to the on-duty supervisor.
    - (b) The supervisor receiving a Use of Force Report shall prepare an administrative report detailing their initial investigation to determine the relevant facts and circumstances surrounding the force incident, and their findings as to whether the application of force was in accordance with departmental policies. The supervisor's administrative report will be attached to the officer's Use of Force Report and submitted accordingly.
    - (c) Original copies of all Use of Force Reports are to be forwarded for review via the chain of command to the Chief of Police, who will determine if further action of any kind is required. Use of Force Reports will be maintained on file in the office of the Chief of Police for a period of three (3) years from the date of the force incident. After three years, the Use of Force Report will be purged unless it has become the subject of civil or criminal litigation.
    - (d) The agency will conduct an annual analysis of Use of Force Reports to identify patterns or trends that may indicate training needs and/or policy modifications.

**E. INVESTIGATION OF OFFICER INVOLVED SHOOTINGS AND DEADLY FORCE EVENTS:**

1. **PRELIMINARY RESPONSE:** The preliminary response to a deadly force incident involving a department member is the responsibility of the ranking on-duty patrol supervisor. This responsibility includes responding directly to the incident location, summoning necessary medical aid, securing the scene, and notifying higher command authorities. Once initial measures have been taken to eliminate any existing threat and/or provide emergency medical aid to injured persons, the scene shall be secured and officers posted to provide perimeter security pending the arrival of higher command authorities. Witnesses should be identified for questioning by the assigned investigators, but witnesses may not be detained against their will absent reasonable suspicion or probable cause as to their own involvement in criminal activity.
2. **CRIMINAL INVESTIGATION:** The Chief of Police will request that the State Bureau of Investigation (SBI) conduct an independent criminal investigation of any incident involving the use of deadly force by a department member that results in death or serious physical injury to any person. The Director of SBI has established procedures for that agency's investigation of such incidents. These procedures are designed to ensure the public's confidence in the objectivity and integrity of such investigations.
  - a. A team of SBI agents will immediately respond to handle the initial aspects of the investigation (i.e. crime scene processing, interviewing of witnesses, etc.) and assume overall responsibility for conducting the investigation.
  - b. The Police Department will turn over all aspects of the criminal investigation to the SBI in such incidents. The role of the SBI is to obtain all of the facts so that the District Attorney can make a determination as to any criminal liability on the part of the involved law enforcement officer(s).
  - c. Any internal administrative investigation conducted by the Police Department will be conducted separately from the criminal investigation but will be initiated at the same time as the SBI criminal investigation.
  - d. It will be standard practice for our agency to release the name of the involved officer(s) to the news media, and to confirm that the SBI has been requested to investigate the matter.
  - e. Upon completion of their investigation, the SBI will submit a written report to the District Attorney, without a conclusion or recommendation, for his review and decision if further investigation or prosecution is warranted. Officers should remain aware that in such cases, the submission of the SBI's final report to the District Attorney might be delayed pending receipt of laboratory reports and/or medical examiner findings.
  - f. If the SBI cannot respond to the scene or will have an extended estimated time of arrival, the Chief of Police may authorize the Charlotte-Mecklenburg Police

Department to respond to initiate the criminal investigation. The Charlotte-Mecklenburg Homicide Unit will be the requested unit to respond.

3. **INTERNAL INVESTIGATION:** An internal administrative investigation shall be conducted into the use of deadly force by a department member that results in death or serious physical injury to any person. The investigation will be the responsibility of a designee of the Chief of Police and shall be conducted in accordance with the applicable provisions of General Order 500-02 (Internal Affairs).
4. **INVESTIGATION OF VEHICULAR USE OF FORCE:** In the event of a traffic collision arising from an officer operating a police vehicle in a manner that may constitute a use of deadly force (e.g., moving roadblock, forcible stop, etc.), and that results in the serious injury or death of any person, the Chief of Police will request that the N.C. State Highway Patrol conduct the investigation. The Highway Patrol will be responsible for requesting additional investigative assistance from the State Bureau of Investigation, if needed.
5. **ADMINISTRATIVE LEAVE:** Any officer involved in a deadly force incident resulting in death or serious injury to any person shall be placed on paid administrative leave. This leave shall not be interpreted to imply or indicate that the officer has acted improperly. While on administrative leave, the officer shall remain available for official department business, including interviews and statements regarding the incident, and may be recalled to duty at any time. Upon returning to duty, the officer may be assigned to administrative duties for a period of time deemed appropriate by the Chief of Police.
6. **CRITICAL INCIDENT DEBRIEFING:** In all cases where any person has been seriously injured or killed as a result of the application of deadly force by an officer, the involved officer will be required to undergo a debriefing with a department provided psychologist as soon as practical. The purpose of this debriefing will be to assist the officer in dealing with any emotional and/or psychological after-effects of the incident. The debriefing will not be related to any criminal or administrative investigation and will remain protected by the privileged physician/patient relationship. Where appropriate, critical incident stress debriefing services may also be made available on a voluntary basis to other personnel involved in the incident.

#### **F. INSTRUCTION IN USE OF FORCE POLICIES**

All sworn personnel will be issued a copy of and instructed in the provisions of this General Order before being authorized to carry a departmental firearm or other issued/authorized weapon.

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#### **Revisions:**

*03-01-2007 (original)*

*02-19-2014*

*03-30-2016*