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1. PURPOSE

To establish the guidelines governing the use of force while sworn personnel are acting under the color of their authority.

2. PERSONS AFFECTED

All sworn personnel.

3. POLICY

It shall be the policy of the Hawai'i Police Department that sworn personnel use only the objectively reasonable force that is necessary to accomplish lawful objectives and apply de-escalation techniques when possible, while protecting the lives of officers and citizens alike.

4. DEFINITIONS

4.1. **Deadly Force** – Force which the actor uses with the intent of causing or which he or she knows to create a substantial risk of causing death or serious bodily harm. Intentionally firing a firearm in the direction of another person, or in the direction which another person is believed to be, constitutes deadly force (Hawai'i Revised Statutes, Section 703-300, as amended).

4.2. **De-Escalation** – An officer's application of verbal and non-verbal techniques or strategies to reduce the intensity of an interaction(s) and potential for physical altercation.

4.3. **Excessive Force** – Any use of force beyond what is objectively reasonable under the circumstances.

4.4. **Force** – Any bodily impact, restraint, or confinement, or the threat thereof (Hawai'i Revised Statutes, Section 703-300, as amended).

4.5. **Less-Lethal Force** – Any use of force other than that which is considered deadly force.

4.6. **Objectively Reasonable** – An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances presented at the moment the force is used.

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4.7. **Reasonable Belief** – The facts or circumstances an officer knows, or should know, which would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

4.8. **Serious Bodily Injury** – Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ (Hawai‘i Revised Statutes, Section 703-300, as amended).

5. RESPONSIBILITIES

5.1. Sworn Personnel

5.1.1. Sworn personnel shall be responsible for maintaining and ensuring that all issued equipment associated with this directive is in good working order.

5.1.2. Sworn personnel shall take all possible precautions in securing weapons and shall maintain active and passive control of weapons at all times.

5.2. Supervisors

5.2.1. Immediate supervisors shall ensure that sworn personnel’s issued weapons are routinely inspected and in good working order.

5.2.2. Supervisors shall monitor use of force incidents under their command and shall cause notice to commanding officers for incidents handled outside the scope of this directive.

5.3. Commanding Officer

5.3.1. The commanding officer in conjunction with the training section shall ensure that sworn personnel are properly trained and certified in the use of weapons or tactics for official duty.

5.3.2. Commanding officers shall be responsible for recovering any weapons from sworn personnel for just cause.

5.4. Police Chief

5.4.1. The Police Chief shall have the authority to add, amend, delete, or modify

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the specifications of any issued or authorized weapons and techniques used for official business.

5.4.2. The Police Chief shall have the authority to direct training or retraining of any sworn personnel in the use of weapons or tactics for official duty.

6. PROCEDURES

6.1. Parameters for Use of Force

6.1.1. In accordance with Section 703-307, Hawai'i Revised Statutes, as amended, a police officer is authorized to use force upon or toward the person of another when making or assisting in making an arrest and the officer reasonably believes that such force is immediately necessary to affect a lawful arrest. The use of force is not justifiable under this section unless:

- a. The officer makes known the purpose of the arrest or believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and,
- b. When the arrest is made under a warrant, the warrant is valid or is believed by the officer to be valid.

6.1.2. The use of force to prevent the escape of an arrested person from custody is justifiable when the force could justifiably have been employed to effect the arrest under which the person is in custody.

6.1.3. In accordance with Section 803-7, Hawai'i Revised Statutes, as amended, in all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel the person to submission.

6.2. Parameters for Use of Deadly Force

6.2.1. Deadly force may only be used when an officer reasonably believes the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of death or serious bodily injury.

6.2.2. In accordance with Chapter 703, Hawai'i Revised Statutes, as amended, a police officer is authorized to use deadly force under the following conditions:

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- a. The police officer reasonably believes that there is an immediate threat or imminent danger of serious bodily injury or death to himself or others; or,
- b. Where there is an arrest for a felony; and,
- c. The officer reasonably believes that the force employed creates no substantial risk of injury to innocent persons; and,
- d. The officer believes that:
 - The crimes for which the arrest is made involved conduct including the use or threatened use of deadly force; or,
 - There is a substantial risk that the person to be arrested will cause death or serious bodily injury if his apprehension is delayed.

6.3. Parameters for Discharging of Firearms in Other Situations

6.3.1. In addition to conditions identified previously, a police officer is justified to discharge his firearm under the following conditions:

- a. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured;
- b. During target practice or competitive sporting events at an approved range.

