


Owensboro Police Department Policy Manual		Standard Operating Procedure
Effective Date December 18th, 2020		OPD.SOP.1.3-1.14 Use of Force
Applicable To: All Sworn Employees		
Approval Authority: Colonel Arthur Ealum Jr.		
Signature:		

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Definitions

Deadly Physical Force: Any force which causes or is likely to cause death or serious physical injury or which the officer knows or should know creates a substantial risk of causing death or serious physical injury.

Excessive Force: Force is excessive when applied under circumstance where no reasonable justification exists to use force; or, when more than the minimum amount of required force is applied to overcome the use or imminent use of force against an officer or other person. As a general rule, excessive force begins when resistance ends.

Firearm: Any weapon from which a projectile is forcibly ejected by an explosive reaction.

Taser X26™/X26P™: Electronic incapacitation device(s), through which an electrical signal is sent which causes a disruption in the central nervous system of an affected subject's motor skills. Used as a contact "drive stun" or remote device(s) capable of projecting two (2) probes up to twenty-one (21) feet, the Taser X26™ and X26P™ are defensive tools used to halt aggressive behavior in a Less-Lethal manner. They are not designed or intended to cause serious or permanent damage and its effects are temporary.

12-Gauge Less-Lethal Munitions Delivery System: The Less-Lethal Remington, Model 870, and Mossberg, Model 500, bean bag delivery system(s), clearly marked “LESS LETHAL” on the stock of the delivery system, with the stock and slide painted bright orange for clear distinction.

Drag Stabilized Bean Bags: Munitions which can be fired, launched, or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing a significant potential of causing death.

Less-Lethal Force: Force which is not fundamentally designed to cause serious physical injury or death; however, under certain circumstances these munitions can cause (lethal injuries) serious physical injury or death.

Reasonable Belief: The facts or circumstances the officer knows, or should know, that causes an ordinary prudent person to act or think in a similar way under similar circumstances.

Reasonable Force: The minimum amount of force required to overcome the use or imminent use of force against the officer or other person, which based on facts or circumstances the officer knows, or should know, that other reasonable and well-trained officers would act or think in a similar manner under similar circumstances.

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.

Injury: Means any apparent injury (i.e. swelling, lacerations, severe bruising) or any impairment of physical condition.

Vital Areas: Areas of the body that pose a higher risk of significant injury to a person if struck by an officer

Policy

Officers shall use the minimum force necessary, including deadly physical force, to accomplish a lawful police action and ensure public safety in accordance with Kentucky Revised Statutes K.R.S. Chapter 503 and other appropriate provisions of state and federal law. Officers shall not unreasonably or unnecessarily endanger themselves or the public when applying this policy.

Purpose

This policy is established to provide guidelines for the lawful application of force and to clearly define certain prohibited actions. The policy supports the department's mission to maintain the highest regard for all individuals' constitutional rights, safety, and protection afforded by law and the ideal of human dignity.

Procedures

1.3A Use of Force Principles

Officers shall be familiar with the legal provisions regarding his/her use of force in accordance with K.R.S. Chapter 503 and the provisions of department policy.

All applications of force shall be consistent with training, department policy and provisions of law.

Officers shall use only equipment and weapons approved by the Chief of Police while acting under the color of official duty, unless an emergency situation exists that requires an officer to use any reasonable means necessary in self-protection or protection of another from serious physical injury or death.

Officers shall successfully complete all training and certification requirements on any use of force technique as established by department policy.

1.3B Use of Handcuffs

A. Officers shall handcuff all prisoners except under the following circumstances:

1. Physical handicap/disability,
2. Elderly,
3. Is in obvious state of pregnancy,
4. Unconscious, or has injuries that could be aggravated by standard handcuffing procedures,
5. Very young

B. Officers should use proper discretion when determining not to handcuff a prisoner.

1. Under other circumstances where handcuffing a prisoner may not be practical, a supervisor may authorize the transport of a prisoner without being handcuffed.

2. In accordance with proper training and Owensboro Police Department policy 17.23.

3. All prisoners shall be handcuffed with their hands behind their back, palms facing outward, with the handcuffs double locked and checked for proper application. (Refer to OPD Policy 17.23 for other issues involving transportation of prisoners).

4. In situations involving multiple arrests or large individuals, alternate types of departmentally approved restraint devices may be used. Officers may use only those restraining devices for which they have been trained.

5. Approved Alternate Restraint Devices include:

- a) Flex Cuffs
- b) Leg Shackles
- c) Leg Straps

6. Anytime an officer uses any force that results in injury or possible injury to any individual, or takes into custody any individual that is in need of medical

attention, the officer must arrange for the appropriate medical treatment for the injured individual. (Note: If subject requires medical treatment the Daviess County Detention Center will require a medical release form from the medical facility.)

1.3C Levels of Force

A. Level of Force to be utilized

The level of force to be utilized by an officer in any given situation depends on the totality of circumstances, including the risk of physical violence. When the use of force is necessary, officers shall use the lowest possible level of reasonable and appropriate force under the circumstances. It is not the intent of this provision to require officers to try each level of force before escalating to the appropriate level of force deemed necessary and reasonable for the situation. Levels of force beyond officer's presence and verbal direction shall be terminated when it is objectively reasonable that a suspect is fully under an officer(s) control.

B. Levels of force to be utilized by officers in order of increasing severity are:

1. Officer's Presence: identification of authority; badge, uniform, police cruiser.
2. Verbal Direction: advice, cautions, warnings, directives, and orders.
3. Empty Hand Techniques: physical strength:
 - a) Soft empty hand techniques: joint manipulations.
 - b) Hard Empty Hand Techniques: strikes, punches or kicks.
4. Less-Lethal Devices: ASP holds, ASP strikes, personal chemical agent, Taser and 12-Gauge Less-Lethal Munitions Delivery System.
5. Lethal Force: sidearm, patrol rifle, shotgun.

