

ADEL POLICE DEPARTMENT		
Policy #: O-101 Response to Resistance	Related Policies:	Review: A
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only for the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>		
Applicable State Statutes: OCGA 17-4-20(b), OCGA 16-3-21(a), OCGA 35-8-26		
Georgia Law Enforcement Certification: 1.9, 1.10, 1.15, 1.13, 1.15, 1.16, 1.17		
Effective Date: 04152006 Revised Date: 03032011	Distribution Authorization: <i>Chief Chad L. Castleberry</i>	

POLICY

Officers of the Adel Police Department shall only use the amount of force which is necessary to accomplish lawful objectives. The use of excessive force will be considered serious dereliction of duty and shall be grounds for disciplinary action.

GENERAL INFORMATION

This agency recognizes and respects the value and integrity of all human life. Many decisions and actions of law enforcement officers have serious consequences, but none are so irrevocable as the decision to use force, particularly deadly force. This order is provided for the guidance of personnel of the Adel Police Department. It is enforceable only through internal departmental disciplinary processes. It is not intended to create a greater legal obligation on the Department or its officers in terms of criminal or civil liability than applicable State or Federal statutes.

DEFINITIONS

- Imminent - Near at hand, mediate rather than immediate; close rather than touching; impending; on the point of happening; threatening; menacing; perilous.
- Imminent Danger - In relation to homicide in self-defense, this term mean immediate danger, such as must be instantly met, such as cannot be guarded against by calling for assistance of others or the protection of the law. Or, as otherwise defined, such an appearance of threatened and impending injury as would put a reasonable and prudent man to his instant defense.
- Immediate - Present; at once; without delay; no deferred by any interval of time. In this sense, the word, without any very precise signification,

denotes that action is or must be taken either instantly or without any considerable loss of time.

Immediate Danger - Definition of "immediate danger" as part of humanitarian doctrine contemplates that there be some inexorable circumstance, situation or agency bearing down on plaintiff with reasonable probability of danger prior to negligence of defendant. *Curran V. Bi-State Development Agency*, Mo. App. 522 S.W. 2d 98, 100.

Serious Bodily Injury - Defined as bodily injury which involves 1) a substantial risk of death 2) extreme physical pain 3) protracted and obvious disfigurement or 4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Reasonable Belief - The facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

For the purpose of this order, the term **DEADLY FORCE** and **NON-DEADLY FORCE** shall have the following meanings:

DEADLY FORCE- Any force which is intended to cause death or serious bodily harm or which creates a degree of risk that a reasonable and prudent person would consider likely to cause death or serious bodily harm. This definition includes but is not limited to the following:

- 1) any intentional discharge of a firearm (except for authorized training purposes) and/or any unintentional discharge of a firearm;
- 2) the drawing and/or pointing of a firearm in the presence of a suspect or any other person;
- 3) any blows struck to the head or neck area of any person with any weapon or instrument used as a weapon (baton, flashlight, sidearm, portable radio, etc.);
- 4) any other act which would be considered a felonious assault under Georgia statutes.

NON-DEADLY FORCE-1) Any act involving physical contact which does not meet the standards for the definition of **DEADLY FORCE** above, and which would constitute simple battery under Georgia statutes, and/or 2) any application of chemical agents (except in authorized training activities) and/or 3) any forcible entry onto or into real property which causes damage to such property and/or 4) the intentional use of a Department K-9 involving physical contact with a third party.

PURPOSE

- 1) To provide guidance for Department personnel in the proper and permissible use of force in the performance of their duties.
- 2) To provide clear parameters of allowable discretion in the use of force for Department personnel.
- 3) To provide effective safeguards for the protection of the public and officers of the Department.
- 4) To insure prompt, thorough reporting and appropriate review of incidents involving the use of force by Department personnel.

PROCEDURE

A. Use of Deadly force

- 1) An officer of the Department is authorized to use deadly force only when the officer reasonably believes that the action is to:
 - a) to defend himself/herself from imminent threat of death or serious injury when other less drastic means are not available or would not be effective to eliminate the threat; or
 - b) to defend any other person from imminent threat of death or serious injury when other less drastic means are not available or would not be effective to eliminate the threat, or
 - c) to effect the arrest of a suspect whom the officer has probable cause to believe has committed a crime involving the infliction or threatened infliction of serious physical harm if the officer reasonably believes that the suspect's escape would create a continuing danger of serious physical harm to any person.
- 2) The use of deadly force by an officer of the Department is specifically prohibited under the following conditions:
 - a) to halt the flight of any suspect or prisoner under conditions which do not meet the criteria of the preceding paragraph, and
 - b) to prevent or interrupt the commission of a crime, unless the crime being, or about to be committed, creates an imminent danger of death or serious injury to the officer or another person.
- 3) In addition to the use of force authorized in paragraph 1 above, firearms may be discharged for the following purposes:
 - a) to kill a dangerous or seriously injured animal when other disposition is impractical,
 - b) for Department firearms qualification and Department approved training and/or competition,

