

WINTER HAVEN POLICE DEPARTMENT

GENERAL ORDER 1.5

USE OF FORCE

ACCREDITATION STANDARDS: CALEA – 1.2.10, 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.2.1, 4.2.3, 4.2.4, 4.3.1, 4.3.2, 4.3.3, 4.3.4; CFA – 4.01, 4.02, 4.06, 4.07, 4.08, 4.10, 15.15, 15.21

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POLICY

It shall be the policy of the Winter Haven Police Department to maintain guidelines on the use of force by Department members. Authorized members shall be trained in approved methods of self-defense and the Department use of force policy, prior to the assignment of duties, where use of force may be

used. Members acting within their official capacity shall only use the amount of force which is reasonably necessary to affect lawful objectives. Justifications for using force are those facts known or perceived by a member at the time force is utilized. Members also have a duty to intervene when witnessing another law enforcement officer using unreasonable force. All members shall act in good faith, in the exercise of use of force, to conform to the provisions of Florida Statutes, and this General Order. (CALEA 1.2.10, 4.1.1) (CFA 4.01)

PURPOSE

The purpose of this General Order is to establish guidelines and procedures for the use of force by Winter Haven Police Department members.

SCOPE

This General Order shall apply to all members

PROCEDURE

I. Resistance and Control

A. Resistance: Resistance is manifested by a subject who attempts to evade a member's attempt of control. Resistance is action directed at a member by a subject. The amount and type of resistance will vary based on the actions of a subject. Resistance can be categorized into four broad areas:

1. Passive resistance;
2. Active resistance;
3. Aggressive resistance; or
4. Deadly resistance.

B. Control: Control is the action a member uses to influence or neutralize the resistance of a subject during the investigative process, the arrest process or while under arrest.

C. Member Response: A member's response to resistance shall be based upon their perception of the resistance, ability to overcome the resistance and gain control of the subject. Generally, there are four occasions in which a member is justified in using physical control methods:

1. To stop potentially dangerous and unlawful behavior;
2. To protect a member or another from injury;
3. To protect subjects from injuring themselves; or
4. To complete the process of an investigation or while affecting a lawful arrest.

II. Response to Resistance Guidelines

- A.** The Response to Resistance Guidelines presented in this General Order is based on guidelines provided by the Florida Department of Law Enforcement (FDLE) Criminal Justice Standards and Training Commission (CJSTC).
- B.** Members should strive to use the minimal amount of force practical to affect control over a subject. However, members need not apply force in gradually increasing steps in order to justify physical control or even deadly force. Members need to respond with the force that is necessary in each specific situation. When compliance and control are reached, a member must de-escalate their response to the minimal amount of force practical to control a subject.
- C.** Each succeeding response of member administered control should include elements of previous responses, when applicable. For example, passive resistance control techniques should include verbal communication and direction.
 - 1.** **Passive Resistance:** Passive resistance is a subject's verbal and/or physical refusal to comply with a member's lawful direction, causing the member to use physical techniques to establish control. Examples of passive resistance include, but are not limited to the following:
 - a.** The subject refuses to move at the member's direction;
 - b.** The subject peacefully protests at a political event in a public location; or
 - c.** The subject refuses to take their hands out of their pockets or from behind their back.
 - 2.** **Active Resistance:** Active resistance is a subject's use of physically evasive movements directed toward the member, such as bracing, tensing, pushing, or pulling to prevent the member from establishing control over the subject. Examples of active resistance include, but are not limited to the following:
 - a.** The subject physically anchors themselves to a person or object to prevent them from being removed;
 - b.** The subject braces or pulls away from the member when the member grips the subject's arm; or
 - c.** The subject attempts to run when the member touches or attempts to grab the subject's arm or shoulder.
 - 3.** **Aggressive Resistance:** Aggressive resistance is a subject's attacking movements towards a member that may cause injury, but are not likely to cause death or great bodily harm to the member or others. Examples of aggressive resistance include, but are not limited to the following:
 - a.** The subject balls up their fist and approaches the member;
 - b.** The subject pushes the member back as the member tries to take the subject into custody; or
 - c.** The subject grabs any part of the member's body.

4. **Deadly Resistance:** Deadly resistance is a subject's hostile, attacking movements, with or without a weapon, that creates a perception by the member that the subject intends to cause, and has the capability of causing, death or great bodily harm to the member or others.
 - a. A member uses three criteria for making a deadly use of force decision:
 - 1) **Ability** – Ability refers to the subject having the means to carry out their intent to cause death or great bodily harm. A member must determine whether the subject has the necessary means to cause death or great bodily harm to the member or others.
 - 2) **Intent** – Intent is a perception derived from the totality of the circumstances. A member reasonably perceives an imminent threat to the member or another person based on the subject's actions, behaviors, words, or other indicators.
 - 3) **Opportunity** – The subject is capable of carrying out an intention to cause death or great bodily harm to the member or others. The subject's weapon often determines opportunity. However, it must be remembered that a weapon wielded by the subject is not a requirement for the perception of deadly resistance. Subjects who are very large, physically conditioned or motivated and trained to cause extreme injury may have the intent and capability to cause death or great bodily harm via hand-to-hand combat attacks, such as eye gouges, neck restraint holds, and other means.
 - b. Examples of deadly resistance include, but are not limited to the following:
 - 1) A subject refuses to drop a knife when ordered to do so by the member and moves toward the member;
 - 2) A subject shoots or points a gun at the member or other person;
or
 - 3) A subject uses a vehicle to try to run the member down.

