

 ROCKFORD POLICE DEPARTMENT GENERAL ORDER NUMBER - 1.09		DISTRIBUTION ALL PERSONNEL	PAGE 1 OF 10
ORDER TITLE USE OF FORCE	SERIES NO. 1	SERIES TITLE / SUBJECT LAW ENFORCEMENT ROLE, RESPONSIBILITIES, AND RELATIONSHIP	
REFERENCE Deadly Force, Use Of; Gun, Use Of; Firearm, Use Of: Less Lethal Force; Investigation Of Deadly Force Incidents		APPENDICES A	
ORIGINAL ISSUE DATE August 2, 2006	REISSUE / EFFECTIVE DATE March 16, 2011	EXPIRATION DATE This order remains in effect until revised or rescinded	

POLICY

It is the policy of the Rockford Police Department that personnel will use only the force necessary to accomplish lawful objectives. This includes the use of less lethal force and/or deadly force.

PURPOSE

The purpose of this General Order is to provide a policy concerning the use of force by officers of this Department. The Department policy should not be construed as a creation of a higher legal standard with respect to third party claims. Violations of this directive will only form the basis for Departmental administrative sanctions.

The value of human life is immeasurable in our society. Police officers have been delegated the responsibility to protect life, including their own, to protect property and to apprehend criminal offenders. The protection of property must at all times be subservient to the protection of life.

This General Order is comprised of the following numbered sections:

- I. DEFINITIONS**
- II. ROCKFORD POLICE DEPARTMENT POLICY ON THE USE OF LESS LETHAL FORCE**
- III. ROCKFORD POLICE DEPARTMENT POLICY ON THE USE OF DEADLY FORCE**
- IV. RESPONSIBILITIES OF THE OFFICER**
- V. RESPONSIBILITIES OF COMMANDING OFFICERS AND SUPERVISORY OFFICERS**
- VI. INVESTIGATION OF CASES WHERE DEADLY FORCE HAS BEEN USED**
- VII. REPORTING AND REVIEW REQUIREMENTS**
- VIII. EFFECTIVE DATE**

APPENDICES

- A. 15.12 Critical/Major Incident Employee Rights Procedure**

I. DEFINITIONS

- A. **Deadly Force:** That force which can reasonably be expected to cause death or great bodily harm.
- B. **Less Lethal Force:** The use of force, which encourages compliance and overcomes resistance without deploying deadly force techniques or weapons. The potential for death or serious physical injury, to the subject is thus reduced.
- C. **Use-Of-Force Guidelines:** A conceptual model that depicts the dynamic relationship between a suspect's level of resistance and apprehension and the officer's level of force used to overcome such resistance.
- D. **Reasonably Believes:** An ordinary, prudent and trained police officer believes that a certain fact situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer took action.

II. ROCKFORD POLICE DEPARTMENT POLICY ON THE USE OF LESS LETHAL FORCE

- A. Police officers are authorized to use department approved less lethal force techniques and issued equipment for resolution of incidents, as follows:
1. To protect themselves or another from physical harm; or
 2. To restrain or subdue a resistant individual; or
 3. To bring an unlawful or dangerous situation safely and effectively under control.
- B. In each of the above situations, officers should assess the incident in accordance with their training and experience in order to determine which less lethal force technique will best de-escalate the incident and bring it under control, using the following use of force guidelines.
1. **Cooperative Person:** Is a person who is actively complying with an officer's requests and/or demands.
 - a. **Injury potential to officer(s):** Little or no injury potential to the officer exists if the person(s) remains cooperative
 - b. **Control tactics/Officer(s) response:**
 - Officer Presence
 - Verbal Control
 - Restraint Devices
 - c. **Injury potential to person(s):** Injury potential exists in every arrest, however, little injury potential is present to the person if he/she remains cooperative. Restraining device injuries could include:
 - Abrasions/Scratches
 - Minor Bruising

2. **Passive Resister:** A person who resists control through passive physical actions such as a relaxed or dead weight posture intended to make the officer lift or pull the subject to establish control. The person does not make any attempt to defeat the physical contact of the officer.

