

City of Johns Creek Police Department

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| <i>Subject:</i> Use of Force—General | | <i>Number:</i> 04-16 |
| <i>Reference:</i> Graham v. Connor, 490 U.S. 386 (1989), 04-17, 04-18 | | <i>Amends:</i> |
| <i>Effective:</i> 04/08 <i>Revised:</i> 05/09 02/10 11/12 02/13 01/16 04/17 08/19 | <i>Review Date:</i> Annually | <i># of Pages:</i> 5 |

PURPOSE:

Establish and prescribe guidelines for the lawful use of deadly and non-deadly force.

DEFINITIONS: (04-16-01)

Forcible Felony: Any felony which involves the use or threat of physical force or violence against any person.

Force: The amount of active power, strength or energy reasonable to overcome a person's physical resistance.

Non-deadly Force: Force which is neither intended to nor likely to cause death or great bodily injury.

Deadly Force: Force which is intended, or likely to cause death or great bodily injury.

Serious Physical Injury: A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement or results in long-term loss or impairment of the functioning of any bodily member or organ. This also includes loss of consciousness due to use of force actions.

Immediate Danger of Death or Great Bodily Harm: May include cases where such a danger exists or the officer believes there is such a danger and is unable to confirm its actual existence.

Reasonable Belief: The facts or circumstances 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.

POLICY: (04-16)

Police officers are tasked with keeping peace, enforcing laws, and making arrests. These tasks may require officers to use force to achieve a lawful objective. An officer's use of force should increase public safety, be effective and constitutional, and be objectively reasonable based on the situation faced. Personnel will use reasonable force when force is used to accomplish lawful objectives.

The Department is committed to maintaining a police department which is highly trained in matters of law, professional use of force standards, and use of force reporting and investigation.

Officers who violate those values by using objectively unreasonable force degrade the confidence of the community, violate the rights of individuals upon whom unreasonable force is used, and may expose the Department and fellow officers to legal and physical hazards. No other police action has such wide reaching effects as the decision to use force. Officers are sworn to protect life and property and must always remember that, of the two, life is the most important. Officers are trained to defend themselves and the public, but they must be prepared to take full responsibility for their actions.

An officer who fails to use timely and adequate force, when it is reasonably necessary, fail in their duty to act as public guardians and may endanger themselves, the community and fellow officers.

PROCEDURES: (04-16-01)

The use of force by government officials is controlled by constitutional principles and clarified by case law. An officer's use of any level of force must be objectively reasonable in light of the circumstances which the officer is facing. Constitutional use of force is guided by *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* recognized that police officers are forced to make split-second decisions, in tense, uncertain, and rapidly evolving situations. The Court also stated that reasonableness is not capable of a precise definition or mechanical application. With this understanding, two officers faced with similar circumstances may arrive at different choices of the level of force required, but both may be reasonable.

When an officer decides to use force they should consider the following factors:

1. The severity of the crime at issue.
2. Whether he/she was actively resisting arrest or attempting to evade arrest by flight.
3. Whether the suspect posed an immediate threat to the safety of the officer or others.

Officers should take reasonable care that their actions do not precipitate an unnecessary, unreasonable, or disproportionate use of force, by placing themselves or others in jeopardy, or by not following policy or training.

Officers should continually assess the situation and changing circumstances, and modulate the use-of-force appropriately.

REASONABLENESS (04-16-02)

An officer shall use only the degree of force that is reasonable and necessary under the circumstances and proportional to the threat or resistance of the subject.

The assessment of reasonableness must embody allowance for the fact that police officers are often forced to make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

The reasonableness inquiry in an excessive-force case is an objective one: the question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

The officer's justification will be reviewed to determine whether or not the force used was in or out of policy. Failure to adequately document and explain the facts, circumstances, and inferences when reporting force may lead to the conclusion that the force used was out of policy.

TYPES OF FORCE (04-16-03)

Type I – Force that causes transitory pain, the complaint of transitory pain, disorientation, or intentionally pointing a firearm at an individual.