III. Member Response Options

- A. Members shall only use reasonable force to accomplish lawful objectives. (CALEA 4.1.1)
- B. When possible, members shall utilize de-escalation techniques to prevent or minimize the use of force. These techniques shall include but are not limited to: communication, recognition of persons in a medical or mental health crisis, application of CIT concepts, use of cover and tactical positioning/distance. When a threat is not immediate, the goal is to slow down the situation and limit the amount of force used. (CALEA 4.1.1) (CFA 4.01b)
- C. Members should always try to resolve a situation with the minimal amount of force practical. Member presence and verbal communication often will defuse many volatile situations. Sometimes, these are not enough or members may not have an opportunity to use these. Members need not apply force in gradually increasing steps in order to

justify physical control or even deadly force. Instead, members shall respond with all the use of force practical for the circumstances in each specific situation.

- D. **Physical Control:** Achieving compliance or custody through the use of empty-hand or leverage enhanced techniques, such as pain compliance, transporters, restraint devices, takedowns, and striking techniques.
- E. **Less-lethal Weapon:** The use of a weapon that is not fundamentally designed to cause death or great bodily harm. Examples of less-lethal weapons include canine bite, chemical defense equipment, expandable baton, less-lethal munitions and sidehandle baton. (CALEA 4.1.4)
- F. **Deadly Force:** Deadly force means the response is likely to cause death or great bodily harm. Deadly force does not necessarily mean that someone died from the use of force. Deadly force can cause great bodily harm or no harm at all. For example, returning fire is deadly force, even if the member misses the target. The member must base their decision to use deadly force as a defensive tactic on a clear, reasonable belief that they, a fellow member or another person faces imminent danger of death or great bodily harm. (CALEA 4.1.1) (CFA 4.01)
 - 1. Members shall be cognizant that a motor vehicle may be the instrument of deadly force; therefore, members shall exercise sound and prudent judgment concerning the operation of Department vehicles. Department motor vehicles shall be operated pursuant to current Department General Orders and applicable Florida State Statutes.
 - 2. "Ramming" may be authorized by a supervisor as a last resort when all other reasonable means to stop a fleeing vehicle have failed. (CALEA 4.1.1) (CFA 4.01)
- G. **Duty to Intervene:** If any member witnesses another Department member or any outside law enforcement officer commit any of the following, they shall immediately intervene and contact their immediate supervisor or the on-duty supervisor. (CALEA 1.2.10) (CFA 4.01d)
 - 1. Unreasonable/excessive use of force
 - 2. Violation of Constitutional or civil rights
 - 3. Violation of any Department general order, state/federal law or any city ordinance.

IV. Factors Affecting Appropriate Use of Force Responses

- A. Determining if force should be used and the appropriate amount of force to be used shall be based on the factors set forth in *Graham v. Connor*, which are:
 - 1. The seriousness of the offense;
 - 2. Does the subject pose an immediate physical threat to the officers and/or others; and
 - 3. Is the subject actively resisting (arrest) or attempting to evade arrest by flight.

- B.** When determining to use force or the amount of force on a person who has not committed a crime, is not resisting arrest and is not directly threatening an officer but is resisting medical assistance is more difficult as *Graham v. Connor* may not apply. While not legally binding to our Department, the guidelines for this type situation as outlined in *Estate of Corey Hill v. Miracle* by the United States Court of Appeals for the 6th District shall be considered. Those guidelines are:
1. Is the person experiencing a medical emergency that renders them incapable of making a rational decision under the circumstances and poses an immediate threat of serious harm to themselves or others?
 2. Is some degree of reasonable force necessary to eliminate the immediate threat; and
 3. Is the force to be used reasonably necessary under the circumstances?
- C.** In properly determining the appropriate response to a subject's resistance, several factors shall be evaluated by the member. For example, an unarmed, small-framed juvenile, may display aggressive resistance, but may only require a lower response option, by an average member. In contrast, a single member faced with a muscular, physically conditioned subject, may find that their response to even mild passive resistance, may require escalated responses in order to affect control over the subject.
- D.** A member does not need to retreat in their effort to lawfully control a subject, but may utilize the amount of force necessary to accomplish their lawful duty, in accordance with Florida State Statute 776. This is not to say that a temporary tactical retreat may not be the best choice.
- E.** Depending upon the resistance encountered, members may use the amount of force that escalates from verbal commands to the use of a firearm.

V. Use of Non-Deadly Force (Less-Lethal)

- A.** Members shall use Department approved defensive tactics and less-lethal weapons with which they are trained, qualified, and certified as determined by the department's training procedures. (CALEA 4.1.4) (CFA 4.06c)
- B.** To avoid injury to members, hand-to-hand confrontations should be avoided whenever possible in situations where increased force is justified.
- C.** When a confrontation escalates suddenly, members may use any means or device, at hand, as an alternative weapon to defend themselves, as long as the force is reasonable, given the existing circumstances.

VI. Use of Deadly Force

- A.** Members may use deadly force only when they reasonably believe that the action is in defense of their own life or in the defense of any person in imminent danger of death or great bodily harm. (CALEA 4.1.2)
- B.** Justifications for using force are those facts known or perceived by a member at the time use of force is utilized.