1.3D Use of Force Continuum

A. Officer's Presence

1. Level of Resistance: Adversarial
2. Officer's Response: identification of authority as law enforcement officer, authority may be established by uniform, badge, ID, announcement, police cruiser.

B. Verbal Direction

1. Level of Resistance: psychological intimidation non-verbal cues, appearance, and attitude, which indicates the subject is emotionally and/or physically able to confront the officer.
2. Officer's Response: verbal direction; tell the subject what he/she is to do. Practice firmness, courtesy, understanding and cooperation. Attempt to control with advice, cautions, warnings and direct orders.
3. Dialogue and de-escalation techniques are used to persuade a person to cooperate. Whenever possible and when the use of these techniques does not compromise the safety of an officer or another person(s) an officer shall use de-escalation techniques and allow an individual time and opportunity to comply with verbal commands before escalating to a higher level of force.(See LLRMI De-Escalation / Reducing Intensity)

C. Empty Hand Techniques

1. Soft Empty Hand Techniques:
 - a) Level of Resistance: verbal noncompliance, responses indicate unwillingness to cooperate; emotional and behavioral readiness to physically resist.
 - b) Officer's Response: reasonable physical force techniques which have minimal probability of injury such as holding, pulling, pushing and exerting greater strength to overcome resistance in self-defense, in defense of another and/or to effect an arrest.
 - c) A choke hold, carotid hold, vascular neck restraint or other techniques that involves the application of pressure on a person's throat, and/or restriction of the airway or blood circulation in the neck are prohibited, unless deadly force is justified.
 2. Hard Empty Hand Techniques
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a) Level of Resistance: defensive resistance, physical non-compliance, responses and/or actions that prevent officer's attempt to lawfully control, protect and/or arrest and have a risk of injury to the officer or another person.

b) Officer's Response: reasonable physical force techniques which have a probability of minor injury and may include strikes with hands, feet, knee, and elbow, to non-vital areas of suspect used after lesser force has been ineffective, or is reasonably determined that lesser force would be ineffective in accomplishing a lawful purpose. Intentional strikes to vital areas shall be prohibited at this level of force.

D. Less-Lethal Devices

1. Level of Resistance: active aggression. Suspect physically assaults an officer or another, or the officer reasonably believes an imminent risk of physical assault exists which would likely result in physical injury to the officer or another.

2. Officer's Response: reasonable physical force techniques which are authorized for use against an actively aggressive suspect include the following:

a) ASP (non-impact) control techniques which include impact weapon joint locks, radial arm locks, arm bars, and other techniques as provided in approved training programs in accordance with department policy.

b) ASP (impact/Less-Lethal) control techniques which include ASP strikes to non-vital areas, are authorized in situations when an officer is acting in self-defense or the defense of another, and/or effecting an arrest of a resisting suspect, who is likely to cause physical injury to an officer or another.

1) Regulations:

(a) Officers shall be authorized to carry and use ASP and/or defensive tools for active duty use as approved by the Chief of Police (refer to section IV. F.).

(b) Officers shall not alter the ASP in any manner.

(c) Although a metal flashlight is not a weapon, it or any other instrument may be used only when the officer is acting in self-defense or defense of another against a physical assault.

2) Guidelines for striking with an ASP:

(a) Officers must possess reasonable belief the suspect's aggressive actions are likely to result in physical injury to the officer or another.

(b) Officers should avoid using an ASP to strike an actively aggressive suspect's vital areas.

3) Personal chemical agent (PCA) containing the active ingredient Oleoresin Capsicum is authorized for use as a Less-Lethal Device.

Regulations: PCA

(a) Officers shall be trained on an annual basis to carry and use PCA.

(b) Keep the application to the minimum required to effectively control the suspect. Use agent in one (1) or two (2) second bursts.

(c) Officers shall advise the person sprayed with a chemical agent to avoid rubbing his/her eyes, and allow the suspect to flush affected areas with cold, clean water as soon as practicable.

(d) Officers shall arrange for the affected person to receive medical attention, if the reaction to the chemical agent has not diminished within thirty (30) minutes.

4) The Taser X26™ or Taser X26P™ may be used when attempts to subdue the subject by other conventional tactics have been ineffective, or it is unsafe for officers to approach within contact distance of the subject, due to subject's active aggression.

(a) All officers shall complete the Taser X26/X26P certification course and the annual refresher training. The taser shall be worn on the weak-side in either a weak-hand draw or cross-draw position.

(b) The taser is programmed to give a five (5) second electrical current unless switched to the safe position during a delivery of

current. Although the officer is in control of the number of deployments of electric currents, the officer shall use the minimum number of deployments necessary to control the subject. No more than one officer should deploy the taser against a single individual at the same time.

(c) The probes should not be touched nor stepped upon during the taser use, as the officer would also receive the same electrical current.

(d) The center mass of the subject's back is the preferred target area of deployment, however it is recognized that it is not always possible to get behind the subject. The head, neck and groin areas are to be avoided if at all possible.

(e) The device shall not be used in any of the following places and/or situations:

(1) Near flammable gasses or liquids, ether, etc. (ie. Methamphetamine Labs).

(2) As a defense against a deadly weapon.

(3) In cases of passive resistance (Eldridge v. City of Warren, 2013 WL 6thCir. 2013)

(4) Against a subject already handcuffed and in custody unless physical resistance has to be overcome, and the subject is showing active aggression which poses a safety threat or a flight risk (Wells v. City of Dearborn Heights (MI) 2013 WL 4504759, 6thCir. 2013).

(5) Against a known pregnant female.

(f) No officer shall playfully, maliciously, or intentionally misuse the device or otherwise use the device for any purpose other than its intended use.

