

# Johnson city police department use of force

Non-Deadly and Deadly  
200.05

- **Deadly Force-** Force which is reasonably likely to cause death or serious bodily injury.
- **Non-Deadly Force-** Force which is not likely nor intended to cause death or serious bodily injury.
- **Taser-** A defensive weapon approved by the Department that transmits electrical impulses to override the central nervous system and control the skeletal muscles

## Definitions

- **Threat Continuum-** A term used to describe a progressive chain for the prescribed escalation of required necessary force.
- **Officer Presence-** The mere presence of an officer in uniform denotes command.
- **Verbal Command/Dialogue-** Verbal command/dialogue consisting of communicating clearly and dominantly to mediate, direct, or resolve the situation.

- **Compliance Holds-** Force used to hold or restrain persons which shall include, but is not limited to, arm-locks, take down holds, pain compliance techniques, etc. without use of any mechanical device. (PR-24, M.E.B.) CHOKE HOLDS ARE PROHIBITED UNLESS DEADLY FORCE IS AUTHORIZED.
- **Chemical Agent or TASER-** Department approved chemical agent issued to sworn personnel. X-26 / X26P Taser.
- **Mechanical Compliance-** Force used to hold or restrain persons which shall include, but is not limited to, running arm locks, wrist drag etc. Mechanical compliance requires the assistance of a device (PR-24, M.E.B.) to complete the restraint.

- **Hands and Feet Impact-** Physical Impact with hands, fists, and feet to overcome violent resistance or to protect self or others from assault or injury.
- **Impact Weapon (Defensive Batons)-** Defensive implement used to overcome violent resistance or to protect self or others from assault or injury.
- **Less Lethal Force-** Any force utilized to gain or maintain control of a combative or otherwise actively resisting subject which is not designed nor intended to cause death.

- **Reasonable Belief-** the facts or circumstances that an 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.
- **Serious Bodily Injury-** A bodily injury that creates a substantial risk of death; causes serious, personal disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

- **Immediate-** Near at hand, near to or related to the present imminent danger.
- **Imminent-** A danger ready to take place, impending danger about to occur, a factual reality not imagined, and is believable within the range of known possibility or probability.
- **Specialty Impact Munitions-** Munitions designed to cause blunt trauma when fired at a resisting subject. This is the same type of trauma that occurs when a person is struck with a police baton.

- Suspect Resistance Report- An official Department report used to document the Use of Force. The Suspect Resistance report is to be completed by the officer who utilized force

- 1. Physical Presence
- 2. Verbal Command/Dialogue
- 3. Compliance Holds
- 4. Taser/Chemical Agent
- 5. Mechanical Compliance
- 6. Hands and Feet Impact
- 7. Impact Weapon
- 8. Deadly Force

## **Threat Continuum Example**

- An officer need not retreat or desist from efforts to make a lawful arrest because of active, threatened, or passive resistance. Officers must remain cognizant that a primary law enforcement responsibility is to protect life and property. An officer is justified in the use of that force which he or she reasonably believes necessary as self-defense or defense of others from bodily harm or to effect and arrest. However, an officer is justified in using deadly force only under the following circumstances:

## Deadly Force

- Deadly force is permissible only when the officer has reasonable belief that the action is necessary in defense of human life or necessary in the defense of any person in imminent danger of serious bodily injury.
- Deadly force is permissible only when there is an imminent and immediate danger of death or serious bodily injury to the officer or other persons present and that danger is caused by the aggressive actions of the suspect.

- A fleeing felon shall not be presumed to propose an imminent threat to life in the absence of actions that would lead one to believe such is the case.
- Deadly force is not permissible to stop a non-violent fleeing felon or misdemeanor, nor to protect property.
- Shooting at or from a moving vehicle is prohibited in all instances except those circumstances governed by paragraph b above.
- Officers shall not fire warning shots.
- **CHOKES HOLDS ARE PROHIBITED UNLESS DEADLY FORCE IS AUTHORIZED**

- Officers shall not draw their weapons unless there is sufficient justification. In effecting the arrest of potentially dangerous suspects or in "high hazard" situations, officers may draw or display a firearm for the purpose of obtaining and maintaining control of the situation.

- No distinction shall be made relative to the age of the person who is the intended target of deadly force. Self-defense and an imminent and immediate threat shall be the guidelines for employing deadly force.

- **The US Supreme Court has ruled that law enforcement officers must act in an “Objectively Reasonable” manner when dealing with tense, rapidly evolving situations.** Split second life and death decisions are then analyzed months and years later in safe and comfortable court rooms. How does an “Objectively Reasonable” person act? There is no standard definition used to satisfy this legal standard.

**“Objectively Reasonable”**

- An officer's use of force is governed by the reasonableness standard set forth in *Graham v. Connor*, 490 U.S. 386, 395, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989). The "reasonableness inquiry in an excessive force case is an *objective* one, meaning, 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. So, an officer's own personal feelings, fear, anger, frustration, etc., are not factors but rather the test is based on the perspective of a reasonable officer on the scene. Courts are supposed to determine the reasonableness of the officer's actions based upon whether another officer standing in this officer's shoes, reasonably perceived there was a need to use the amount of force used in the given situation.