a. **Injury potential to officer(s):** The potential to create injury by a passive resister is mainly attributed to the resister having to be lifted or moved around by the officer. The officer may experience any of the following:

- Muscular Injury
- Joint Injury
- Ligament Injury
- Abrasions/Scratches

b. **Control tactics/officer(s) response:** The control tactics that are utilized upon a passive resister include:

- Joint Manipulations
- Pressure sensitive area techniques
- Other appropriate compliance technique

c. **Injury potential to resister(s):** While the possibility of soft tissue damage does exist, it is remote. Injuries could include:

- Muscular injury
- Joint injury
- Ligament injury
- Abrasions/Scratches

3. **Active Resister:** A person who resists the officer's attempt at control by direct, overt, physical actions. The offender may attempt to push or pull away in a manner that does not allow the officer to establish control. The person does not attempt to strike the officer.

a. **Injury potential to officer(s) and/or others:** The potential to create injury by an actively resistant subject is greatly increased. This is due to the nature of the person's actions, which are in effect attempts to avoid control. This could be attempted by mere muscular tension or actual movement (slight evasive movement of the arm, flailing or full flight).

An active resister could create the same types of injuries as a passive resister. However, the likelihood of injury is greatly increased, due to the dynamic movement involved:

- Muscular Injury
- Joint Injury
- Ligament Injury
- Abrasions/Scratches
- Lacerations

- b. **Control tactics/Officer(s) response:** The control tactics that are utilized when encountering an active resister; include:
- Stunning techniques (with or without control instruments)
 - Take-Downs
 - Chemical Agents
 - Control Instrument Techniques
 - Canine Deployment
 - Electronic Incapacitation Device – Advanced Taser
- c. **Injury potential to resister(s):** The extent of injuries that could possibly result from the application of these techniques is similar to the injuries possible at the passive resister level. The likelihood of injuries is increased because of the dynamic nature of the techniques incorporated. These injuries could include:
- Muscular Injury
 - Joint Injury
 - Ligament Injury
 - Abrasions/Scratches
 - Lacerations
 - Effects of Chemical Agents
4. **Aggressive Assailant:** A person who performs weaponless physical actions that are aggressive in nature and likely to cause physical injury to themselves or another.
- a. **Injury potential to officer(s) and others:** The potential for the person to cause injury is very likely at this level of resistance. Proximity of the person to the officer and the person's highly agitated or combative state are contributing factors to the increased potential for injury to all parties involved. As a result of striking or wrestling with the officer, injury could result. The resulting injuries could include:
- Lacerations
 - Minor Broken Bones (i.e., finger, bone in hand or foot)
 - Chipped Teeth
 - Connective Tissue Damage
 - Bruising
- b. **Control tactics/Officer(s) response:** The control tactics that are utilized by the officer in this type of situation are techniques such as:
- Punches, kicks and other striking techniques
 - Impact weapons (hand held and extended range)
 - Take-Downs directed at the skeletal structure of the body
- c. **Injury potential to assailant(s):** The resulting injuries could include:
- Lacerations
 - Minor Broken Bones
 - Connective Tissue Damage

- Bruising

NOTE: OFFICERS SHOULD USE THE RESPONSE APPROPRIATE TO THE RESISTANCE OFFERED. THEY DO NOT NEED TO PROGRESS STEP BY STEP THROUGH THE CONTINUUM.

1. As the suspect's resistance escalates, so may the officer's level of force increase.
2. If the suspect's resistance decreases, the officer's use of force must decrease as well.