5) Regulations: Taser X26™ and Taser X26P™

(a) Before utilization of a taser, officers shall also be prepared to employ other means to control the suspect including, if necessary,

other levels of force consistent with department policy, if the suspect does not respond sufficiently to the taser and cannot otherwise be subdued.

(b) After firing the taser, an examination of the suspect, with particular emphasis on secondary injuries, should be performed by the officer, and the appropriate medical treatment sought in the case of injury.

(c) Although all tasers are clearly marked to distinguish them from the appearance of a handgun, officers intending to utilize a taser shall shout "Taser, Taser," before firing the weapon. This warning will notify other officers on the scene that the pop being heard with the firing of a taser is that of the taser and not of a handgun being discharged by either the suspect or the officers.

(d) Immediately after utilizing the taser on a subject and taking the subject into custody, the officer who deployed the taser shall examine the suspect for any indication that the individual needs minor, moderate or major medical care and shall continue to monitor the suspect's medical condition until released from police custody.

(e) Officers are to wear rubber gloves and use the two-finger method for removing probes from the skin.

(f) An officer shall not remove a probe if the deployment struck:

- (1) A bone, or
- (2) The head or groin, or
- (3) A woman's breast.

*The officer may cut the wires and, leaving the probes imbedded, allow EMS to examine the suspect and transport if necessary.

(g) When appropriate, officers should clean and bandage any small puncture wounds if the wounds continue to trickle blood after the removal of the probes.

(h) Officers should not attempt to treat members of the opposite sex or treat a suspect whose treatment may expose private areas of the body.

(i) Upon observing complications or other medical problems, or if the suspect requests medical assistance, the officer shall immediately summon emergency medical aid.

(j) If the suspect is transported to a medical facility, officers shall obtain medical clearance from a physician before transporting a subject incapacitated by a taser to a detention facility.

(k) Upon arrival at a detention facility the officer shall advise the detention officers that the arrestee had to be tased and that the arrestee's physical condition should continue to be monitored for signs of complications.

(l) The air cartridge and probes used shall be logged into evidence. Since the probes will probably have a small amount of body fluids on them, officers shall wear protective latex gloves when handling the probes.

(m) The probes should be wedged into the used air cartridge, as this will prevent the sharp ends from being exposed; the wires should be wrapped around the used air cartridge and then placed into a plastic bag and the plastic bag shall be labeled with a biohazard label before securing in an evidence bin.

6) Supervisors and specially trained ERT members are permitted to use the 12-Gauge Less-Lethal Munitions Delivery System after other reasonable efforts to control a violent individual have failed. Examples of conditions for the use of the 12-Gauge Less-Lethal Munitions Delivery System include but are not limited to:

(a) A violent individual armed with a weapon such as a crowbar, baseball bat, shovel or device that can be utilized as a dangerous weapon.

(b) A violent individual armed with a knife, razor or other object with a cutting edge.

(c) Violent disturbances such as riots and/or violent demonstrators who fail to disperse when commanded to do so. Use of the 12-Gauge Less-Lethal Munitions Delivery System during these types of disturbances shall only be used at the direction of the Chief of Police or his/her designee.

(d) Armed, mentally ill or developmentally disabled individuals who may pose a risk to themselves, others, or police officers.

(e) In situations where a supervisor deems the use of 12-Gauge Less-Lethal Munitions Delivery System necessary to safely resolve an incident.

(1) All designated supervisors and/or officers shall complete the Less-Lethal qualification/certification course annually. The Less-Lethal Remington, Model 870, and Mossberg, Model 500, 12-Gauge Munitions Delivery System(s) shall only be assigned to those supervisors and/or officers designated by the Chief of Police which have successfully qualified and are certified to carry the Less-Lethal delivery system.

(2) The Less-Lethal Remington, Model 870, and Mossberg, Model 500, 12-Gauge Munitions Delivery System(s) are clearly marked "LESS LETHAL" on the stock of the delivery system, with the stock and slide painted bright orange for clear distinction.

i. Less-Lethal munitions are clearly marked "DRAG STABILIZED BEAN BAG." The only Owensboro Police Department approved munitions are manufactured by Safariland LLC Defense Technology: 12 Gauge Drag Stabilizer.

(3) While carried in the patrol vehicle, supervisors and/or officers are required to maintain the 12-Gauge Less-Lethal Munitions Delivery System in "Cruiser Safe Condition". "Cruiser Safe Condition" means the delivery system's safety is on, its chamber is empty and its magazine is loaded.

(4) The Less-Lethal Remington, Model 870, and Mossberg, Model 500, 12-Gauge Less-Lethal Delivery System(s) are designed to hold

a maximum of five Drag Stabilized Bean Bag munitions in the magazine. The officer/supervisor shall use the minimum number of munitions necessary to control the subject. No more than one officer and/or supervisor should deploy the Less-Lethal 12-Gauge delivery system against a single individual at the same time.

(5) Supervisors and/or officers shall consider the need for immediate incapacitation as well as the potential for causing injury-then balance these factors while making the point of aim decision. Shots to “center mass” provide for the highest probability of causing immediate incapacitation, but also have the potential to cause serious injury or death. Supervisors and/or officers shall utilize the following three zones when determining to utilize the 12-Gauge, Less-Lethal Munitions Delivery System:

- i. Zone 1 –Consists of large muscle groups. Where the threat level is appropriate and this zone is viable, it should be considered first: Buttocks, Thighs, Calves, Note: The groin area should not ever be intentionally targeted.
- ii. Zone 2-Consists of medium muscle groups. This zone has a greater potential for causing serious injury when struck. This area is the abdominal area.
- iii. Zone 3-Consists of the chest (Center Mass), Spine, head and neck. This zone carries the greatest potential for serious or fatal injury and should be avoided where possible. It should only be considered when maximum effectiveness is desired to meet a level of threat escalating to deadly force.

*Note: The shoulders and/or arms are primary skeletal areas. Because of the mobility of the shoulders and arms there is a greater potential to miss and unintentionally strike another zone. Careful consideration should be given before aiming for the shoulders or arms.