- C. Department members shall comply with Florida State Statute 776 concerning justifiable use of force. (CALEA 4.1.1) (CFA 4.01)
- D. When appropriate and before firing a firearm in a deadly force situation, members shall identify themselves as a police officer and provide a verbal warning.

VII. Verbal Skills

- A. In most encounters, the mere presence of a member and proper verbal direction will be sufficient to resolve potential problems and allow a member to execute their duty.
- B. Members are encouraged to consciously develop and practice good communication skills as part of their basic proficiency in use of force techniques.

VIII. Handcuffs and Restraints

- A. The purpose of handcuffs and flexcuffs is to restrain the movement of a subject in a manner that allows a safe means for transporting a subject. Restraining devices also can be used to prevent further resistance from a subject. Restraining devices should be considered temporary in nature.

IX. Empty-Hand Control

- A. Empty-hand control is a physical contact technique which includes many different methods of subject control. Examples of these methods are gently guiding a subject's movements, escort holds, joint locks, pressure point control methods, hand strikes and kicks.
- B. Techniques that have minimal implications of injury to a subject are known as "soft" empty-hand controls. Those techniques that have a higher probability of injuring a subject are known as "hard" empty-hand controls.
 - 1. "Soft" empty-hand controls such as touching, escort holds, pressure point controls, etc., are appropriate for use against passive resistance and some forms of active resistance.
 - 2. "Hard" empty-hand controls are appropriate for use against all forms of aggressive resistance and deadly resistance. Techniques that are considered as "hard" empty-hand tactics include stunning and striking actions delivered to a subject's body with the hand, fist, forearm, leg, or foot.
 - a. Preferably, the target for these tactics shall be major muscle structures such as the legs, arms, shoulders, or side of the neck. Strikes delivered to such muscle structures will create muscle cramping, thus inhibiting muscle action and allowing a member to bring a subject under control. However, in extreme cases of self-defense, a member may need to strike more fragile areas of the body where the potential for injury is even greater.
- C. Choke holds or any technique that restricts the intake of oxygen are prohibited and shall not be used unless a subject poses an imminent danger of death or great bodily injury to any person and deadly force is reasonable. (CALEA 4.1.7) (CFA 4.10)

- D. Vascular neck restraints are prohibited and shall not be used except when deadly force is authorized per VI of this policy. (CALEA 4.1.6) (CFA 4.01a)

X. Less-lethal Weapons: (CALEA 4.1.4, 4.3.1a)

- A. Less-lethal weapons are defined as agency-approved tools which provide a method for controlling a subject when deadly use of force is not justified but when empty-hand control techniques are not sufficient in effecting control over a subject. Whenever a member uses a less-lethal weapon for control, it should be used with the intent to temporarily disable a subject.
- B. The approved less-lethal weapons are the side-handle baton and the expandable baton. Less-lethal weapons also include chemical defense equipment, less-lethal munitions, Dart Firing Stun Gun (DFSG), and canine bite. (CFA 4.06d)
 - 1. The DFSG shall be issued to designated members and is mandatory that it is carried on the member's duty belt during duty hours. The DFSG, secured in the department-issued DFSG holster, shall be worn on the "off-hand" side of the department-issued/approved duty belt or external vest carrier in the prescribed manner.
 - a. Members issued a tactical style outer vest carrier (ERT, K9, etc.) may wear the DFSG on their vest.
 - 2. The side-handle baton is optional. If carried, the side-handle baton must be between eighteen inches and twenty-four inches in length and may be constructed of aluminum or plastic composite. Handles incorporating a swivel are permitted.
 - 3. The expandable baton shall be between sixteen inches and thirty-one inches in length when extended and constructed of machined aluminum or alloy. (CFA 4.07a)
 - a. Uniformed members shall carry the expandable baton in a scabbard attached to and matching the issued/approved duty belt.
 - b. When carried by on-duty plainclothes members, the expandable baton may be worn unconcealed whenever the member prominently displays their department-issued badge.
 - c. Members shall be in possession of their Department identification card.
 - 4. Less-lethal munitions (i.e., bean bag, plastic, wood, rubber, and foam baton rounds) that can be discharged via a 12-gauge shotgun, .37mm/.40mm gas guns, or a "stinger" grenade, can be utilized by specially trained and authorized members. (CALEA 4.3.1b)
 - 5. Members may utilize department-approved chemical defense equipment in accordance with this general order.

XI. Repair or Modification to an Authorized Weapon

- A. Any authorized weapon deemed to be unsafe or in need of repair shall be immediately

removed from service. This includes personally owned weapons. The member shall complete a Weapons Repair Form (WHPD-31), forward the form and weapon to the Department's Armorer for evaluation, repair or replacement. Any actions or outside contributors that may have caused damage to a Department owned weapon shall be documented on a City of Winter Haven Incident Report (blue form). Personally owned weapons removed from service for repair must be re-inspected before being returned to service. (CALEA 4.3.1d) (CFA 4.05e, f)

- B. No issued weapon or personally owned weapon shall be modified without prior approval, in writing, from the Lead Firearm Instructor/Armorer.
- C. Unauthorized modification of an issued weapon shall be grounds for discipline. In the case of an authorized personally owned firearm, it may result in loss of approval to carry the weapon.