III. ROCKFORD POLICE DEPARTMENT POLICY ON THE USE OF DEADLY FORCE

A. DEADLY FORCE ASSAILANT: A person whose actions will likely cause death or great bodily harm.

1. **Injury potential to officer(s) and others:** Resistance of this type has the likelihood of creating the most severe injuries of all resistance categories. The resulting injuries could include:
 - Death
 - Great Bodily Harm (e.g., major broken bones such as femur, pelvis or skull; large gaping wounds, loss of organs, or injuries likely to cause death or permanent disabilities)
2. **Control tactics/Officer(s) response:** The police officer's response to this type of attack or resistance is the use of deadly force. This could include:
 - Firearms
 - Other measures which could result in death or great bodily harm.
3. **Injury potential to assailant(s):** The resulting injuries could include:
 - Death
 - Great Bodily Harm (e.g.; major broken bones, large gaping wound, loss of organs or injuries likely to cause death or permanent disabilities)

B. Deadly Force is defined as that force which can reasonably be expected to cause death or great bodily harm. The use of any type of neck restraint hold, I.E., "choke-hold", "sleeper-hold", constitutes the use of deadly force. Such force must meet all established standards for using deadly force to be considered justifiable.

C. State and federal law may authorize the use of deadly force under circumstances where such force is not authorized by this Department's policy. Nevertheless, officers of this Department are **only authorized to use deadly force as set forth below.**

D. POLICY: AN OFFICER IS AUTHORIZED TO USE DEADLY FORCE TO PROTECT HIMSELF OR OTHERS FROM WHAT HE REASONABLY BELIEVES TO BE AN IMMINENT THREAT OF DEATH OR GREAT BODILY HARM. THE SAME STANDARD APPLIES WITH RESPECT TO THE USE OF DEADLY FORCE AGAINST A FLEEING SUSPECT. THEREFORE, AN OFFICER IS AUTHORIZED TO USE DEADLY FORCE AGAINST A FLEEING SUSPECT ONLY TO PROTECT HIMSELF OR OTHERS FROM WHAT HE REASONABLY BELIEVES TO BE AN IMMINENT THREAT OF DEATH OR GREAT BODILY HARM.

E. Shooting at or From a Moving Vehicle: Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. For the purposes of this Order, the moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force.

Officers will not place themselves in a vehicle's path, to either the front or the rear. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.

Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and in the immediate defense of life.

It is understood that this policy may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to articulate clearly the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in imminent peril and there was no reasonable or apparent means of escape.

The above prohibitions exist for the following reasons:

1. Bullets fired at moving vehicles are extremely unlikely to stop or disable the moving vehicle.
2. Bullets fired may miss the intended target or ricochet and cause injury to officers or other innocent persons.
3. The vehicle may crash and cause injury to officers or other innocent persons if the bullets disable the operator.
4. Moving to cover, repositioning and/or waiting for additional responding units to gain and maintain a superior tactical advantage maximizes officer and public safety and minimizes the necessity for using deadly force.
5. Shooting accurately from a moving vehicle is extremely difficult and therefore unlikely to successfully stop or prevent a threat to the officer or other innocent person.

- F. Warning shots:** A police officer is not justified and shall not use his firearm to fire a warning shot.
- G. Animals:** While not in the category of deadly force against a person, an officer shall be authorized to discharge his firearm as necessary to kill a dangerous animal if the animal poses a threat to the officer or to others and there is no other practical way to eliminate or avoid the threat, or as a humanitarian measure when the animal is seriously injured. A general case report will detail all facts and circumstances of the shooting of the animal. A supervisor must also respond to the scene and leave a supplemental report.

IV. RESPONSIBILITIES OF THE OFFICER

- A.** The officer shall at all times make certain that he or she is familiar with and understands the requirements of this Order.
- B.** Other than within the guidelines of this Directive, the officer shall only discharge his firearm at training sessions and locations as provided for elsewhere in Departmental Orders.
- C.** Any time an officers discharges any firearm on or off-duty, including accidental discharges or uses another form of deadly force, he shall immediately notify the on-duty Patrol Shift Commander by the most expeditious means. Exceptions would be Departmental training sessions or other legally recognized activities.
- D.** Officers will ensure that appropriate medical aid is provided to any person upon whom less lethal or deadly force has been used. Appropriate medical aid may include, but is not limited to, the following:
 - 1. Increased observation to detect any obvious change in condition.
 - 2. Flushing of chemical agents from the eyes.
 - 3. Applying first aid.
 - 4. Evaluation of subject by paramedics.
 - 5. Immediate aid from other medical professionals.