6.3.2. Officers shall adhere to the following restrictions regarding the display or discharge of firearms:

[REDACTED]

[REDACTED]

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- c. Likewise, the use and even the display of rifles, shotguns, or other approved long guns must be in accordance with this policy, based on existing conditions at each scene or incident and articulated within an incident report;
- d. Caution shall always be exercised when unloading and loading firearms;

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- h. Warning shots are prohibited.

6.4. Parameters for Use of Less-Lethal Force

- 6.4.1. When deadly force is not justified, officers are responsible for determining which departmentally approved less-lethal force technique or weapon will best de-escalate an incident.
- 6.4.2. Police officers are justified to use department approved less-lethal force techniques and issued equipment for resolution of incidents:
 - a. To protect themselves or another from physical harm; or

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- b. To restrain or subdue a resistant individual; or
- c. To bring an unlawful situation safely and effectively under control.

6.5. Objectively Reasonable Use of Force

6.5.1. Officers shall only use a level of force that is objectively reasonable to bring an incident or persons under control and to safely accomplish a lawful purpose. In a confrontation, an officer will continuously reassess their response and adjust any use of force accordingly based upon the level of resistance encountered. In choosing a force option, the nature and severity of the crime underlying the police and citizen interaction must be considered. When it is objectively reasonable that a subject is fully in police control, then the use of force must terminate.

6.5.2. The United States Supreme Court’s decisions and interpretations of the Fourth Amendment of the United States Constitution state an officer shall only use such force as is “objectively reasonable” under all of the circumstances. The standard that courts use to examine whether a use of force is constitutional was first set forth in *Graham v. Connor* and expanded by subsequent court cases. The reasonableness of a particular use of force must be judged from the perspective of a judicious officer on the scene, rather than with 20/20 vision of hindsight. The consideration must account for the fact that officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving.

- a. Prior to the application of force, officers will consider, and be able to articulate the following factors, pursuant to *Graham v. Connor*:
 - The severity of the alleged crime the officer believed the suspect to have committed or be committing;
 - Whether the suspect poses an imminent threat to the safety of officers and/or others; and
 - Whether the suspect is actively resisting or attempting to evade arrest by flight.

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6.6. De-Escalation

- 6.6.1. At times officers must exercise control of a violent or resisting subject to make an arrest or to protect officers and/or others from risk of harm. Not every potential violent confrontation can be de-escalated, but officers do have the ability to impact the direction and the outcome of many situations based on their decision-making and the tactics they choose to employ. As a strategy to reduce the likelihood and the severity of the application of force, officers will apply de-escalation techniques when possible.
- 6.6.2. When reasonable, prior to responding to the scene, officers should gather information about the incident, assess the risks, assemble resources and equipment, and communicate and coordinate a response.
- 6.6.3. Examples of de-escalation techniques include but are not limited to:
- a. Using advisements, warnings, verbal persuasion, and other tactics as alternatives to higher levels of force;
 - b. The use of cover, increasing distance, or repositioning to a more tactically secure position in order to help create time to diffuse a situation.
- 6.6.4. In responding as a team, officers should manage the containment or isolation of the subject. Officers will perform their work in a manner that avoids unduly jeopardizing their safety or the safety of others.

6.7. Duty to Intervene

- 6.7.1. Any police officer who observes another officer, regardless of rank, using excessive force shall, when safe and feasible:
- a. Act to intervene in an effort to try to stop the excessive force;
 - b. Promptly report these observations and the efforts made to intervene to a supervisor, or, if the person utilizing excessive force is a supervisor, to the supervisor's commander.
- 6.7.2. If the observing officer is a supervisor, he/she shall issue a direct order to stop the violation.

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6.7.3. Supervisors receiving reports of excessive force from officers shall be responsible for informing their respective commander, and referring appropriate complaints to the Office of Professional Standards.

6.8. Rendering Aid Procedures

6.8.1. Officer(s) shall be aware that appropriate aid may include, but is not limited to:

- a. Increased observation to detect obvious changes in condition;
- b. Flushing chemical agents from the eyes;
- c. Rendering first aid;
- d. Evaluation by Emergency Medical Services personnel; and
- e. For more serious or life-threatening incidents, providing for treatment by medical professionals.

6.8.2. Aid rendered following the use of Pepper Spray shall be in compliance with GO 805.

6.8.3. Aid rendered following the use of the less-lethal extended range impact munitions and chemical munitions shall be in compliance with GO 816.

6.8.4. Aid rendered following the use of the Conducted Energy Weapon shall be in compliance with GO 817.

6.8.5. After an incident involving law enforcement action in which injuries have been sustained, officers will ensure the appropriate medical aid is rendered as quickly as reasonably possible, recognizing scene safety, control of the individual, and environmental circumstances may influence these actions and timing of response.