6) The 12-Gauge, Less-Lethal Munitions Delivery System shall not be used in any of the following places and/or situations:

(a) In cases of passive resistance by a person unless a lesser means of force:

- i. Has been attempted and failed;
- ii. Is not an option due to exigent circumstances; or
- iii. If attempted, will result in a significant possibility of injury to any officer or innocent bystander.

(b) Against a subject already in custody.

(c) Against a known pregnant female.

7) No officer shall playfully, maliciously, or intentionally misuse the 12-Gauge Less-Lethal Munitions Delivery System or otherwise use the 12-Gauge Less-Lethal Munitions Delivery System for any purpose other than its intended use.

f) Regulations: Less-Lethal Impact Weapons.

1) Officers shall be authorized to carry and use 12-Gauge Less-Lethal Munitions Delivery Systems for active duty use as approved by the Chief of Police.

2) Officers shall be adequately trained in the use of the specialty 12-Gauge Less-Lethal Munitions Delivery System and have a thorough understanding of the round and considerations for selecting shot placement, such as level of threat, target distance, size, and clothing. Officers shall be trained on an annual basis to carry and use Less-Lethal impact weapons.

3) When using a 12-gauge Less-Lethal Munitions Delivery System on a call, officers/supervisors shall advise Central Dispatch their ID Number followed by "Code Orange with Less-Lethal" upon arrival at the scene.

4) Although all 12-Gauge Less-Lethal Munitions Delivery Systems are clearly marked to distinguish them from the appearance of a

shotgun, officers intending to utilize a 12 Gauge Less-Lethal Munitions Delivery Systems shall shout “Less-lethal, Less-Lethal,” before firing the Delivery System. This warning will notify other officers on the scene that the pop being heard with the firing of a 12-Gauge Less-Lethal Munitions Delivery System is that of the Delivery System and not of a handgun or shotgun being discharged by either the suspect or the officers.

5) Officers shall not alter the 12-Gauge Less-Lethal Munitions Delivery Systems in any manner.

6) Officers shall not fire any 12-Gauge Less-lethal Munitions Delivery System unless they are able to acquire a line of fire to the target in a manner that protects the innocent from injury or loss of life.

7) As authorized by the Chief of Police, only department issued or approved, 12-Gauge Less-Lethal Munitions Delivery Systems shall be used or carried by active duty officers.

8) Officers are permitted to fire 12-Gauge Less-Lethal Munitions Delivery System during formal training exercises, as directed by department Less-Lethal Instructor and authorized by the Chief of Police.

9) Officers are required to keep all department issued 12—Gauge Less-Lethal Munitions Delivery Systems clean and in good working order at all times.

10) Officers are responsible for the loss and/or damage of a department issued 12-Gauge Less-Lethal Impact Munitions Delivery System as a result of any negligence or act of malfeasance.

11) Officers and/or supervisors may respond to incidents with the 12-gauge Less-Lethal Munitions Delivery System as needed.

12) Failure to comply with these regulations may result in loss of privileges to carry the 12-Gauge Less-Lethal Munitions Delivery System and/or disciplinary action.

E. Lethal Force

Level of Resistance: Aggravated Active Aggression

1. The Suspect:

- a) Resists arrest for a felony by using or threatening to use aggressive physical unlawful force which creates an imminent risk of serious physical injury or death to the officer or another, or
- b) Assaults or threatens to assault an officer or another in a manner that poses an imminent risk of serious physical injury or death, or
- c) Is charged with a felony and attempts to escape from custody and reasonable belief exists that the suspect will cause serious physical injury or death to another, unless apprehended without delay.

2. Officer's Response:

Officers are permitted to use physical force, including deadly physical force, in accordance with K.R.S 503.050 (Self-Protection), K.R.S. 503.070 (To defend another), and K.R.S. 503.090 (Preventing escape). If feasible, an officer will identify him or herself as a police officer and issue a clear and direct verbal warning before using lethal force, (e.g. Police. Drop the gun or I will shoot you). Officers should avoid using verbiage such as "deadly force" or "lethal force" when giving this warning as these may not be commonly recognized phrases. A verbal warning is not required in a split second situation or if the officer reasonably believes that issuing the warning would place the safety of the officer or another person in jeopardy. When justified, an officer's response may include:

- a) ASP impact to vital areas.
 - b) 12-Gauge Less-Lethal Munitions Delivery System to vital areas (Zone 3).
 - c) Duty firearms (also referred to as "duty weapon") may be fired only when the officer is acting in accordance with the provisions of law, departmental policy, and training guidelines.
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1) Regulations: Lethal Force

(a) Officers shall not fire any weapon unless they are able to acquire a line of fire to the target in a manner that protects the innocent from injury or loss of life.

(b) As authorized by the Chief of Police, only department issued or approved, including personally owned, handguns and ammunition shall be used or carried by active duty officers. (Refer to Section IV.I.1 of this order).

(c) All officers are required to carry a fully loaded magazine in the duty weapon and one (1) or two (2) extra fully charged magazines on the utility belt, unless exempted by duty assignment or the Chief of Police.

(d) Officers are required to carry the duty weapon fully charged with a round in the chamber.

(e) Officers are prohibited from drawing or displaying any firearm except for authorized use, inspection, or formal training exercises while on duty or acting under official authority as an officer.

(f) Officers are responsible for the loss or damage of a department issued handgun as a result of any negligence or act of malfeasance.

(g) Officers are required to keep all department issued firearms clean and in good working order at all times.

2) Guidelines for authorized use of a firearm:

(a) Officers are permitted to fire weapons during formal training exercises, as directed by a department Firearms Instructor and authorized by the Chief of Police.

(b) Officers are permitted to fire weapons during safe practice in any area where firing a weapon would not be in violation of law.