- **An officer must have a lawful objective for taking action.** Any time an officer uses his governmental authority to bring a person under control the officer **MUST** have a "lawful objective" for taking the action.
- Lawful objectives may include: detention, frisk, arrest, involuntary mental commitment, self defense, defense of others, defense of property, preventing escape, and others.
- "Contempt of Cop" or a person's disrespectful attitude toward an officer is not a "lawful" reason for using force

- **An officer need not retreat from a known threat.** The officer may "choose" to retreat in order to de-escalate the situation or in order to gain a better tactical advantage. However, the officer need not retreat simply because he is faced with a threat that will almost certainly require the officer to use force upon the threatening person.

- Under the objective reasonableness standard an officer may use that amount of force that is "objectively reasonable." So what are the parameters of "objective reasonableness?"
- **"Balancing Test"** - The "objective reasonableness" test is a balancing test between the person's right to privacy and physical integrity weighed against the government's legitimate interests in taking action against the person. Put another way, the more heinous the person's activities and/or threat level, the more force that an officer may justifiably use.

- **"Objective" v. "Subjective" -**  
"Subjective" refers to what the officer "believes" (or the officer's intent). "Objective" refers to what others would logically believe, or conclude. An officer's use of force will not be judged by what "HE" believes to be acceptable, rather the question is would a reasonably prudent and well trained officer believe that what the officer did was acceptable?

- **Under the "Totality of the Circumstances"** - An officer's use of force will be judged upon the "totality of the circumstances" as known by the officer at the moment the force is used.
- Information learned **AFTER** the officer uses the force is irrelevant to assessing the appropriateness of the officer's use of force.
- Any background information that the officer knows may be included in the totality of the circumstances.
- **Example:** If an officer knows that a certain individual is known to be a physical threat to officers, and this same man is a martial arts expert, the officer can take this information into account when determining how much force he may use.

- **NOT to be Judged in HINDSIGHT** - Officers must often make split-second judgments in tense, uncertain, and rapidly evolving situations. Is it fair to the officer, or appropriate, to judge an officer in the quiet sanctuary of a judge's courtroom? **No.**

- **Example of this principle:** In a use-of-force incident, an officer may have only seconds to make a life or death decision on how much force to use. Those criticizing the officer's use of force may have months, or even years, to criticize the officer's force decision. Also, the critics may have access to information and evidence that the officer did not know.

- **Example:** An officer is walking through a park late at night. In the dark shadows an officer sees a dark figure pointing a gun at the officer. The officer draws his gun and shoots, killing the dark attacker. In the incident aftermath, it is determined that the gun was a toy and the dark figure was 13 years old. While the incident had tragic consequences, the officer's use of force based upon the facts known to him at the moment of the shooting was appropriate.

- **An Officer's Use of Force Does NOT Have to be the "Least Intrusive" Option Available** - An officer does not have to use the absolute least amount of force available. The officer need only select a level of force that is within the **RANGE** of the "**Objectively Reasonable**" force options.

- **The OUTCOME is Irrelevant** - Since an officer's use of force is judged at the "moment" the force is used, the "outcome" of the use of force is irrelevant (under this analysis).
- **Example:** An officer is justified in putting a suspect in an arm restraint. In the process the person sustains a severe shoulder injury - actually an aggravation of a prior injury. The officer did not know of the prior injury, or that the person was more susceptible to injury than the average person. Since the officer's use of the arm restraint was appropriate at the "moment" it was applied then the injured shoulder - the "outcome" - is irrelevant.

- **Unreasonable use of force is prohibited: Self-Defense.**
- **2010 Tennessee Code**  
**Title 39 - Criminal Offenses**  
**Chapter 11 - General Provisions**  
**Part 6 - Justification Excluding Criminal Responsibility**  
**39-11-611 - Self-defense.**
- **A Person Has A Right to Use Self-Defense Against An Officer's unnecessary Force** - A person has the right to use reasonable force only in self-defense against an officer who is using greater force than is necessary during a lawful arrest.

- **The "Reasonableness" Inquiry** - The reasonableness of an officer's use of force is, in part, based upon the totality of the circumstances as known by the officer at the moment the force is used. The following five (5) questions are the basic reasonableness determining factors. However, keep in mind that since the standard is the **"Totality of the Circumstances,"** the five (5) questions are not the **ONLY** questions (other aspects of the incident could be considered). Also, the following questions have been placed in a specific order of priority.

- **1. Imminent Threat to Officers and/or Others** - Is the person an imminent threat of injury to the officer and/or others? The greater the level of the threat the greater the level of the force that may be used
- **2. Actively Resisting Seizure** - If the person is actively resisting seizure then the officer may escalate his (the officer's) justified (reasonable) level of force response.

- **3. Circumstances are Tense, Uncertain, and Rapidly Evolving** - ("Officer's legitimate anxiety factor") - Some incidents take hours to resolve, while others start and are over in seconds. The more tense, uncertain, and rapidly evolving the incident the higher level of force that will be judged to be reasonable.
- **4. Severity of the Crime at Issue** - The more severe the crime committed the more force that an officer may justify. Remember, an officer cannot assume the negative if time and circumstances permit.

- **5. Attempting to Evade Seizure by Flight** - Is the person attempting to evade seizure by flight? If yes, then this will assist the officer in justifying an escalating level of force.

- **“Objectively-Reasonable force”** is a much more accurate standard to describe what officers using force should be held to.
- The term does not carry the unrealistically-utopian idealism of the term **“minimal force.”** It also does not give any implication that it describes an exact quantum of force that can be debated for weeks. It does not give the idea that a use of force should be looked at with **hindsight** to determine if it really was **“necessary.”**

**QUESTIONS?**