



Holly Springs Police Department

Written Directive

Chapter: 700 – Arrest, Detention and Use of Force

Directive: 710.01 – Use of Force

Authorized by: Chief Paul J. Liquorie

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710.1.1 – Policy

- A. The need to use force, whether deadly or non-deadly, is one of the most critical and demanding decisions that a law enforcement officer must make. The Holly Springs Police Department recognizes and respects the sanctity of every human life. This principle should be of paramount consideration in an officer's decision to use force. However, there are situations when an officer makes the irreversible decision whether or not to use deadly or non-deadly force. Such a decision can have a profound effect on officers, the department and the community. Although the decision to employ each use of force is based on a unique set of circumstances, the purpose of this policy is to provide guidance to aid officers in the exercise of that decision based on the law and professional best standards and practices.
- B. Officers may only use force which is objectively reasonable to lawfully detain, seize and/or take into custody or arrest a subject, or in the performance of their lawful duties, to counteract active resistance, protect themselves and/or others from assault, battery, other physical harm or death. The use of force will never be used in a punitive manner. The decision to exercise force must be based upon the totality of circumstances that the officer objectively and reasonably believes to exist leading up to and at the time the use of force is implemented.

710.1.2 – Definitions

- A. **Active Resistance:** Occurs when a subject takes action and/or uses evasive movements that attempt to physically counteract or defeat an officer's attempt to lawfully detain/seize a subject and/or place them into custody and/or arrest, or to prevent a subject from fleeing the same.
- B. **Deadly Force:** Any force intended to or likely to cause a substantial risk of death or serious physical injury.
- C. **Excited Delirium Syndrome (ExDS):** A medical disorder generally characterized by observable behaviors including extreme mental and physiological excitement, intense agitation, hyperthermia (elevated body temperature) often resulting in nudity, hostility, exceptional strength, endurance without apparent fatigue, and unusual calmness after restraint accompanied by a risk of sudden death.
- D. **Less Lethal Force:** Any force that has a higher potential or likelihood to cause death or serious physical injury than non-deadly force, but less likely than deadly force. Department issued protective

instruments that fall under this category include kinetic impact rounds and conducted energy weapons (CEW – e.g. Taser).

- E. Medical Treatment: Medical care or assessment by a state certified provider at a minimum level of Emergency Medical Technician.
- F. Non-Deadly Force: Force not intended to, or likely to, cause death or serious physical injury.
- G. Objectively Reasonable Force: The level of force which is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who actually utilized the force. Further, the objective use of force is not analyzed with hindsight, rather it will take into account the fact that officers must make rapid decisions regarding the amount of force to utilize in highly stressful, dynamic, and evolving situations, often with imperfect, and, at times, erroneous information.
- H. Passive Resistance: A refusal by an unarmed person to comply with an officer's verbal commands or physical control techniques by non-violent means. (e.g. – ignoring verbal instructions by failing to respond or move when lawfully ordered to do so by an officer, linking arms with other willing subjects, and/or going limp).
- I. Protective Instruments: Devices or tools authorized by the department that are intended to protect the officer or others, assist in affecting a detention or seizure and/or taking a subject into custody or placing them under arrest (e.g. – oleoresin capsicum (OC) spray, handcuffs, expandable baton, flashlight, kinetic energy impact rounds, and conducted energy weapon (CEW)).
- J. Serious Physical Injury: Bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long term loss or impairment of any bodily member or organ.

710.1.3 – Use of Force in Arrest – North Carolina General Statute - G.S. 15A-401

- A. *The North Carolina General Statutes Chapter 15A. - Criminal Procedure Act § 15A- 401(d)(1). Arrest by law enforcement officer*, “Use of Force in Arrest” enumerates the justifications when a law enforcement officer may use force upon another person. Subject to the provisions of subdivision (2) of § 15A-401(d)(1), a law enforcement officer is justified in using force upon another person when and to the extent that they believe the arrest is necessary:

1. “To prevent the escape from custody or to effect the arrest of a person who [the officer] reasonably believes has committed a criminal offense, unless [the officer] knows that the arrest is unauthorized; or
2. To defend [the officer], or a third person from what [the officer] believes to be the use or imminent use of physical force while preventing or attempting to prevent escape.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.”

