

1.3.6 Investigative Report for Use of Force

I. POLICY

It is the policy of the Johnstown Police Department that all personnel comply with the provisions of this general order. All personnel shall be trained yearly on this general order

II. PURPOSE

The purpose of this general order is to provide guidelines to personnel in regard to the use of force and weapon safety. This general order outlines Chapter 5 of the Pennsylvania Crimes Code, weapon proficiency and qualification of personnel, medical aid after the use of force and reporting procedures for the use of force.

III. DEFINITIONS

1. Reasonable belief – the fact or circumstances the officer knows, or should know, that are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
2. Serious bodily injury – bodily injury which creates a substantial risk of death or which causes permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
3. Forcible felony – the crimes of murder, voluntary manslaughter, rape, robbery, kidnapping, involuntary deviate sexual intercourse, arson, endangering persons and aggravated assault causing serious bodily injury.
4. Deadly force – force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.

IV. PROCEDURES

Persons, regardless of their involvement in a situation, shall be treated with humanity, courtesy and the dignity due any human being to the extent that such treatment is allowed by the subject's actions. Johnstown Police Officers and civilian employees shall maintain a professional bearing at all times. They shall not be argumentative or engage in acts that might incite a subject to become physically aggressive. Personnel shall never use a greater degree of force than that which is lawful, reasonable and necessary for the specific situation. Such reasonable and necessary force may be used to effect an arrest, to overcome unlawful resistance, to prevent an escape from custody to

1.3.6 continued

neutralize an unlawful resistance, or to neutralize an unlawfully assault upon an officer or another person. The use of physical force will end immediately when resistance ceases or when the arrest has been accomplished. Emphasis shall always be on obtaining control over the situation rather than forcing submission. Personnel shall not mentally or physically abuse any person that they contact or take into custody or control.

Justification for the use of force is limited to what reasonably appears to be the facts known or perceived by the officer at the time he/she decides to use such force. Facts unknown to the officer no matter how compelling cannot be considered in determining whether the action was justified.

Officers using force must be able to articulate the need and justification for the use of force and the reasons[s] why the level of force utilized was selected.

Full disclosure of the circumstances requiring the use of force, and the type and the extent of force, shall be thoroughly documented in the departmentally required "Suspect Resistance Report," and in an incident report.

A. Suspect Resistance Report

1. Johnstown Police Officers shall complete a departmental "Suspect Resistance Report" whenever they:
 - a. Discharge a firearm for other than training or recreational purposes. Exception: A firearm discharge for the destruction of an animal shall be documented by use of an incident report.
 - b. Take any action that results in, or is alleged to have resulted in, injury to or the death of another person.
 - c. Apply force through the use of lethal or less than lethal weapons. i.e.; oleoresin capsicum, advanced Taser, baton, beanbag.
 - i. When the Advanced Taser is deployed the officer shall complete the "Advanced Taser Report" instead of the "Suspect Resistance Report".
 - d. Uses physical force, or is alleged to have used physical force, on another person.
2. The report will include a narrative description of the subject's demeanor after the device was used or displayed.
3. Each officer will complete and sign a separate "Suspect Resistance Report" form for his/her involvement in the incident.