(c) Officers are permitted to fire a weapon to humanely kill a dangerous or seriously injured animal when other alternatives are impractical or unavailable, and then with authorization from the supervisor, unless time does not permit.

d) Shotguns may only be fired when the officer is acting in accordance with the provisions of law, department policy and training guidelines.

1) Regulations: Lethal Force:

(a) Officers shall not fire any weapon unless they are able to acquire a line of fire to the target in a manner that protects the innocent from injury or loss of life.

(b) As authorized by the Chief of Police, only department issued or approved, including personally owned, shotguns and ammunition shall be used or carried by active duty officers. (Refer to section IV.I.1 of this order).

(c) Officers are required to keep all department issued firearms clean and in good working order at all times.

(d) Officers are required to keep all secondary firearms carried on-duty, clean and in good working order at all times.

(e) Officers are required to transport the shotguns to or from work in a manner that does not alarm the public.

(f) Officers are responsible for the loss or damage of a department issued shotgun as a result of any negligence or act of malfeasance.

(g) An officer may file a claim for reimbursement with their supervisor in the event a personal weapon is damaged as a result of a reasonable police action.

(h) Officers may respond to incidents with the shotgun as needed.

(i) When using a shotgun on a call, officers shall advise Central Dispatch that he/she is "Code Orange" upon arrival at the scene.

(j) While carried in the patrol car, officers are required to maintain the shotgun in "Cruiser Safe Condition". "Cruiser Safe Condition" means the shotgun's safety is on, its chamber is empty and its magazine is loaded.

2) Guidelines for authorized use of a shotgun: Officers are permitted to utilize the shotgun under the same set of provisions provided for the sidearm. (Refer to IV. C.5 subsection 2b of this order).

e) Patrol rifles may only be fired when the officer is acting in accordance with the provisions of the law, department policy and training guidelines.

1) Regulations: Lethal Force:

(a) Officers shall not fire any weapon unless they are able to acquire a line of fire to the target in a manner that protects the innocent from injury or loss of life.

(b) As authorized by the Chief of Police, only department issued patrol rifles and ammunition shall be used or carried by active duty officers. (Refer to Section IV.I.1 of this order).

(c) Officers are required to keep all department issued firearms clean and in good working order at all times.

(d) Officers are required to transport the patrol rifle to and from work in a manner that does not alarm the public.

(e) Officers are responsible for the loss or damage of a department issued patrol rifle as a result of negligence or act of malfeasance.

(f) Officers may respond to incidents with a patrol rifle as needed.

(g) When using a patrol rifle on a call, officers shall advise Central Dispatch that he/she is "Code Orange" upon arrival at the scene.

(h) While carried in the patrol car, officers are required to maintain the patrol rifle in "Cruiser Safe Condition". "Cruiser Safe

Condition” means the patrol rifle’s safety is on, its chamber is empty and its magazine is loaded.

(i) Failure to comply with these regulations may result in loss of privileges to carry the rifle and/or disciplinary action.

2) Guidelines for authorized use of a patrol rifle: Officers are permitted to utilize the patrol rifle under the same set of provisions provided for the sidearm. (Refer to IV. C.5 subsection 2b of this order).

1.3G) Legal Elements of Use of Force

A. Use of Deadly and Less-Lethal Force in an Arrest (pursuant to department policy and K.R.S. 503.090)

1. In all instances officers of this department shall use the minimum force necessary to make a lawful arrest or assist in making a lawful arrest. The officer is governed by the following elements when using force to make an arrest, in accordance with department policy and K.R.S. 503.090(1):

- a) The officer must believe that such force is necessary to make the arrest;
- b) The officer makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested;
- c) The officer believes the arrest is lawful.

2. Officers may use deadly force in making an arrest only when he/she meets the three (3) requirements set forth in section IV.D.1; subsections a.1), 2) and 3) in this order in accordance with K.R.S. 503.090(1) and when the following conditions apply:

- a) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury, pursuant to K.R.S. 503.090(2)(b); and
 - b) The officer believes that the person to be arrested is likely to endanger human life unless apprehended without delay, pursuant to K.R.S. 503.090(2)(c).
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B. Use of Deadly and Less-lethal Force in Self-Protection (pursuant to K.R.S. 503.050 and department policy)

1. An officer may use less-lethal force upon another person when the officer believes that such force is necessary to protect himself/herself against the use or imminent use of unlawful physical force by the other person.
2. An officer may use deadly force in self-defense when he/she believes such force is necessary to protect against death, serious physical injury, kidnapping or sexual intercourse compelled by force or threat of force.
3. In the event an officer is required to use force in self-defense while he/she is off duty, the officer shall:
 - a) File an incident report with the department and report the event to the on duty supervisor of his/her respective division as soon as possible.
 - b) If the incident occurred outside the department's jurisdiction, the officer shall report the event to the agency of primary jurisdiction and the on duty supervisor of his/her respective division as soon as possible.

C. Use of Deadly and Less-lethal Force in Protection of Others (pursuant to policy and K.R.S. 503.070)

1. An officer may use less-lethal force upon another person when the officer believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person.
 2. An officer may use deadly force upon another person when the officer believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force which is likely to result in death, serious physical injury, kidnapping, or sexual intercourse compelled by force or threat of force and under circumstances as they actually exist and when the person whom he or she seeks to protect would have been justified to use deadly force.
 3. In the event an officer acts under the color of official authority and uses force to defend another while he/she is off duty, the officer shall:
 - a) File an incident report with the department and report the event to the on duty supervisor of his/her respective division as soon as possible.
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b) If the incident occurred outside the department's jurisdiction, the officer shall report the event to the agency of primary jurisdiction and the on duty supervisor of his/her respective division as soon as possible.