- B. Officers will only use that force which is objectively reasonable to lawfully control a situation, affect a detention, seizure, or place an individual into custody or under arrest, or defend themselves or others from bodily harm.
- C. Duty to Intervene: It is the duty of every officer, regardless of seniority, position or rank, to attempt to prevent any other law enforcement officer, regardless of which agency they are employed with, from

using unwarranted or excessive force. The use or attempted use of any unwarranted or excessive force must be reported to a supervisor as soon as possible by a witnessing and/or intervening officer.

710.1.4 – Use of Force Options

A. The level of force used by officers will be determined by the “objectively reasonable” legal standard established by the United States Supreme Court in *Graham vs. Conner* – 490 U.S. 386 (1989). Under this standard, officers are not required to begin at the lowest force option if a threat is imminent. Rather than a strict hierachal structure, the use of force for the department is to be considered a menu or set of options officers may utilize. Officers will exercise these options practically based on the involved officer’s situational analysis including factors such as, but not limited to, the force options used by the offender, level of resistance and the overall threat assessment of a given situation. This allows officers to determine and apply the appropriate level of force for the immediate situation and associated threats. More importantly, it allows the officer(s) to deescalate or increase the level of force as the situation evolves. Officers may employ multiple options, some repeatedly and others not at all. They also may use force options individually or in conjunction with others. When able, during the course of an incident, the ultimate goal is reducing harm for all involved parties and safely ending the incident. The department trains and encourages officers to deescalate situations whenever possible, but recognizes that the application of force, to include deadly force, may be necessary and appropriate in certain situations. The use of force options for the Holly Springs Police Department are as follows:

710.1.5 – Use of Force Options Outlined

A. Communication

When dealing with people, each officer must attempt to inspire mutual respect and generate cooperation. Officers will be courteous, respectful and civil in their relationships with the public. The manner in which an officer speaks can be an effective means of deescalating or otherwise influencing a situation. Types of oral communication include answering questions, reasoning, persuasion, advice, and verbal warnings. Inflection, tone and volume are important components of verbal communication. Officers should be cognizant of these elements when verbally communicating and should be adjusting them accordingly to best handle the given situation. Communication may also take the forms of non-verbal techniques including active listening, body language, hand signs/signals, and proxemics (spacing).

B. Deadly Force

The North Carolina General Statutes Chapter 15A. - Criminal Procedure Act § 15A- 401(d)(2) Arrest by law enforcement officer, “Use of Force in Arrest” enumerates three justifications when a law enforcement officer may use deadly force upon another person. The Holly Springs Police Department’s policy is more restrictive, as set forth in this directive, and only allows for two justifications in which deadly force can be used upon another person. Those justifications, as stated in the law and drafted into this policy, are as follows:

- (2) “A law enforcement officer is justified in using deadly physical force upon another person for the purpose specified in subdivision (1) of this section only when it appears to be reasonably necessary thereby:
 1. To defend [the officer] or a third person from what [the officer] reasonably believes to be the use or imminent use of deadly physical force;

2. To effect an arrest or to prevent the escape from custody of a person whom [the officer] reasonably believes is attempting to escape by means of a deadly weapon, or who by [their] conduct or any other means indicates that he [/she] presents an imminent threat of death or serious physical injury to others unless apprehended without delay.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force."

As with other uses of force, verbal and other communications should be used prior to and in conjunction with the use of deadly force and efforts should be made to deescalate a situation and provide warning prior to the implementation of deadly force when and if possible.

Although the department issues authorized protective instruments, in exigent circumstances, officers are not prohibited from using improvised instruments or other objects in order to protect themselves or others as long as the object is used in accordance within the scope and limitations of the use of force contained in this policy.

C. Less Lethal Force

Conducted energy weapons (CEW – e.g. – a taser) and kinetic impact rounds are less lethal weapons. The deployment and use of less lethal weapons are a significant use of force that has been associated with the death of some subjects whom they have been deployed against.