V. RESPONSIBILITIES OF COMMANDING OFFICERS AND SUPERVISORY OFFICERS

- A.** All commanders and supervisors are responsible for ensuring that all sworn personnel under their supervision or command are thoroughly familiar with and understand the requirements of this directive.
- B.** The on-duty Patrol Shift Commander, or his supervisor designee, will respond to an incident where deadly force has been used. The commander or supervisor will leave a supplemental report, relative to his/her observations and actions.
- C.** The Police Benevolent and Protective Association (PB & PA) will be contacted, as stated in the most current Collective Bargaining Agreement between the City of Rockford and the PB & PA (See **Appendix “A”**)

VI. INVESTIGATION OF CASES WHERE DEADLY FORCE HAS BEEN USED

- A.** Any time deadly force is used by a member of the Rockford Police Department; the department will conduct an investigation. This will include anytime an officer shoots a person or intentionally discharges their weapon at a person. A similar investigation will be conducted whenever the actions of an officer leads to the death, or life threatening injuries, of any human being. (I.E. auto accidents, in custody deaths).
1. Members of the Investigative Services Bureau, supervised by the Investigative Services Bureau Deputy Chief will conduct the investigation of the use of deadly force.
 2. Traffic related incidents will be investigated by the Traffic Unit, supervised by the Field Services Bureau Deputy Chief.
 3. The investigation will be conducted using normal investigative procedures and in conjunction with the most current collective bargaining agreement.
 - a. The officer involved in the incident will follow the listed procedures when medically practical.
 - (1) The officer will remain at the scene and will give preliminary information to the first supervisor who arrives at the scene.
 - (2) The officer will do a walk-through at the scene with a Detective Supervisor and up to three other Department personnel. The officer will be allowed to have a PB & PA representative with him/her to observe the walk-through. The representative shall act as an observer only. The PB & PA representative will not leave a report. During the walk-through the officer will provide sufficient detail for the investigation to proceed and will answer questions asked by the Detective Supervisor. The officer will turn his weapon and magazines over to an I.D. Detective, prior to being released from the scene. The ranking Detective Supervisor will release the officer from the scene after the walk-through. Once released the officer will be brought to the Public Safety Building where he/she will be allowed to consult further with a PB & PA representative, attorney, and/or family member(s). An I.D. Detective will take photos of the officer. Any other items or equipment needed as evidence will be taken at this time. No further questioning of the officer will take place at this time.

- (3) The involved officer will leave a supplement report relative to his/her actions. The officer will have up to twenty-four hours to submit the report. If the officer needs to be questioned further about the incident, he/she has a right to have a PB & PA representative and an attorney present. If the officer becomes a suspect he/she will be read their rights under the Miranda Ruling.
- B.** The Winnebago County State's Attorney, or their representative, will be requested immediately at the scene where a member of the Rockford Police Department has used deadly force. The subsequent investigation will be conducted in close coordination with the State's Attorney Office.
- C.** Once the investigation has been completed, it is the policy of the Rockford Police Department to request that the Winnebago County State's Attorney Office review cases of deadly force for possible presentation to a Grand Jury.
- D.** The Chief of Police has the authority to determine if an outside agency should conduct the investigation.
- E.** Once the initial investigation has been completed, the Chief of Police will review the investigation. If the Chief of Police determines that the Rules and Regulations of the Department may have been violated, the Chief may refer the incident to the Office of Professional Standards, where an internal investigation will be initiated following all Department policy and procedures dealing with an internal investigation.

VII. REPORTING AND REVIEW REQUIREMENTS

- A.** A written incident report is required whenever any officer:
 - 1. Discharges a firearm for other than training or recreational purposes,
 - 2. Takes any action that results in, or is alleged to have resulted in, injury or death of another person,
 - 3. Applies force through the use of lethal or less lethal weapons, or
 - 4. Applies weaponless physical force at a level beyond the following threshold;
 - a. gripping or holding,
 - b. frisking,
 - c. handcuffing,
 - d. escorting.
- B.** Incident reports will be reviewed by a supervisor following the normal incident report review process.
- C.** Copies of the Use of Force reports will be forwarded to and reviewed by both the Deputy Chief of the reporting officers assigned Bureau, the Training Unit Supervisor and the Office of Professional Standards.