XII. Dart Firing Stun Gun (DFSG)

- A. An DFSG device uses high voltage electrical waves to overpower the body's sensory and motor nervous systems. Neuromuscular Incapacitation (NMI) is the primary objective when using a DFSG. Members may utilize an DFSG device as a less-lethal weapon. The device shall be department-issued and unmodified.
 - 1. The Taser 10 is the primary authorized DFSG issued by the Winter Haven Police Department. The Taser 10 is a DFSG capable of firing 10 darts in semi-automatic sequence as determined by the operator based on the level of force required to subdue a resisting subject.
 - B. Only members trained and certified in the deployment of the DFSG shall be authorized to utilize it. Once certified, members are required to re-certify with the DFSG on an annual basis. (CALEA 4.1.4, 4.3.3b) (CFA 4.06c)
 - C. The DFSG shall be used in accordance with Florida State Statute 943.1717.
 - D. The DFSG is a less-lethal weapon and is not intended to replace the firearm in deadly force situations. Use of the DFSG as an intimidation tool is prohibited. (CALEA 4.1.4)
 - E. With de-escalation as a goal, prior to deployment of the DFSG and when safe to do so, an audible warning alert (see Definitions) and verbal warning shall be issued to the subject, except when such warning could provide a tactical advantage to the subject being taken into custody. The DFSG laser sight shall not be intentionally aimed at the subject's face, head, neck or groin.
 - F. Only when exigent circumstances exist should an DFSG be deployed on: (CALEA 4.1.4)
 - 1. Any juvenile under the age of twelve or any juvenile who physically appears to be under the age of twelve (12);
 - 2. Females who are known to be pregnant or appear to be pregnant;
 - 3. When the subject is in or could fall into water due to the possibility of drowning; or
 - 4. When the subject is in position where the fall could cause serious bodily injury.

- G.** Upon deploying the DFSG, members should use the least number of darts and of five (5)-second exposures necessary to achieve the desired effect of temporarily immobilizing the subject. Department members who deploy an DFSG on a subject shall ensure the subject is monitored for injury, as soon as control is established. This is required if the subject is shot with the probes or the DFSG is used as a contact stun device. If the subject incurs an adverse reaction(s) to the DFSG deployment, transport to a medical facility/emergency room shall be arranged. (CALEA 4.1.5) (CFA 4.08)
- H.** After deploying, the DFSG probes shall be removed only by members who have completed agency-approved training in removal of probes. DFSG probes that strike a subject shall be considered a biological hazard and shall be handled and disposed of according to General Order 83.1. The probes shall be placed in a sharps style container to be properly disposed of, in accordance with General Order 83.1.
- I.** DFSG probes that strike the subject's face, groin, breasts, and buttocks or are deeply imbedded in the subject's body shall require a request for Emergency Medical Services (EMS). Whenever EMS determines the subject requires treatment at a medical facility/emergency room, a member shall stand by at the hospital until the subject has been medically cleared. (CALEA 4.1.5) (CFA 4.08)
- 1.** Photographs shall be taken of the location where the DFSG probes struck the subject's body and any other injuries sustained during the use of force. The photographs shall be logged into department's electronic tracking system
 - 2.** All photographs of subjects shall be taken by a member of the same gender and out of public view, whenever the probe strikes a private area of the subject's body. When necessary, photographs shall be taken at the time the subject is medically screened in a medical facility. All injuries associated with DFSG deployment shall be noted in department's electronic tracking system
 - 3.** Photographs shall be taken after the injuries have been cleaned.
- J.** The Receiving Facility shall be advised that an DFSG was deployed on the subject and the subject has been medically cleared.
- K.** Any discharge other than the function test, either intentional or unintentional, shall require the member to make immediate verbal notification to their supervisor.
- L.** Members issued an DFSGs shall ensure the DFSG information is downloaded into the DFSG database within seventy-two hours of an DFSG deployment at the direction of the member's supervisor.
- 1.** Members will be required to dock their Taser 10 batteries every thirty (30) days in order to download data, obtain any updates, and obtain a fully charged battery.
- M.** The lead DFSG instructor shall be responsible for conducting the annual inspection of all DFSG's. This inspection shall include: (CALEA 4.3.1c) (CFA 4.06e)
- 1.** Serial number verification for DFSG and cartridges.

2. Current software updates are installed and date and time are correct or reset.
3. Taser 10 cartridges are not expired, and overall functionality of DFSG.
4. Member's training and re-certification are current.

XIII. Off-Duty Firearms/Weapons

- A. Authority to carry a firearm/weapon off-duty is at the discretion of the Chief of Police. (CALEA 4.3.1a) (CFA 4.06b)
 1. The Department encourages, but does not require, that full-time, off-duty members carry a firearm/weapon while off-duty.
 2. Members choosing to carry a firearm/weapon while off-duty must carry their Department issued identification and badge.
 3. Members carrying a firearm/weapon off-duty must carry the firearm/weapon concealed and in a secure manner (i.e. holster or weapon mounted clip).
 4. Members may carry the Department issued handgun off-duty.
 5. Members may carry a personally owned handgun off-duty, but must meet the guidelines set forth in General Order 1.6.
 6. Reckless, careless, or unnecessary display or use of firearms/weapons, handcuffs, or Department identification shall result in disciplinary action in accordance with General Order 26.1.
- B. Off-duty members shall not carry an authorized firearm/weapon:
 1. When member(s) intend to consume any alcoholic beverages.
 2. While taking any medications that may impair the member's judgment or coordination skills.
 3. When participating in any event or circumstance that would preclude the proper concealment of the firearm/weapon.