A CEW and kinetic impact rounds will only be deployed when an officer is confronted with circumstances that present a risk of immediate physical harm to the officer or others. As with other uses of force, verbal and other communications should be used prior to and in conjunction with the use of a less lethal weapon and efforts should be made to deescalate a situation when possible.

D. Officer Presence

An officer's mere presence in some situations may be a calming factor. It also is important that officers realize their arrival on some scenes may actually exacerbate tension and other emotions among the involved parties. Officers are again encouraged to employ de-escalation techniques, if the situation allows, including maintaining a safe distance, actively listening, and presenting a non-confrontational stance. In other situations, officers may have to take a more authoritative posture to counteract an elevated or increasing level of aggression. By its very nature, an officer's presence is fundamentally combined with other force options.

E. Oleoresin Capsicum (OC or "Pepper") Spray

OC spray is an aerosol lachrymatory (tearing) agent that may temporarily repel, impair or incapacitate a subject by producing burning, swelling and inflammation of the eyes, mucous membranes and breathing passages. The effect on subjects can vary widely. This is due to the many factors associated with its use, including the concentration and amount of contact with a subject's ocular, nasal and oral passages. Subjects who are intoxicated or who are under the influence of a controlled dangerous substance(s) also have differing reactions. As a result, officers should be aware that even under the best conditions, OC spray is not always effective. Officers also should be cognizant that due to the aerosol nature of OC spray that they may also be impacted by the spray's effects. Therefore, officers should be especially cautious when utilizing OC spray indoors or in other enclosed spaces.

OC spray will not be used on subjects who are passively resisting. OC spray may be deployed against subjects that actively resist, are assaultive or present a threat of physical harm to an officer or others.

F. Physical Control Techniques

Physical control techniques range from the slightest touching of an individual, to defending against an assault and/or gaining physical compliance from a subject who is disobeying a lawful order or resisting a legal detention, seizure, custody or arrest. Verbal commands and communication should accompany the implementation of physical control techniques, unless the officer's ability to do so is impeded or they are otherwise unable to do so. As a subject becomes less physically resistant and more compliant, an officer must modify their level of physical control to be proportional with the resistance offered. This does not necessarily mean the officer must fully release a subject, as more physical control may have to be reapplied to counter further active resistance.

Choke holds, neck restraints, and/or other applications of pressure on, or to, a subject's neck, such as, but not limited to, kneeling are prohibited in all circumstances other than those where deadly force is applicable. Therefore, any use of these techniques or similar tactics will be considered a utilization of deadly force and will only be used in circumstances that are objectively reasonable for this level of force. This does not include North Carolina Training and Standards Commission approved and/or department trained defensive tactics techniques that are employed in the area of the neck, shoulders and jaw but are not classified as choke holds.

G. Striking Techniques / Protective Instruments

When officers are faced with a subject that is actively resisting, is assaultive or presents a threat of physical harm to an officer or others, the use of striking techniques and/or protective instruments is authorized based on the threat presented and level of force displayed by the subject and the totality of the circumstances at the time the force was employed. Striking techniques are those direct impact actions using the hands, elbows, knees and other parts of the body and extensions thereof to include the department issued flashlight and collapsible baton protective instruments. Hands and other parts of an officer's body may be used to strike the soft tissue areas of the face in accordance with department approved training. Otherwise, the targeted areas for striking techniques will be soft tissue and other non-lethal areas of the subject's body, unless the level of force has escalated to a level where deadly force is objectively reasonable. Verbal communication and commands should accompany the implementation of striking techniques, unless the officer's ability to do so is impeded or they are otherwise unable to do so. Upon a subject's compliance to the accompanying verbal commands and instructions, and/or a subject has lowered his/her level of resistance or when the officer(s) has (have) control of the subject, the officer(s) must lower or deescalate to a proportional level of force. A failure of an officer(s) to accordingly deescalate their level of force may be considered unnecessary and could potentially lead to an officer being criminally charged.