Type II – Force that causes or is reasonably expected to cause physical injury greater than transitory pain but less than great bodily harm, and/or the use of any of the following weapons or instruments: CEW, OC spray, impact weapon, 40mm launcher, deployment of K-9 with injury or complaint of injury causing less than Type III injury.

Type III – Force that causes or is reasonably expected to cause, great bodily harm, loss of consciousness, or death.

AUTHORIZED USE OF FORCE (04-16-04)

An officer shall use only the force reasonable, necessary, and proportionate to effectively bring an incident or person under control, while protecting the lives of the officer or others and accomplishing lawful objectives. Officers may also use force to execute warrants, make arrests, prevent the commission of forcible felonies, and prevent self-inflicted injury.

Officers should consider the following circumstances to determine the reasonableness of force:

1. The seriousness of the crime or suspected offense;
2. The level of threat or resistance presented by the subject;
3. Whether the subject was posing an immediate threat to officers or an immediate danger to the community;
4. The potential for injury to citizens, officers or subjects;

5. The risk or apparent attempt by the subject to escape;
6. The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
7. The time available to an officer to make a decision;
8. The availability of other resources;
9. The training and experience of the officer;
10. The proximity or access of weapons to the subject;
11. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects; and
12. The environmental factors and/or other exigent circumstances.

PROHIBITED USE OF FORCE (04-16-05)

Officers may not use physical force:

1. To punish or retaliate
2. Against individuals who only verbally confront them unless the vocalization impedes a legitimate law enforcement function or contains specific threats to harm the officers or others
3. To stop a subject from swallowing a substance, such as a plastic bag containing a controlled substance or other evidence.

USE OF DEADLY FORCE (04-16-06)

Deadly force is force which is intended or reasonably likely to cause death or great bodily harm. The use of deadly force in Georgia is guided by OCGA 17-4-20(b) and OCGA 16-3-21. Deadly force may be used when an objectively reasonable officer believes that deadly force is necessary to:

1. Protect themselves from receiving great bodily injury or death
2. Protection and defense of any person in imminent danger of great bodily injury or death
3. To prevent the commission of a forcible felony

“...to apprehend a suspected felon only when the officer reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; when the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others; or when there is probable cause to believe that the suspect has committed a crime involving the infliction serious bodily harm or if the officer reasonably believes the that the suspect’s escape would create a continuing danger of serious physical harm to any person.” (O.C.G.A 17-4-20)

Officers must base their decision to use force on the totality of the circumstances known to them at the time.

DE-ESCALATION TACTICS (04-16-07)

De-escalation tactics are actions used by officers, when safe and without compromising law enforcement priorities, which seek to minimize the likelihood for the use of force. When safe and feasible, officers should attempt to slow down or stabilize the situation to allow more time, resources, and options to arrive at the scene.

Officers should also consider the possibility that a subject's non-compliance may be the result of factors which are not a deliberate attempt to resist. These factors may include:

1. Medical conditions
2. Mental impairment
3. Developmental disability
4. Physical limitation
5. Language barrier
6. Behavioral crisis

The number of officers on a scene may increase the available force options and may also reduce the overall force used.

MEDICAL AID (04-16-08)

Once the scene is safe, officers should provide and request medical aid to treat injured parties after a use of force incident. Anytime apprehension, force or response to aggression results in visible injuries or complaint of injury the officers should summon EMS personnel to the scene. While waiting for the arrival of EMS, officers should render any aid to the injured party which the officer is trained and equipped to provide.

The use of specific use of force tools (i.e. Taser, Baton, OC, etc.) may have specific aid requirements. See Use of Force-Tools (04-18) for details.

TRAINING (04-16-09)

Employees shall receive training on use of force policies and case law prior to assignment to field duties, and at least annually thereafter. Use of Force Training will include information regarding the process for investigation of use of force and other actions that result in death or serious bodily injury.