D. Use of Deadly and Less-lethal Force to Prevent Escape from Arresting Officer
(pursuant to policy and K.R.S. 503.090)

1. An officer cannot use deadly physical force to prevent the escape of an arrested person unless:

- a) The arrest was for a serious, violent felony; and
- b) Reasonable belief exists that the suspect will cause serious physical injury or death to another unless apprehended without delay.

1.3H) Use of Deadly Force Against a "Fleeing Felon"

As established in the provisions of this order, section IV.D.4, officers shall not use deadly force to prevent the escape of any arrested violent felony offender unless such actions are necessary to prevent the death or serious physical injury of another in accordance with department policy and K.R.S. 503.090. Officers must reasonably believe at the time of such action that there is an imminent risk that the fleeing violent felony offender will cause death or serious injury to another.

1.3I) Prohibited Use of Firearms

A. Regulations: due to the safety risk, no officer shall be authorized to discharge or use a firearm or 12-Gauge Less-Lethal Munitions Delivery System under the following conditions:

- 1. To fire warning shots;
 - 2. To fire at any person on the basis of mere suspicion;
 - 3. To fire at any person for the purpose of effecting a misdemeanor arrest;
 - 4. To fire any deadly weapon at individuals for the purpose of preventing the destruction or theft of property;
 - 5. To fire at or from any moving vehicles unless in self-defense or the defense of another;
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6. To fire any issued weapon for any purpose other than what is authorized by department policy, state and federal law.

1.3J) Prerequisite Requirements for Authorization to Carry Firearm

A. Officers shall not be authorized by this department to carry a firearm or 12-gauge Less-Lethal Munitions Delivery System unless they are in compliance with the following requirements:

1. Received a copy of the Use of Force Policy;
2. Received instruction in the provisions of the Use of Force Policy;
3. Have achieved the firearm proficiency requirements as specified by sections IV. J.1. and IV. J.2 of this order each calendar year.

B. All use of force training and dissemination records shall be submitted to the Training Unit Supervisor to be included in the officer's individual training records.

1.4) Use of Less-Lethal Weapons

A. The following Less-Lethal weapons (listed in alphabetical order) are authorized for use by officers in performance of official duty pursuant to department policy and provisions of law: (refer to section IV. "Procedures for an Officer's Use of Force")

1. ASP
2. Chemical agents
3. Other Less-lethal weapons and defensive tools as approved by the Chief of Police.
4. Personal chemical agent
5. Remington, Model 870, Express, Synthetic, Pump Action Shotgun, Bean Bag Delivery System.
6. Mossberg, Model 500, Synthetic, Pump Action Shotgun, Bean Bag Delivery System.
7. Taser

1.5) Firearms and Ammunition

A. Authorized Duty Weapons and Ammunition. Only the following weapons and ammunition shall be used in performance of active duty.

1. The Glock 17-9 millimeter, Glock 19-9 millimeter, Glock 34-9 millimeter, and Glock 45-9 millimeter semi-automatic handguns are established as the authorized duty pistols. Ammunition: department issued Speer, Gold Dot, 9mm, 147grain is established as the authorized pistol round.
2. The Benelli, M1, Super 90, semi-auto, Inertia Recoil, 12 gauge, tactical shotgun is established as the authorized duty shotgun. Ammunition: department issued Winchester "00" buck is established as the authorized shotgun round.
3. The Bushmaster AR-15 M4 .223, DPMS AR-15 .223, and the Smith & Wesson M&P .223 rifles are established as the authorized duty patrol rifles. Ammunition: department issued .223 caliber 50 grain hollow point, or 55 grain bonded .223 caliber are established as the authorized patrol rifle rounds.
4. The Less-Lethal Remington, Model 870, and Mossberg, Model 500, bean bag delivery system(s) are established as the authorized Less-Lethal Munitions Delivery System(s). Ammunition: Department issued 12-Gauge Drag Stabilized, Safariland LLC Defense technology Bean Bag Munitions.

B. The Chief of Police may authorize the use of other types of weapons and ammunition as appropriate.

C. Only the following weapons and ammunition shall be used by the emergency response team:

1. The Bushmaster M4 .223 rifle with semi-auto and 3 shot burst, the H&K submachine gun, 9mm with semi-auto and 2 shot burst, the Remington 700 police tactical .308 sniper rifle, the DPMS AR-15 .223, the Smith & Wesson M&P .223 rifle, and Sig Sauer Sig 400 .223 rifle.
2. Ammunition: department issued .308 Federal Match Gold Medal 168 grain, 9mm Winchester 124 grain Full Metal Jacket target rounds, 9mm Speer Gold Dot 147 grain Gold Dot Hollow Point, .223 caliber 50 grain hollow point, or 55 grain bonded .223 caliber.

D. All non-issued weapons and ammunition shall be stored in the department's armory or ECU vault.

1. Weapons stored in the armory shall be identified by type, description, model and serial number.
2. Entry into the armory is restricted to authorized personnel only.
3. All weapons issued from or returned to the armory shall be checked in/out by a supervisor.

E. General Provisions to Carry Concealed Off Duty Weapons:

1. Officers are allowed to carry concealed deadly weapons in accordance with applicable Federal, State, and local law. (Refer to 18 USC 926B and K.R.S. 527.020)
2. Off duty officers are not required to be armed.
3. Officers shall not be intoxicated while carrying concealed weapons.