710.1.6 – Medical Treatment

A. Officers and supervisors shall obtain medical treatment as soon as practical for individuals:

1. Who show signs of injury as a result of any use of force.
2. Who complain of injury as a result of any use of force and the subject requests medical treatment, regardless if they show any outward signs of injury or medical distress.
3. When the officer or supervisor reasonably believes an individual needs medical attention as a result of any use of force.
4. When a subject has been affected by a chemical agent (e.g. OC spray)
5. Who show obvious signs that qualified medical intervention may be needed to counteract and treat potential agitated or excited delirium. Officers faced with subjects exhibiting these signs will clearly state to dispatch that they suspect the individual is suffering from agitated or excited delirium and needs *advanced lifesaving (ALS)* measures from the Emergency Medical System (EMS).

6. Any officer that uses less lethal and/or deadly force must notify EMS and his/her immediate supervisor as soon as practical. The officer must begin medical treatment, consistent with their level of training, to the injured subject(s) unless he/she is unable to do so or has been relieved by another officer or EMS personnel.
7. Under any circumstance, medical treatment will not be refused for anyone who requests it.
8. If safety circumstances reasonably dictate moving the subject to another location, officers have the discretion to have emergency medical personnel meet the officers at a safer location nearby to assess the subject meeting the above criteria.

710.1.7 – Firearms

A. Drawing a Firearm

Firearms may be drawn whenever an officer reasonably believes there is a threat of deadly force or serious bodily injury to themselves or others. Officers also may draw their firearms in unknown situations, such as, but not limited to, searching a structure for a burglar alarm, or suspicious situations, or they reasonably fear for their physical safety or the physical safety of others.

B. Consideration of Backstop

When discharging a firearm for any reason, officers must exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders. When possible, officers will give consideration to bystanders, background and location.

710.1.8 – Prohibitions

- A. Warning shots are prohibited.
- B. Shooting a firearm randomly into buildings, doors, windows, or other structures and/or openings when the person lawfully fired upon is not visible is prohibited, except as a necessary measure of defense of self or another when the subject is using deadly force.
- C. Officers are prohibited from intentionally placing themselves in the path of a moving vehicle where an officer's use of deadly force would be the probable outcome. When confronted by an oncoming vehicle, officers will move out of the path, if possible, rather than fire at the vehicle.
- D. Police officers are prohibited from discharging a firearm at and/or from a moving vehicle except as a necessary measure of defense of self or another when the subject is using deadly force.

*Officers will only wear and/or utilize protective instruments, less lethal weapons and firearms that are authorized and they have been trained to use by the department. This does not preclude officers from carrying individually purchased pocket knives.

710.1.9 - Use of Force or Discharge of a Firearm Reporting Requirements

The Use of Force Report will be completed in the following circumstances:

- A. Anytime force is used to counteract a physical struggle.
- B. Following any use of force that results in an injury to an individual.
- C. When an individual claims to have been injured as a result of use of force.

- D. Whenever force is applied using a protective instrument to strike an individual or less lethal weapon.
- E. Whenever a firearm is discharged other than authorized target practice or to euthanize a non-domestic animal. *
- F. Whenever a department canine inflicts injury on any subject or suspect in conjunction with a canine deployment.
- G. The intentional pointing of a firearm or CEW towards a person.
- H. Whenever any use of force results in damage to non-department owned property.
- I. Anytime an officer is assaulted or ambushed.

* Officers who accidentally discharge a department issued or authorized off-duty firearm, under any circumstances, while on or off duty, shall report the incident immediately to the on-duty supervisor. The officer who discharged the firearm must complete an interoffice report addressed to the Chief of Police via the officer's chain of command, in addition to the Use of Force report. The report must contain sufficient information for the Chief of Police to review the circumstances of the incident.

Officers' and Telecommunicators' Responsibilities

On-duty officers will immediately notify an on-duty patrol supervisor of all deployments of less lethal force, firearms discharges, and any use of force that results in a serious bodily injury or death, whether on duty or off duty. Incidents meeting these criteria that happen outside of Holly Springs or the Extra Territorial Jurisdiction (ETJ) must first be reported to the law enforcement agency that has jurisdiction. The involved officer will then notify the on-duty Holly Springs Police Department patrol supervisor as soon as practical.