1.3.6 continued

4. A “Suspect Resistance Report” shall be completed prior to the officer[s] concluding his/her shift during which the use of force occurred. The completed report[s] shall be provided to the shift supervisor to be forwarded through the chain of command to the Captain of Police.
 - a. If the officer involved is injured or unable to make the report, the officer’s supervisor shall submit a written report prior to the end of the shift in which the incident occurred detailing the circumstances under which the officer is unable to submit the report.
 5. When an incident requires the “Suspect Resistance Report” form, the shift supervisor, if not present, shall be notified to respond to the scene of the incident.
- B. Investigation Requirements for Officer-Involved shooting Incidents and for Non-Training Firearm Discharges
1. As soon as practical following a non-training or officer involved shooting incident, regardless of the location or on-duty/off-duty status, the officer shall notify, or cause to be notified, the shift supervisor of the occurrence.
 2. Upon notification by the officer, or another person, of an occurrence specified under this section, the shift supervisor shall proceed with the following notifications:
 - a. The Chief of Police and the Captain of Police.
 - b. The Detective Sergeant and on duty or on call detective.
 - c. The Cambria County District Attorney, as may be required by the circumstances.
 - d. The Pennsylvania State Police, as may be required by the circumstances.
 3. A complete investigation will be conducted into any accidental discharge of a firearm. Also, a complete investigation will be conducted any time an officer deliberately discharges a firearm in the line of duty, except when firing to destroy a wounded or suspected rabid/distempered animal or on the police firing range unless an injury results from such discharges. This includes both on-duty and off-duty incidents, regardless of where they occurred. Such investigations will consist of:

1.3.6 continued

- a. On scene preliminary investigation by the shift supervisor when the incident occurred within the Johnstown Police Department's jurisdiction.
 - i. If the shift supervisor is directly involved in the circumstances related to the firearms incident, the scene shall be stabilized and protected by other responding officers until the Captain or his/her designee can be notified to respond to the scene and conduct the preliminary investigation.
 - b. On scene and or follow-up investigation will be conducted by officers and/or the Pennsylvania State Police, as determined by the Chief of Police.
 - c. If the incident occurred outside of the Johnstown Police Departments jurisdiction, the investigation will focus on compliance with general orders and policies.
4. When the situation has occurred within the jurisdiction of the Johnstown Police Department, the shift supervisor shall assume command of the incident scene and will be in charge of the preliminary investigation, until such time as the scene is turned over to the Detective Bureau or a higher ranking officer.
 5. The first supervisor at the scene, following incident stabilization and hazard elimination, will determine which officer[s] fired their weapon, take custody of that weapon[s] and secure it/them in accordance with established procedures for safeguarding the evidentiary chain of custody.
 - a. The firearm[s] will not be unloaded or cleaned prior to examination.
 - b. Officer[s] involved will be reissued another weapon as soon as possible.
 6. The shift supervisor will insure that the officer[s] involved, if not incapacitated, are removed from the scene and returned to the station for subsequent interview by the officer[s] in charge.
 7. The shift supervisor, detective and/or the Pennsylvania State Police assigned to the investigation will continue to discharge their responsibilities as they relate to any criminal investigation.
 - a. They will provide for the scene to be secured and processed, evidence collected, interviews conducted with witnesses/victims, and fulfill their obligations as they would in any shooting investigation.

1.3.6 continued

- b. The Pennsylvania State Police and/or the Detective Bureau will be responsible to pursue prosecution of suspects involved in the shooting incident.
- c. Copies of all investigative reports, sketches, pictures, etc., from an officer involved shooting incident will be forwarded to the Chief of Police.
- d. Copies of all reports pertaining to the investigation of the discharge of a firearm shall be forwarded to the Chief of Police for review.

C. Review of Written Reports

- 1. All “Suspect Resistance Reports” submitted in accordance with Section 1.3.6 of this general order shall be reviewed by the Chief of Police for consideration of compliance with this general order.
- 2. Determination of Compliance
 - a. Reports found to indicate the Captain of Police shall maintain actions complaint with this general order.
- 3. Determination of Non-Compliance
 - a. Reports found to indicate non-compliance with this general order may be directed for follow-up consideration in accordance with one or more of the following actions depending of the circumstances of non-compliance:
 - i. Remedial training
 - ii. An investigation as per General Order 2.3
- 4. The “Suspect Resistance Report” is strictly an internal management document. As such, copies of the report shall not be attached to the regular department incident or supplemental report and shall not be released in whole or in part to any person, organization, or entity outside of the Johnstown Police Department without permission of the Chief of Police.

1.3.6 continued

Effective:

Date: June 14, 2006

By Order Of:

Craig Foust
Chief Of Police