F. Criteria for Authorization to Carry Off Duty and Secondary Firearms:

1. Department authorization to carry and use an off duty or secondary weapon means the department shall maintain inspection, training, and qualification records pertaining to the officer's use of the off duty or secondary weapon.
2. An officer may receive authorization status to carry and use an off duty weapon or secondary weapon provided the following criterion are achieved and maintained:

a) Officers shall record the make, model, caliber and serial number of each off duty or secondary firearm on a department range qualification sheet. The form will be available in the office of the Training Unit Supervisor and maintained in the individual's training record.

b) Officers shall successfully complete annual qualification with each weapon intended for use as an off duty or secondary weapon, as approved by the Chief of Police.

c) Officers shall have an annual inspection of each weapon intended for use as an off duty or secondary weapon, as approved by the Chief of Police, by the Firearms Instructor and/or Armorer.

d) Only the following caliber of weapons is authorized for off duty and secondary use:

- 1) 38 spl.
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- 2) .380 auto
- 3) 9mm
- 4) 10mm
- 5) .40 cal.
- 6) .45 auto
- 7) .357

e) Only unaltered factory loaded ammunition of the following brand names are authorized for off duty and secondary weapon use:

- 1) Remington
- 2) Federal
- 3) CCI
- 4) Winchester
- 5) Hornady

f) Officers shall provide their own off duty and secondary weapon ammunition.

g) Only authorized ammunition used during qualification shall be carried or used in the off duty or secondary weapon.

h) Authorized off duty and secondary weapons, shall have a barrel no shorter than two (2) inches or longer than five (5) inches.

i) Authorized off duty and secondary weapons, shall be either double action revolvers or semi-automatic pistols.

3. The Chief of Police reserves the right to rescind the officer's authorization status of any weapon at any time for due cause.

4. During annual qualifications the Firearms Instructor will ensure that all off duty or secondary weapons qualified with by an officer are identified on the officer's qualification sheet.

5. Provided an officer carries and/or uses an off duty weapon in accordance with all applicable federal, state and local laws, the department does not impose other restrictions nor does it accept responsibility for inspection, training and qualification when an officer chooses to carry or use a weapon not authorized by the Chief of Police for off duty use.

1.6) Firearms Proficiency

A. Firearms Proficiency Requirement

1. Officers are required to demonstrate proficiency in the use of all authorized firearms and the 12-Gauge Less-Lethal Munitions Delivery System prior to being authorized to carry or use any firearm on or off duty. An officer may be authorized to use a firearm provided he/she achieves:

- a) A minimum score on the qualification course as established by department training procedures.
- b) Demonstrates knowledge of the laws concerning the use of firearms.
- c) Is familiar with approved safe-handling techniques as established by department training procedures.

2. The Training Unit Supervisor shall maintain approved lesson plans and proficiency requirements for all types of weapons as approved by the Chief of Police.

3. The Firearms Instructor shall submit a signed report to the Training Unit Supervisor containing documentation of the inspection of and approval of each weapon, and the scores received by each officer for each attempt to qualify a firearm for authorized use.

B. Firearms Qualification

1. All officers are required to qualify during an annual firearms proficiency test. Tests are to be administered twice annually. Spring –daylight. Fall –Low light (darkness).

2. The proficiency skills test will include consideration of target type, timing, distance, and other appropriate measures.

3. All officers are required to achieve a passing score on a written test annually as a part of the firearms proficiency skills test.

4. The approved lesson plan for annual qualification and supplemental training shall be maintained in the office of the Training Unit Supervisor.

5. In the event an officer fails to qualify, the department will provide remedial training to the officer as directed by the Chief of Police.

1.7) Firearms Discharge, Deployment of Less-Lethal Weapons.

A. Requirements to Report Discharge of Firearm.

1. Officer Responsibilities; Any time an officer accidentally or intentionally discharges a firearm while on duty, he/she shall:

- a) Notify his/her supervisor as soon as possible.
- b) Complete a Use of Force Report (LEA) in accordance with departmental policy before ending the tour of duty unless he/she is incapacitated (refer to section IV. N: Use of Force Report).

2. Supervisor's Responsibilities;

a) The supervisor in charge of an incident in which an officer fired a weapon that resulted in an injury to any individual shall:

1) Submit a preliminary report to the Field Services Commander before ending his/her tour of duty.

2) If the Field Services Commander is unavailable, then the supervisor shall contact the Deputy Chief of Police as soon as possible.

3) If the Deputy Chief of Police is unavailable, then the supervisor shall contact the Chief of Police as soon as possible.

b) The supervisor shall take possession of the weapon that was fired by the officer and secure it into evidence according to standard operating procedures.

c) The supervisor will issue a department duty weapon to the officer prior to his/her return to duty.

d) On any occasion where an officer has discharged his/her weapon accidentally or intentionally, the on scene supervisor shall account for all fired rounds to include the location of all projectile(s). If all discharged projectile(s) cannot be accounted for, the supervisor shall notify the Field Services Commander.

1.8) Administrative Review of Physical Force Incidents

- A. The Administrative Review shall be conducted when an officer takes an action that results in, or allegedly results in, physical injury or the death of another person.
- B. The Administrative Review shall be conducted by the Field Services Commander, Section Supervisor and/or Reporting Supervisor.

1.9) Administrative Review of Weapons-Involved Incidents

- A. The Administrative Review shall be conducted on all incidents in which an officer applies force through the use of a lethal, or Less-Lethal Device.
- B. The Administrative Review shall be conducted by the Field Services Commander, Section Supervisor and/or Reporting Supervisor.
- C. The Administrative Review shall be conducted on all incidents when an officer accidentally discharges a firearm while on or off duty, unless he/she was engaged in training, hunting, sporting events or practice at an authorized location.
- D. The Field Services Commander shall submit a Summary Report to the Deputy Chief of Police outlining the results of the Administrative Review in accordance with section IV. K.4 of this order.

1.10) Administrative Review Report: Weapon Involved Incident

- A. The Field Services Commander shall submit a Summary Report to the Deputy Chief of Police, which includes all relevant facts, and circumstances, which properly and accurately describe the incident.
- B. The Field Services Commander's report shall include, but is not limited to, the following recommendations:
 - 1. Whether the discharge of any firearm appears to violate the provision of department policy.
 - 2. When, or if, an officer should be removed from line duty (refer to section IV. L. Post-Shooting: Incident Procedure).