Any officer who witnesses a use of force by another department employee but who does not use force him/herself will:

- A. Assist the involved officer(s) with managing the patient(s) in need of medical care, prisoner(s), identifying witnesses and keeping evidentiary material intact while awaiting the arrival of the on-duty supervisor and investigators.
- B. Provide a statement to the on-duty supervisor as to their actions and any actions by the involved officer(s) and/or the suspect(s) that they witnessed. A witness officer will be required to provide a written statement in memorandum format.
- C. Any officer who witnesses a use of force by an employee of another law enforcement agency, a private security or company police officer, or by any citizen, but who does not use force him/herself, will document their observations in an incident report. The report should be sent to their immediate supervisor.
- D. Officers will complete or provide information for the completion of an incident report, charging document, and Use of Force form by the end of their current shift, unless extenuating circumstances otherwise prevent them from doing so.
- E. Telecommunicators will ensure that the on-duty patrol supervisor is aware and is responding to the above outlined use of force incidents. They will also facilitate notifications up the department's chain of command and to the involved officer's supervisor, if they are off duty or on leave, at the request of the patrol supervisor.

Supervisor's Responsibilities

Patrol supervisors will immediately notify a watch commander of all deployments of less lethal force, firearms discharges, and any use of force that results in a serious bodily injury or any deadly force encounter, regardless of the severity or lack of injury, or whether or not the officer involved was on duty or off duty, or if it occurred inside or outside the jurisdiction of the Holly Springs Police Department.

On duty watch commanders will immediately notify their respective division captain, who in turn, will immediately notify the Chief of Police. In the event, the next sworn supervisor in the chain of command cannot be contacted, supervisors are to contact the following level of supervision, up to and including the Chief of Police.

710.1.10 – Officer Welfare and Temporary Removal from Line Duties

Any officer whose use of force results in a death or serious physical injury shall be immediately removed from any field assignment, pending administrative review of the incident. The officer will be mandated to meet with a mental health professional of their choice, with departmental approval, or through the Town of Holly Springs' Employee Assistance Program (E.A.P.) to ensure their psychological well-being within two business days and follow up appointments as needed. Supervisors will request on-duty Peer Support Team trained officers and will call for an off-duty Peer Support Team Officer(s) to respond if there are none on-duty to be available to offer the initial option of their services and guidance, in accordance with their peer support training, to the involved officer as soon as possible following an incident.

710.1.11 – Use of Deadly Force on Animals

- A. The use of deadly force toward an animal is justified for the following reasons:
 1. To prevent substantial physical harm or death to the officer or another person.
 2. To protect another domestic animal from substantial physical harm or death.
 3. To euthanize a seriously injured undomesticated or wild animal with a supervisor's approval.
 4. Officers may not euthanize a seriously injured domesticated animal, efforts must be made to identify and contact the owner, local veterinarian who cares for the animal, or the department's Animal Control to decide the proper care and/or disposition of the animal.

Officers shall take factors into consideration including location, bystanders, backstop and the possibility of ricochets prior to the destruction of an animal.

710.1.12 – CALEA Standards:

1.3.1 through 1.3.13

710.1.13 - Cancellation:

This directive cancels General Order 3-34 dated 6/11/2020

710.1.14 – Miscellaneous:

This directive has been certified by the North Carolina State Department of Justice – Law Enforcement Accreditation to meet the requirements of Presidential Executive Order 13929 *Standards for Certification on Safe Policing for Communities*. It also incorporates best practices and standards from the North Carolina Criminal Justice Education and Training Standards Commission, the Commission on Accreditation for Law Enforcement Agencies (CALEA), the International Association of Police (IACP), and guidance from the National Association for the Advancement of Colored People (NAACP) and Campaign Zero's #8CantWait.

The directive serves as a guideline for the use of force and reporting of force used by sworn officers of the Holly Springs Police Department. The content of this directive is for agency use only and does not apply in any criminal or civil proceedings. This directive will not be construed as creating a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for agency administrative sanctions. Violations of law will be the basis for civil and criminal sanctions in recognized judicial settings.