XIV. Unauthorized Carry of Less-lethal Weapons

- A. Members shall not utilize or carry on their person or in a Department vehicle any less-lethal weapons which are not officially approved for use by the Winter Haven Police Department.
- B. Members shall not carry or use any less-lethal weapons for which they have not received training. Members shall complete required in-service training and demonstrate proficiency with their respective less-lethal weapon(s), in accordance with General Order 33.1. (CALEA 4.3.2)
- C. Less-lethal weapons shall be carried in a proper receptacle or in a low profile position when not in use. Members shall not brandish or use a less-lethal weapon unless a member is attempting to prevent the further escalation of resistance by a subject.

XV. Strike Areas

- A.** All strikes with a less-lethal weapon shall be targeted at the following areas due to the low implications of injury to a subject:
 - 1. Forearms, thighs, calves;
 - 2. Elbows, wrists, and knees.
- B.** The intentional targeting of a subject's head, neck, face, throat, spine, or clavicle for less-lethal strikes should be avoided, whenever possible, due to the higher likelihood for potential injury to the subject. If a member is justified in the use of deadly force, these targets are acceptable as a deadly force response.
- C.** When less-lethal munitions are utilized, the manufacturer's recommendations for target area and the distance to the target shall be strictly followed. (CALEA 4.3.1b)

XVI. Objective Reasonableness

- A.** The reasonableness of a particular response, of use of force, shall be judged from the perspective of how a reasonable member on the scene might respond.
- B.** The totality of the circumstances includes consideration of the subject's form of resistance, all reasonably perceived factors that may have an effect on the situation, and the response options available to the member. Some situational factors may include, but are not limited to:
 - 1. Severity of the crime;
 - 2. Subject is an immediate threat;
 - 3. Subject's mental or psychiatric history, if known to the member;
 - 4. Subject's violent history, if known to the member;
 - 5. Subject's combative skills;
 - 6. Weapons possessed by or available to the subject;
 - 7. Innocent bystanders who could be harmed;
 - 8. Number of subjects versus the number of members;
 - 9. Duration of confrontation;
 - 10. Subject's size, age, weight, physical condition, and defensive tactics expertise; and/or
 - 11. Environmental factors, such as physical terrain, weather conditions, etc.
- C.** The Department shall look at the totality of circumstances in determining whether the decision was appropriate and, therefore, legally justified.

XVII. Use of OC Pepper Spray (CALEA 4.1.4)

- A.** OC pepper spray is used to control subjects that are resisting the control of an officer. Situations that may not make OC pepper spray the best option are windy conditions, indoors, very aggressive subject, or knowledge of a subject's ability to withstand the effects of pepper spray. When a subject has been sprayed with OC, members should allow the OC to dry before transporting to reduce the possibility of contamination.
- B.** OC pepper spray may be issued to sworn members, Community Service Officers, ~~Code Compliance Officers~~ and Crime Scene Investigators who have received training in the

use of OC pepper spray, in accordance with General Order 33.1. (CALEA 4.3.1c)

1. Civilian members authorized to carry OC pepper spray, shall only carry while on duty.
- C.** Community Service Officers, and Crime Scene Investigators shall abide by all guidelines for the use of OC as outlined in this General Order. Community Service Officers, and Crime Scene Investigators shall use OC pepper spray as a defensive tool in the following situations, but not limited to:
1. When assaulted by a person (i.e. subject attempts to strike, kick, etc.);
 2. When physically attacked by a person;
 3. To defend an innocent person who is being assaulted or physically attacked; and/or
 4. To defend against an attack by an animal.
- D.** If a Community Service Officer, or Crime Scene Investigator uses OC pepper spray, they shall immediately request a sworn member to respond for assistance.
- E.** Members shall adhere to the following guidelines:
1. OC pepper spray will be used prior to hands on defense, if possible.
 2. Issue verbal orders for the subject to stop resisting or obey commands, if the situation allows.
 3. Before using OC pepper spray, verbalize "OC" loud enough for other officers to hear and be warned of the pending use of OC pepper spray.
 4. When the subject stops resisting, the use of OC pepper spray must stop.
 5. After deploying OC pepper spray, allow 5 to 10 seconds for the OC pepper spray to settle and verbalize commands to the subject.
 6. Subjects sprayed with OC pepper spray should be continually monitored, told to remain calm, breathe normally, and that they will be alright.
(CALEA 4.1.5) (CFA 4.09)
 7. The subject should be: (CALEA 4.1.5) (CFA 4.08)
 - a. Removed to fresh air
 - b. Allowed to use cool water to rinse their face and flush their eyes.
 - c. Told not to rub as this will irritate the effects.
 - d. If subject is wearing contact lenses, allow them to remove the contact lenses.
 - e. Allow the use of soap and water to remove the OC pepper spray, if possible.
- F.** Obtain medical attention, if a subject's symptoms persist for more than 45 minutes or the subject request medical attention. (CALEA 4.1.5) (CFA 4.08)

- G.** When OC pepper spray has been used, members shall notify a supervisor as soon as possible and complete a report in department's electronic tracking system. This includes the use of OC pepper spray on animals.
- H.** During annual training or as directed by the lead firearms instructor, OC pepper spray shall be inspected for functionality and expiration dates. (CALEA 4.3.1c) (CFA 4.06e)