- D. The purpose of supervisory review is to ensure appropriate force, tactics and training were applied in the reported incident. Any reviewing supervisory may make suggestions for improved policy or training of use of force situations.
- E. The Training Unit supervisor will be responsible for an annual review of use of force incidents to be submitted in writing to the Firearms And Use of Force Review Board (see General Order **10.04**) for the purpose of determining patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

VIII. EFFECTIVE DATE

- A. The effective date of this General Order is August 2, 2006.
- B. **Replaces General Order 1967-04 (F-4), dated September 7, 1967.**
- C. Revised, March 20, 2002.
- D. Revised, January 25, 2001.
- E. Revised, February 15, 1995.
- F. Revised, May 23, 1986.
- G. Revised, March 12, 1984.
- H. Revised, January 25, 1972.

BY ORDER OF

Chet Epperson
Chief of Police

APPENDIX "A"

15.12 CRITICAL / MAJOR INCIDENT EMPLOYEE RIGHTS PROCEDURE

- A. Definition.** For the purpose of the Article Critical/Major Incident shall be defined as any time an employee shoots a person, or intentionally discharges their weapon at a person, or any other incident that results in life threatening injuries or death.
- B. Union Representation.** In the event an employee is involved in a critical/major incident the Union shall be immediately notified of the incident by the employer. The Union shall provide a list to be kept in the Shift Commander's office of who is on-call for such notification at all times. An employee shall not be eligible to act as the Union Representative if they are a material witness to the incident, a supervisor that is working at the time of the incident, or an employee assigned to investigate or gather evidence regarding the incident. The obligation of the City has been met when a listed eligible Union, representative is actually contacted. When the Union representative arrives at the scene of the incident, he/she may consult with the involved employee(s) concerning the employees' rights and responsibilities under this Agreement. The Union representative's conduct shall not interfere with the ongoing criminal or internal investigation into the incident. The Union representative shall be afforded release time hereunder if he is otherwise on-duty: if off-duty, no compensation shall be required. The shift commander shall approve the response of an on-duty Union representative if operationally practical. Such approval shall not be unreasonably withheld.
- C. On Scene Preliminary Information.** When medically practical, employees involved in a critical/major incident shall be compelled by verbal order, the Rules and Regulations of the Rockford Police Department, and by Department General Order #1967-04 (now General Order 1.09 – Use of Force) to provide preliminary information to the first supervisor that arrives at the scene. The involved employee shall be removed from the scene immediately following the walk-through. If an employee is unable to provide information for medical reasons they shall provide this preliminary information as soon as is medically practical.
- D. Post-Incident Report.** Employees involved in critical/major incidents shall prepare and submit a complete Supplemental Report with 24 hours of being removed from the Scene. More time to complete the report may be granted by the Chief of Police, or his designee, on a case by case basis. (I.E., if the employee was injured, etc.).
- E. Post-Incident Interview/Interrogation.** In the event an employee is subject to interview or interrogation as a result of being involved in a critical/major incident, the employee shall have the right to have an attorney and a Union representative present during such interview or interrogation.

- F.** A “rights” notification card, containing the text shown below, explaining application of the Garrity Rule in situations arising under paragraph A, above, will be provided by the Association to each employee. Whether or not the Garrity Rule is asserted during an ensuing criminal trial and issues related to the use of compelled statements during such a trial are issues, which are exempt from application of Article 8 (Grievance Procedure) as nonarbitrable subjects.

“Your Rights Against Self-Incrimination”

When you are involved in an incident, and you prepare any written report to the Department (e.g., employee’s report, incident report, supplemental report, accident report, witness statement, insurance form) or give any oral statement to another employee, arising from the incident, **YOU HAVE BEEN COMPELLED TO DO SO** by the Department mandate. Such compelled statements are subject to the Garrity Rule which precludes their use as evidence in criminal proceedings in which you are charged with a crime arising from the incident.

If you are given your Miranda rights, any statements you make thereafter are voluntary and not compelled; they would not be subject to the Garrity Rule and could be used against you in court.