6.8.6. Officers shall:

- a. Determine whether the person has sustained any observable signs of difficulty in breathing, a visible injury, or a complaint of injury or sickness.

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- b. If the person is injured or complains of injury, the officer(s) on scene will then monitor the subject and evaluate the need to summon emergency medical personnel to render aid or whether the subject should be transported to a medical center by officers;
 - A call for medical aid/transport by officers to a medical center may not be required for apparent minor injuries that can be treated by basic first aid (e.g. minor cuts and abrasions).
 - Emergency medical personnel shall be summoned when obvious severe injuries have occurred, medical distress is apparent, or the individual is unconscious.
 - Officers will be mindful that subjects, who are in a prolonged physical encounter with officers or display signs to include, but not limited to; profusely sweating, disrobing, unintelligible or incoherent speech, odd/violent behavior, and/or increased pain tolerance may be at an increased risk of medical distress and emergency medical personnel shall be summoned to assess the individual.
 - c. If emergency medical personnel are not summoned, ensure medical aid is rendered within the scope of the officer's training and capabilities unless aid is declined;
 - If aid is declined, a Hawai'i Police Department Refusal to Consent to Medical or Surgical Treatment form will be completed.
 - d. If emergency medical personnel are summoned, ensure medical aid is rendered within the officer's training and capabilities until the arrival of emergency medical personnel.
 - Consent is assumed for unconscious subjects or subjects incapable of providing consent.
- 6.8.7. Officers will not restrain subjects who are in custody and under control in a manner that compromises their ability to breathe. Prone handcuffed subjects will be placed in a recovery position (i.e., the placement of a subject's body in a manner that does not restrict breathing or obstruct the

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airway, such as on their side). While handcuffed subjects are seated, they will not be forcefully bent forward at the waist, and pressure will not be applied to their back, neck, or head.

6.9. Training, Qualifications, and Regulations

6.9.1. Annual Use of Force In-Service Training

- a. The Training Section shall ensure that sworn personnel receive annual in-service training in department policy on the use of force (deadly and less-lethal).
 - The training shall include for review definitions of conditional terms used to qualify the department's directive for use of deadly force.

6.9.2. Deadly Weapons

- a. While on duty, an officer shall carry their department issued firearm and ammunition authorized by and registered with the department, or as outlined in G.O. 801;

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- c. Authorized weapons are those with which the officers have qualified and received departmental training on proper and safe usage, and that are registered and comply with departmental specifications;
- d. Officers who fail to successfully complete the qualification course with their duty weapons in accordance with the department testing procedures shall be immediately reassigned to non-law enforcement duties, if available. If such duties are not available, the officer shall be placed on Authorized Leave of Absence status until such time that

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he/she can qualify with their duty weapon;

- e. Officers shall not carry and use any supplemental weapon which they have not qualified with during the most recent qualification period;
- f. An officer who has taken extended leave or suffered an illness or injury that could affect his/her ability to use a firearm must re-qualify before returning to enforcement duties. Depending on the reasons for the extended leave or illness, an officer may be required to undergo a Psychological Evaluation to determine whether the officer is fit to return to duty as a police officer;
- g. Officers shall not place or store any firearms or other weapons in any police building, motor vehicle, desk, locker, or at any other location, except when the place of storage is locked. Firearms which are not under the direct and immediate control of the officer shall be unloaded before being stored.

6.9.3. Less-Lethal Force Impact Weapons and Methods

- a. Officers are not permitted to use less-lethal weapons unless qualified in the proficient use of that weapon as provided in approved training procedures and standards.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6.9.5. Pepper Spray – The use of department-issued Pepper Spray shall be in accordance with General Order 805 Use of Pepper Spray.

6.9.6. Conducted Energy Weapons (CEW) – The use of the department-issued TASER (CEW) manufactured by Axon Enterprise, Inc., shall be in accordance with General Order 817 Conducted Energy Weapon.

6.9.7. Less-Lethal Extended Range Impact Munitions and Chemical Munitions – The use of Less- Lethal Extended Range Impact Munitions and Chemical Munitions shall be in accordance with General Order 816 Less-Lethal Extended Range Impact Munitions and Chemical Munitions.