XIX. Reporting and Investigating Use of Force

- A.** All incidents that are reportable as use of force, to include weaponless physical force shall be immediately verbally reported to the member's supervisor and/or the on-duty supervisor or as soon as practical if, extenuating circumstances exist. (CALEA 4.2.1d) (CFA 4.07c)
 - 1.** If immediate verbal notification is not made, it shall be the member's responsibility to justify the delay in reporting.
- B.** Use of less-lethal or higher use of force which includes the discharge of a member's firearm or DFSG, with the exception of official training exercises, unintentional discharge, and/or recreational use, shall be documented in department's electronic tracking system and investigated as a Use of Force and also in an Offense/Incident report. Any Department member who is a witness to a use of force incident shall complete a supplemental report. (CALEA 4.2.1a) (CFA 4.07b)
 - 1.** An unintentional discharge of a member's firearm or DFSG, shall be investigated and documented as follows: (CALEA 4.2.1a) (CFA 4.07a)
 - a.** The member shall immediately notify their supervisor(s) or the on-duty supervisor(s) if the member is off-duty.
 - b.** The notified supervisor shall notify the members bureau commander or on call staff if after normal business hours. The bureau commander or on call staff will assign a supervisor to respond to the scene.
 - c.** The assigned supervisor shall investigate the incident and complete an offense/incident report or if outside the Department's jurisdiction, request that agency to investigate and forward the offense/incident report.
 - d.** The supervisor shall complete a City of Winter Haven Accident/Incident Report (if no injury a use of force is not initiated in department's electronic tracking system).
 - e.** The supervisor shall open a new case (IA/Direct Complaint Investigation) and attach the City of Winter Haven Accident/Incident Report, offense/incident report, any supplement reports, photographs or other related documents.
 - f.** The supervisor shall forward the case in department's electronic tracking system to the member's bureau commander, who shall review and forward to the Chief of Police or designee.

2. When an unintentional discharge of a firearm or DFSG causes serious bodily injury, the incident shall be investigated the same as a deadly force incident as outlined in this general order.
- C.** When required to be reported or documented, the member shall describe, in detail, the circumstances involving the use of force. The members shall articulate the specific basis for their decision regarding the use of force. If deadly force was used, the member shall report exactly what occurred that created the perception of the subject's ability, intent, and opportunity to cause death or great bodily harm. Simply stating, "The subject threatened me," is not sufficient. All members' use of force that results in, or are alleged to have resulted in, injury or death to another person shall be documented in an appropriate Offense/Incident Report. (CALEA 4.2.1b) (CFA 15.15a)
1. The mere presence of a uniformed member, verbal commands from the member to the subject, and/or the simple escort of the subject may be considered "uses of force." However, unless extenuating circumstances exist, a Use of Force investigation or an Offense/Incident Report is not required.
 2. When a member applies use of force through the deployment of lethal or less-lethal weapons, pain compliance, and/or any action which results in injury or the likelihood of injury, the member shall immediately verbally notify their supervisor and complete an offense/incident report. The completion of an offense/incident report may be waived or postponed for investigative purposes by a bureau commander or higher authority (e.g. deadly force). (CALEA 4.2.1c) (CFA 4.08c)
 - a. Where Vehicle crashes occur due to a use of force it shall be reported immediately to the member's supervisor and complete an offense/incident report. (CALEA 4.2.1c) (CFA 4.08c)
 3. The member shall ensure the appropriate medical aid is provided to the suspect as soon as possible. Appropriate medical aid may include increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid and evaluation by paramedics. For more serious/life-threatening injuries, immediate aid by medical personnel should be provided. (CALEA 4.1.5) (CFA 4.08)
 4. Within twenty-four hours of occurrence, the member's Bureau Commander shall be briefed on the incident via the chain of command by means of a Daily Activity Report (whpd 81) and Detective Briefing Report (whpd 369).
- D.** The Sergeant of the involved member shall investigate the use of force incident. The Sergeant shall initiate a new case in the department's electronic tracking system as a Use of Force Incident Report and attach/upload copies of the Offense/Incident report, supplements, photographs of injury or lack of injury and any related documents in department's electronic tracking system to the Use of Force Incident Report. The Sergeant shall forward via AIMS the Use of Force Incident Report to their Lieutenant. (CALEA 4.2.2) (CFA 15.15b)
1. If a Sergeant is involved in a use of force, their immediate Lieutenant shall investigate the use of force and complete a Use of Force Incident Report via department's electronic tracking system as described above.
 2. If a Lieutenant is involved in a use of force, their Bureau Commander shall assign a supervisor to investigate and complete a Use of Force Incident Report via

department's electronic tracking system as described above.

- 3.** When a use of force that results in serious bodily injury or death the Use of Force Incident Report shall be assigned by the Chief of Police or their designee. Investigations of use of force that results in serious bodily injury or death shall be in accordance with this General Order.
- E.** Whenever a Use of Force Incident Report is required, photographs of the subject shall be taken whether the subject is injured or not. The photographs shall be logged into Property and Evidence in accordance with General Order 84.1 and a copy shall be attached in department's electronic tracking system to the Use of Force Incident Report.
- F.** The Lieutenant shall review the Use of Force Incident Report and related documents to determine if the use of force was justified and in accordance with Florida State Statute 776 and Department General Orders. The Lieutenant shall forward the Use of Force Incident Report, via department's electronic tracking system to their Bureau Commander prior to their next scheduled days off. Depending on the circumstances of any given case, the bureau commander or higher authority may direct the Lieutenant to complete the Use of Force prior to the end of that particular tour of duty. (CFA 15.15b)
- G.** The Bureau Commander shall review the Use of Force Incident Report and related documents. The Bureau Commander shall determine if the use of force was within policy. If the Bureau Commander finds that the use of force is not within policy, they shall determine if the issue is a violation of policy, training, the policy needs revision, or equipment. The Bureau Commander shall request an internal affairs investigation for use of force that is not within policy. (CALEA 4.2.2) (CFA 15.15b)
- H.** The Bureau Commander shall forward the Use of Force Incident Report to the Chief of Police via department's electronic tracking system. The Chief of Police shall review and may concur with the findings or return the Use of Force for further investigation or recommendations. Once a final determination has been made, the Chief of Police shall close the case in department's electronic tracking system. Effective May 9, 2016, all Use of Force cases shall be stored in department's electronic tracking system. The Internal Affairs Investigator shall have access to department's electronic tracking system. (CFA 15.15b)