1.11) Post-Shooting: Reassignment Pending Administrative Review

- A. Any officer that uses force, which results in serious physical injury or death to another, shall be removed from line duties pending evaluation, but shall remain available for any necessary administrative investigation(s).
- B. The involved officer(s) shall be allowed to obtain sleep prior to making any statements and compiling any reports. The involved officers(s) statements/reports should be scheduled after 72 hours, post incident. The interview location and time should be coordinated with the officer and his/her attorney. Officers should be allowed to review any audio/video recordings (if available) prior to making any statement.
- C. The officer(s) directly involved in, or affected by, the critical incident (officer involved shooting) shall be required to take part in the City sponsored Employee Assistance Program, or other program (within 96 hours).
- D. The officer shall be granted paid administrative leave, pending their meeting with a licensed mental health professional.
- E. Mental health meetings and associated counseling shall be provided at no expense to the officer. The mandatory meeting with the mental health professional is for the purpose of normalizing the psychological reactions and is not an evaluation of psychological fitness to return to work. The mandatory meeting is a psychological debriefing about reactions to an incident.
- F. Nothing in this section shall be construed to prohibit the Chief of Police from taking appropriate interim measures, including suspension from duty without pay, if disciplinary charges are preferred against an officer in accordance with K.R.S. 95.450 and K.R.S. 15.520.

1.12) Excessive Use of Force

A. In the event an officer observes another officer using excessive force or reasonably believes another officer is about to use unwarranted force, the officer observing such actions has a duty to intervene and shall:

1. Advise the officer using excessive force to discontinue his/her actions and make efforts to take preventive actions if the excessive force has not taken place yet;
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2. Separate combatants and effect control and/or custody of any arrested individual, as appropriate;
3. Summon medical assistance and administer first aid to any injured person, as appropriate;
4. Immediately request a supervisor to be dispatched to the scene;
5. Secure and protect the scene until relieved by higher authority.

B. Supervisor's Responsibilities: In the event an officer reports to the supervisor that another officer used or intended to use excessive force, the supervisor shall:

1. Advise all officers involved to provide a statement that describes the event before ending the tour of duty;
2. Copy and submit all original Use of Force Reports to the Field Services Commander.
3. All supervisors shall be familiar with and abide by K.R.S. 15.520 and K.R.S. 95.450 regarding officer's rights.
4. If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he/she shall be afforded the same constitutional due process rights that are due any civilian, and shall be notified of those rights in accordance with law.

1.13) Use of Force Report (Refer to supplement 1.3A)

A. Requirements of Use of Force: if more than one officer is involved in a use of force incident, one officer shall be designated to complete the LEA Use of Force Report. Once complete, each officer shall review the report, before submittal, with his/her supervisor. Officers shall complete and submit a Use of Force Report when he/she:

1. Strikes a blow (including hands and feet), or exerts a level of control likely to result in injury to another person (i.e. forcefully taking a suspect to the ground), and/or
 2. Takes any action that causes, or is alleged to have caused, apparent injury or death of another person, including traffic accidents which result from an enforcement action, and/or
 3. Applies force through the use of a Less-Lethal Device, or instrument, and/or
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4. Uses a firearm in any manner, and/or
5. Accidentally or intentionally discharges a firearm.

B. General Provisions:

1. Officers are required to file an Incident Report anytime a Use of Force Report is required by department policy.
2. Each officer involved in an incident that requires a Use of Force Report shall submit the report to his/her immediate supervisor before completing the tour of duty in accordance with department policy unless otherwise directed by his/her supervisor.
3. In the event a Use of Force Report is required, the officer shall notify the supervisor.
4. If the same Use of Force action(s) are used against multiple individuals during the same incident, a single Use of Force Report should be completed. If different Use of Force actions are used against multiple individuals during the same incident, (e.g. Officer A completes an arm-bar takedown of subject A and Officer B deploys a Taser striking Subject B), it will be necessary for officers to complete separate Use of Force Reports for each individual force was used against. The Use of Force Reports will use the same case number but will be differentiated by adding "A", "B", "C", etc. at the end of the case number.

C. Supervisor Responsibilities

1. The supervisor in charge shall respond to the scene when an officer's Use of Force results in death or serious physical injury.
 2. In the event the officer is unable to submit the Use of Force Report, the supervisor shall complete the report to the extent possible, and submit it to the Field Services Commander.
 3. The supervisor shall review and complete the appropriate sections of the LEA Use of Force Report and submit it to the Field Services Commander before ending his/her tour of duty.
 4. The supervisor shall conduct a preliminary review of the use of force incident to determine the facts of the case.
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- a) In the event the supervisor establishes evidence which suggests the reporting officer acted inappropriately, he/she shall submit a recommendation to the Field Services Commander.
- b) The supervisor shall note any personal observations and/or existence of any physical evidence that relates to the incident in accordance with provisions of department policy.
- c) The supervisor is responsible to ensure that all evidence is collected in accordance with standard procedure.
- d) The supervisor shall meet with each officer involved in a use of force incident, and have him/her review the Use of Force Report to ensure the information on the report is accurate. If any discrepancies exist, changes shall be made until the report reflects an accurate portrayal of the incident. Once each officer is satisfied with the report, each shall sign it at the bottom. His/her signature certifies he/she has read and agrees with the report. The supervisor will also sign his/her name at the bottom to reflect he/she has met with each officer, and they agree with its contents.

1.14) Use of Force/De-Escalation Review and Training

A. Each officer of the Owensboro Police Department shall:

- 1. Receive annual training on this policy.
 - 2. Receive annual training on de-escalation techniques (See LLRMI De-Escalation / Reducing Intensity).
 - 3. Be required to take a written exam on this policy and de-escalation techniques.
 - 4. Be required to score a one hundred percent (100%) on the written exam.
 - 5. Training on this policy and de-escalation techniques shall be in conjunction with one of the semi-annual firearms qualification ranges.
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