6.9.8. Prohibited Practices

a. Vascular Neck Restrictions (Carotid Restraint) – Personnel are prohibited from employing any type of vascular neck restriction, which relies on the temporary disruption of blood flow to the brain for incapacitation, in the performance of their duties.

b. Choke Holds – Personnel are prohibited from employing any technique restricting the intake of oxygen for the purpose of gaining control of a subject, in the performance of their duties.

c. Personnel shall not deliver strikes to any subjects on the ground unless:

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[REDACTED]

[REDACTED]

- d. Strikes to the face, sides, or back of the head of a subject in the prone position are strictly prohibited.

6.9.9. Reporting Uses of Force

- a. Involved personnel shall submit to a preliminary interview with the Office of Professional Standards regarding the incident and the actions taken before the conclusion of their tour of duty in the following incidents:
 - When a firearm is discharged outside of a firing range;
 - When use of any force results in death or a report of serious injury.
- b. District or Division Commanders and a representative of the Office of Professional Standards shall be immediately notified, and a supervisor assigned to the scene to investigate any incident involving officers in their command:
 - When an officer's firearm is discharged outside of the firing range;
 - When the officer's use of force results in death or a report of serious bodily injury.
- c. A written memorandum to the Police Chief will be submitted before the conclusion of the tour of duty of any officer involved in an incident in which:
 - An officer's firearm is discharged outside of the firing range;
 - The officer's use of force results in death or a report of serious

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bodily injury.

- d. In accordance with General Order 604, Critical Incident, involved officer shall not be required to submit a written memorandum until the officer has had a reasonable period of time to consult with counsel of choice and/or union representative. The reasonable period of time to consult with counsel of choice and/or union representative shall not exceed four (4) hours;
- e. A written memorandum to the Police Chief will be submitted before the conclusion of the tour of duty of any officer involved in the following incidents. This does not preclude, however, that involved employees may be subject to a preliminary interview with the Office of Professional Standards regarding the incident and the actions taken. The Police Chief or designee will conduct an Administrative Review to determine if force was justified:
 - Whenever Pepper Spray is utilized.
 - When the wooden or expandable metal baton is utilized.
 - When a CEW is utilized.
 - When Less-Lethal Extended Range Impact Munitions and/or Chemical Munitions are utilized (The exception is use in Special Response Team operations and/or SPEED operations which will be documented in an After-Action Report).
 - When Arrest Control Techniques are utilized in response to resistance or aggression.
 - When use of force results in, or is alleged to have resulted in, injury of another person.
- f. In all instances involving the reported use of force, it shall be the responsibility of the supervisor(s) to ensure that all proper notifications are made and necessary reports filed.
- g. Exceptions: During events that involve protesting, or similar type events in which large groups of individuals are arrested, the Police

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Chief or designee may allow a delay in the submittal of the use of force memorandum by officers involved. When this occurs, the Commander on duty shall provide information to the Police Chief at the conclusion of the Commander's tour of duty which outlines the force used. This may be accomplished via a memorandum or other correspondence. The officers involved will then submit a memorandum to the Police Chief within three days.

6.9.10. Investigations

- a. The Office of Professional Standards shall conduct a thorough investigation of all circumstances involving the discharge of firearms by department personnel and submit a detailed memo to the Police Chief. If violation of any policy is found, the matter shall be referred for appropriate disciplinary action.
- b. When an officer's use of force results in death or a report of serious bodily injury, the procedures outlined in General Order 604, Critical Incident, shall be adhered to.

6.9.11. Departmental Response

- a. Deadly Force Incident – When an officer's use of force causes death or serious bodily injury, the procedures outlined in General Order 604, Critical Incident, shall be adhered to.
- b. Discharge of Firearms – A Special Review Board shall be convened in accordance with General Order 304, Special Review Board (Deadly Force Incidents).

6.9.12. The Commander of the Special Response Team, or designee, shall conduct a documented annual analysis on incidents of use of force, policies and practices.

- a. The analysis shall identify:
 - Date and time of incidents;
 - Types of encounters resulting in use of force;

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- Trends or patterns related to race, age and gender of subjects involved;
 - Trends or patterns resulting in injury to any person including personnel; and
 - Impact of findings on policies, practices, equipment, and training.
- b. The analysis shall be forwarded to the Police Chief with any recommendations. These reports shall include all reports that are generated when personnel:
- Discharge a firearm, for other than training or recreational purposes;
 - Take an action that results in, or is alleged to have resulted in, injury or death of another person;
 - Apply force through the use of deadly or less-lethal device; or
 - Apply Arrest Control Techniques in response to resistance or aggression.

6.9.13. The Commander of the Special Response Team, or designee, shall conduct a documented review of all assaults on police officers to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues.

- a. The analysis shall be forwarded to the Police Chief with any recommendations.