 - 1.** The Internal Affairs Investigator shall maintain all Use of Force Incident Reports in accordance with General Orders and State of Florida Retention Schedules.
 - 2.** Annually the Internal Affairs Officer shall conduct a review and analysis of all Use of Force activities, policies and practices and include the following. (CALEA 4.2.4) (CFA 4.09)

 - a.** Date and time of incidents;
 - b.** Types of encounters resulting in use of force;
 - c.** Trends or patterns related to race, age, and gender of subjects;
 - d.** Trends or patterns resulting in injury to any person including employees; and
 - e.** Impact of findings on policies, practices, equipment and training.

XX. Investigation of Deadly Force (members involved)

- A.** Investigation of Incidents Involving Member Use of Deadly Force or any Use of Force Resulting in Death or Great Bodily Harm:
1. In all instances involving the member's use of deadly force or any use of force resulting in death or great bodily harm to a person, when possible the member shall: (CFA 4.08)
 - a. Immediately notify the Telecommunications Section of the incident and location, and request their supervisor or the on-duty supervisor to respond;
 - b. Determine the physical condition of any injured person and render first aid, when appropriate; (CALEA 4.1.5) (CFA 4.08)
 - c. Request necessary medical aid; (CALEA 4.1.5) (CFA 4.08)
 - d. Secure the incident scene;
 - e. Remain at the scene, unless injured, until the arrival of a supervisor.
 - f. All involved members shall protect their weapon for examination and submission to Command Staff, the on-scene Supervisor, Detective or Crime Scene Investigator.
- B.** The responding supervisor shall:
1. Respond to the scene and assume control until relieved by appropriate authority;
 2. Ensure incident scene security is maintained;
 3. Require the Telecommunications Section shift supervisor to notify the on-call Crime Scene Investigator.
 4. Identify and separate all potential civilian witnesses and members who were involved in, or at, the incident scene;
 5. Discreetly secure the firearm, weapon, equipment, vehicle, or instrument displayed and/or used by any involved member(s) during the use of force incident; and
 6. Provide any involved member(s) with a replacement issued firearm, weapon, equipment, vehicle, or instrument that was used to apply the use of force.
 7. Assign a non-involved member(s) to assist and observe the involved member(s). Members' shall not discuss the incident.
- C.** Upon notification of an incident involving any use of force, in this circumstance, the sergeant/lieutenant shall:
1. Respond to and assume control of the scene. The sergeant/lieutenant shall be designated as the incident commander until relieved of that responsibility;

2. Notify the appropriate Bureau Commander or on-call Staff member after normal business hours;
 3. Notify the on-call Victim/Witness Advocate, if necessary;
 4. Notify the Internal Affairs Investigator;
 5. Notify the Public Information Officer; and
 6. Notify the on-call Chaplin.
- D.** Any use of force that results in death of any person or any discharge of a firearm that results in death or injury of any person shall be investigated by an independent law enforcement agency (e.g. Polk County Sheriff's Office, Florida Department of Law Enforcement). (CALEA 4.2.1) (CFA 15.21)
1. The Chief of Police or their designee shall determine the independent agency to conduct the investigation and make the appropriate request to that agency.
- E.** The investigation of the incident in this circumstance shall be separate and apart from an administrative investigation and shall be conducted in a manner consistent with current criminal investigative techniques and procedures, including the submission of the completed investigative report(s) to the State Attorney's Office.
1. The investigating agency shall complete an investigative report for the incident and shall submit the report to the State Attorney's Office for review. (CFA 15.21)
- F.** The Chief of Police or their designee shall initiate an administrative review to be conducted by the Internal Affairs Investigator.
1. Upon notification of a member-involved use of force, in this circumstance, the Internal Affairs Investigator shall:
 - a. Make contact with the lead Detective for a complete briefing on the incident;
 - b. Witness the counting of all rounds of ammunition in the firearms and/or weapons of all members who were present at the scene at the time of the use of force. This shall include all back-up firearms and/or weapon(s), as applicable; and
 - c. Monitor the crime scene and conduct a subsequent investigation to the criminal investigation.
- G.** Upon conclusion of the criminal investigation, the Internal Affairs Investigator shall ensure that a copy of the incident case file relating to the incident is obtained from the investigating agency. When required, a copy of the incident case file shall also be forwarded to the State Attorney's Office for review.
- H.** Upon receipt of the incident case file, the Internal Affairs Investigator shall conclude the administrative review.
- I.** A summary of the administrative review shall be forwarded to the Chief of Police.