- c) to provide an alarm/call for assistance when necessary and no other means is available.
 - d) officers **WILL NOT** discharge a firearm at or from a moving motor vehicle except as the ultimate measure of self defense, or defense of another , when the suspect is using deadly force . Any threat used to justify the use of deadly must be immediate and there must be no other possible remedy. Speculation as to what the suspect may or may not do if allowed to escape is not sufficient reason for use of deadly force.
- 4) In addition to the prohibitions on the use of deadly force outlined in Paragraph 2 above, the following acts are specifically prohibited:
- a) discharging a firearm as a warning to a person attempting to escape from custody or to elude capture,
 - b) discharging a firearm as a warning to interrupt the commission of a misdemeanor or non-violent felony.
- 5) Neck Restraint/Choke Hold
- a) neck restraint or similar weaponless control techniques have the potential for serious injury. Officers are not trained in this technique and therefore is specifically prohibited.

B. Use of Non-Deadly Force

- 1) An officer of the Department is authorized to use non-deadly force when all the following conditions are met:
- a) when active or passive resistance by another person interferes with an officer's proper performance of his/her lawful duties,
 - b) when the use of force is the last or only reasonable method of overcoming such resistance,
 - c) when the degree of force applied is the minimum force necessary to accomplish the officer's lawful objective(s),
 - d) when the necessary force is applied in such a manner as to accomplish the officer's objective(s) with the minimum potential for injury to the officer, the person providing the resistance, involved or non-involved third parties and with the minimum potential for damage to real or personal property.

C. Requirement to Render Aid For Injuries as a Result of Use of Force

- 1) It shall be the responsibility of any officer employing force (deadly or non-deadly) which results in any injury to render appropriate medical aid,

within the scope of the officer's expertise and training, to the injured party or to request and arrange for the injured party to receive appropriate medical aid at the earliest reasonable opportunity.

- 2) If for any reason the officer employing any force which resulted in injury is unable to either render, request, or arrange appropriate medical aid for the injured party, it shall become the responsibility of the first officer who becomes aware of such injury to provide/arrange medical aid pursuant to the requirements of the previous paragraph.

D. Reporting Use of Force

- 1) Each officer involved in the use of non-deadly force or the use of deadly force, which does not involve the discharge of a firearm or result in serious injury, or any accidental discharge of a firearm or the discharging of a firearm for other than training or recreational purposes will:
 - a) immediately notify his/her supervisor of the incident,
 - b) complete, before the end of the workday during which the incident occurred, an individual Adel Police Department Critical Incident Report, (APD-20) describing the exact form and degree of force applied and specifying the effectiveness or ineffectiveness of any chemical agents used, and
 - c) submit the required report to his/her immediate supervisor.
- 2) The immediate supervisor of any officer involved in the use of non-deadly force or the use of deadly force which does not involve the discharge of a firearm or result in serious injury, or any accidental discharge of a firearm or the discharging of a firearm for other than training or recreational purposes will:
 - a) immediately initiate an investigation of the incident,
 - b) notify his/her commanding officer if it is determined that the scope of the investigation exceeds the resources available to the supervisor,
 - c) complete, before the end of his/her workday, a Supervisor's Critical Incident Review Form (APD 21),
 - d) closely scrutinize the incident for evidence of training needs, policy violations, policy failure, officer misconduct, etc. and accurately report his/her conclusions,
 - e) include in the above required report any disciplinary action to be initiated or recommended by the supervisor, and

- f) forward completed APD 20 and APD 21 forms through the chain of command to the Assistant Chief of Police.

(In the absence of any member of the chain of command, the reports will be forwarded to the next highest level.)

- 3) Due to the strictly confidential nature of the reports required in this section, no copies of the reports are to be made by any officer and the reporting officers will discuss the contents of the reports only with members of their chain of command and/or personnel assigned to investigate the incident. When hand-to-hand transfer of the required reports between authorized officers is not possible, the reports will be forwarded in sealed envelopes; under no circumstances will reports be handled in such a manner as to divulge their contents to unauthorized parties within or outside the Department.
- 4) In the case of any incident involving the use of deadly force resulting in serious injury and/or the discharge of a firearm, the immediate supervisor and/or unit commander will immediately have the communications operator notify the Chief of Police.
- 5) On receipt of notification of an incident involving the discharge of a firearm or the use of deadly force causing death or serious injury, the Chief of Police will:
 - a) assign one officer from the Investigation Division and the Assistant Chief of Police to conduct an investigation of the incident and/or
 - b) request the assistance of appropriate authorities outside the Department to investigate the incident.

E. Administrative Review

- 1) Each use of force incident or discharge of a weapon (other than training or recreational purposes) will be reviewed by the Assistant Chief to evaluate causative factors and possible measures to prevent similar future incidents, if appropriate. This review will also include an evaluation of the propriety of the Department's response to the incident at each level of command.
- 2) The Assistant Chief will forward to the Chief of Police a summary of the investigation within two working days after completion of the investigation. This report will include a conclusion that the force applied was within Department policy or that Department policy was violated.
- 3) The Chief of Police or his designee will prepare a written annual analysis of all Critical Incident/Use of Force incidents reported.

F. Use of Force Resulting in Death or Serious Injury