XXI. Administrative Relief from Duty (Non-Disciplinary); Mandatory Psychological Support:
(CALEA 4.2.3) (CFA 15.15c)

- A.** In every circumstance when a member(s) is involved in a use of force or any action resulting in death or great bodily harm, or when a member witnesses a traumatic incident resulting in death or great bodily harm, or when a member suffers great bodily harm, the member shall be immediately relieved of normal duties.
- B.** Assignment to "relieved-of-duty" status shall be administrative (non-disciplinary) with no loss of pay or benefits.
- C.** Immediate relief from duty may be ordered by the affected officer's supervisor, Bureau Commander, or the Chief of Police.
- D.** Members relieved of duty shall remain relieved of duty during the initial twenty-four hours following the incident. It will be the discretion of the Chief of Police if the relief from duty is "administrative leave" or "temporary duty assignment" elsewhere in the Department.
 - 1.** The Chief of Police may authorize involved member(s) to return to full duty depending on the circumstances of each incident.
- E.** Members involved in the use of force and placed on "relieved-of-duty" status shall receive a mandatory psychological evaluation and counseling prior to being returned to their normal duty assignment. The City of Winter Haven shall incur the expenses for the evaluation and counseling.
- F.** Members who witness a use of force resulting in death or great bodily harm or when a member witnesses a traumatic incident resulting in death or great bodily harm or when a member suffers great bodily harm they may be required/offered psychological evaluation and counseling.

XXII. Use of Authorized Less-Lethal Weapons

- A.** Members authorized to carry less-lethal weapons shall be issued the agency's Use of Force, General Order or have access to it via PowerDMS during the orientation phase of field training. This training shall occur before any member is authorized to carry or is issued any weapon. (CALEA 4.3.2, 4.3.4) (CFA 4.02)

XXIII. Selection of Departmental Weapons

- A.** When available technology and equipment relating to Department Weapons presents a change to Department standards, the Chief of Police may authorize a review of such changes as an opportunity to update, modify, acquire, or eliminate certain Department weapons: (CFA 4.07d)
 - 1.** The review shall include the following:
 - a.** Complete identification and historical view of the proposed weapon;
 - b.** The benefits, drawbacks and any liability of the proposed weapon or the proposed change to an existing weapon;
 - c.** Recommendation of where the use of the weapon falls on the Response to Resistance guidelines; and

- d. The total cost to purchase, train and deploy the proposed weapon or proposed change to an existing weapon; and identify the funding source.

XXIV. Definitions (CALEA 4.1.2)

- A. *Dart Firing Stun Gun* – A less lethal weapon that fires darts that deliver an electric current through wires.
- B. *Deadly force* – Deadly force is that force employed which is likely to cause death or great bodily harm. It is not only determined by the type of weapon used, but also by the circumstances which it is used.
- C. *Forcible felony* – A forcible felony is any felony which involves the actual, apparent or threatened use of deadly force against an individual.
- D. *Great bodily harm* – Great bodily harm is any injury that creates a substantial risk of death, serious permanent disfigurement, or results in the long-term loss or impairment of the functioning or any bodily member or organ.
- E. *Less-lethal force* – Less-lethal force is that force used which is neither likely nor intended to cause death or great bodily harm.
- F. *Less-lethal munitions* – Bean bag, plastic, wood, rubber, and foam baton rounds that can be discharged via a 12-gauge shotgun, .37mm/.40mm gas guns, or “stinger” grenade.
- G. *Objective reasonableness* – Totality of circumstances is a term the court uses to refer to all facts and circumstances known to the member at the time or perceived by the member as the basis for a use of protective action decision. The Department shall look at the totality of circumstances in determining whether the decision was appropriate and, therefore, legally justified. The totality of circumstances includes consideration of the subject’s form of resistance, all reasonably perceived factors that may have an effect on the situation, and the response option(s) available to the member.
- H. *Physical control* – The necessary employment of law enforcement restraints and/or other use of protective action by a member without the use of less-lethal or lethal weapons.
- I. *Ramming* – The deliberate act of the driver of a Department vehicle to forcibly strike a fleeing vehicle in an attempt to stop or disable it. Ramming shall be considered a deadly protective action response to resistance.
- J. *Reasonable belief* – An officer’s knowledge of facts and circumstances based on reasonable trustworthy information. This information should warrant an ordinary and prudent person of sound thinking and within the bounds of common sense, to believe that the suspect has committed an offense or the person poses an imminent danger, death, or great bodily injury to another person.
- K. *Simple escort* – When a directional command or touch may be utilized to direct or guide a subject who is verbally resistant, in a passive resistance mode, or simply in the need of protection.
- L. *Totality of circumstances* – is a term the court uses to refer to all facts and circumstances known to the member at the time or perceived by the member as the basis for a use of force decision.

- M.** *Use of Force* – The use of force is a defensive manner by a member to overcome a person's resistance to a member's performance of a legal duty, to protect a member or another person from physical resistance or acts of aggression that are likely to cause bodily harm, or used to apprehend a fleeing criminal suspect.
- N.** *Warning Alert* – An audible alert that produces a high pitched warning sound and 1000 lumen strobe light as a method of de-escalation for the Taser 10.
- O.** *Weapon* – Weapon shall mean any Department owned and/or issued weapon or personally owned weapon that has been approved by the Department for use. Weapons shall include but are not limited to firearms, electronic control device, chemical agent, side handle baton, expandable baton and chemical agent delivery weapons.



APPROVED _____

Vance Monroe
CHIEF OF POLICE