

Harveysburg Police Department

Policy Number:	Revision Date:	Effective Date:	Distribution:
101	June 10, 2009	June 10, 2009	ALL HPD Officers
Referenced CALEA Standards:		Policy Title:	
1.3.1, 1.3.2, 1.3.3, 1.3.5, 1.3.6abc, 1.3.8, 1.3.13		Deadly Force	

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101.001 Policy - The duties of a police officer to protect life and property and to apprehend criminals by their very nature necessarily involve the use of some degree of force. But the force used must be reasonably balanced against the resistance faced in the lawful performance of their duties. Unless the force used is reasonable, necessary, and legal, the officer will be in violation of this policy. Therefore, officers will use only the force necessary to accomplish their lawful objectives while implementing deadly force.

101.002 Standard of Care - Wherever these guidelines may be more restrictive than existing statutes or case law, they are not intended to establish a higher legal standard of care for the department and its employees with regard to criminal or civil liability. Rather, they are offered in an excess of caution in accordance with the

philosophy of the department as well as operational and tactical considerations.

101.003 Philosophy on Deadly Force - Police officers have been given the awesome responsibility to protect life and property and to apprehend criminals. But the apprehension of criminal offenders and the protection of property must at all times be subservient to the protection of life—including the officer's *own* life. With the value of human life being immeasurable in our society, the use of deadly force against another human being is the most serious decision an officer must make. That very complex decision often must be made in an instant, and it cannot be reversed at a later date, so the consequences of that decision have grave legal, physical, and emotional implications extending far beyond the moment of action for all parties involved.

101.004 Definitions - The following definitions are used in this written directive:

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1. "Deadly Force" - Any force which carries with it a substantial risk that it will cause death or great bodily harm to a person.
2. "Non-Deadly Force" - Any force other than that which is considered as deadly force.
3. "Reasonable Force" - The standard for application of force will be the "reasonable officer" standard as opposed to the "reasonable man" standard. In any and all use of force situations, the force used to control the situation must be a logical and reasonable response to the circumstances known to the officer at the time of the event and will be necessary to accomplish the lawful objectives.
4. "Serious Physical Injury" means a bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.
5. "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain harmful result may occur or that certain harmful circumstances may exist.
6. "Imminent threat" can be defined as a threat that is impending or on the point of happening, and that if circumstances remain unchanged, a harmful result is reasonably certain.

101.10 Use of Deadly Force - Officers must not employ deadly force with intent to kill another. Rather, deadly force may be employed to stop and

incapacitate an assailant from completing a potentially deadly act as described in the following sections of this policy. Where feasible, before using a firearm, officers must identify themselves and state their intent to shoot. In any and all use-of-force situations, including deadly force, the force used to control the situation must be a logical and reasonable response to the circumstances known to the officer at the time of the event. Therefore, an officer may use deadly force only when the officer reasonably believes that the action is necessary in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury.

101.11 Use of Deadly Force in Self-Defense - An officer may employ deadly force in self-defense when, through careful and proper use of his faculties (senses), he has a good faith belief and reasonable cause to believe that he is in imminent danger of death or great bodily harm. *ALL* of the following must apply:

1. The assailant must display the intent to cause the officer great bodily harm or death.
2. The assailant must have the apparent ability to cause the officer great bodily harm or death.
3. The assailant must possess a reasonable opportunity to cause the officer great bodily harm or death.
4. The officer must honestly believe that he is in imminent jeopardy before deadly force can be employed.

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- 101.12 Use of Deadly Force in Defense of Another - An officer may use deadly force in defense of another, provided that the person being defended would be justified in using deadly force using the criteria provided in 101.11
- 101.13 Use of Deadly Force to Stop a Significant Threat - An officer who has probable cause to believe that the perpetrator poses an immediate and significant threat of death or great bodily harm to others in the immediate area, may employ deadly force to capture the perpetrator in the event that the perpetrator cannot otherwise be captured. For the purposes of this section, a perpetrator is to be considered a significant threat *only* if he has already employed deadly force against another.
- 101.14 Medical Aid - Any time a lethal weapon is used against an assailant or to affect an arrest, the person against whom the weapon was used will be offered medical aid, monitored or checked for injuries by an EMS first responder or medic, and/or transported to a medical facility to be checked or treated.
- 101.15 Warning Shots - Officers are prohibited from using a firearm to fire warning shots.
- 101.16 Risk to Innocent Bystanders - Officers are prohibited from discharging a firearm when it appears likely, or should appear likely to an officer using due care, that an innocent person or another officer may be injured.
- 101.17 Shooting at or From Moving Vehicles - Officers are prohibited from discharging a firearm at, or from, a moving vehicle, except as the ultimate measure of self defense, or defense of another. Weapons must not be fired solely to disable moving vehicles. Weapons may be discharged at the driver of a motor vehicle if the vehicle is being operated as a deadly weapon, and the officer believes that death or serious injury is imminent to the officer, or another. Weapons may also be discharged at motor vehicles if the occupant(s) of the motor vehicle is using deadly force against the officer, or another, other than the motor vehicle itself.
- 101.18 Use of Firearms to Destroy Animals - Officers may destroy sick, wounded, injured, or dangerous animals if it appears to the officer that the animal in question is seriously injured and is likely to die as a result of the injuries, or that it represents a serious and identifiable threat to persons in the area. Sick, wounded, injured, or dangerous animals may be destroyed by use of firearms only if the officer employing the firearm is certain of the terminal resting place of the projectile(s) fired. In all cases, non-police personnel shall be cleared from the area of hazard prior to the use of firearms to destroy animals. Officers may use either specialty "bird shot/game loads" or #4 buckshot or "00" buckshot to destroy animals. These rounds are fired from the police shotgun. The size and condition of the animal shall be taken into consideration when determining which shotgun round is to be utilized for the animal's destruction.
- 101.20 Investigation of Deadly Force Incidents** -Anytime a firearm is discharged outside of the firing range by a member of the Harveysburg Police Department, whether on or off-duty, a written

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report of the incident will be completed and forwarded through the chain of command to the office of the Chief of Police. Any time deadly force is employed by a Harveysburg Police officer against any person, regardless of whether any injury results, the following procedures will be instituted.

- 101.21 Officer in Charge - In all cases the officer in charge at the scene will be the ranking supervisory officer at the scene. If a ranking supervisory officer is not present or is the officer that applied deadly force, the senior officer at the scene will be in charge and vested with all required authority and responsibility required to comply with this section.
- 101.22 Notifications - The Chief of Police will be notified by the on duty Patrol Division supervisor immediately. The Chief will come to the scene immediately.
- 101.221 Criminal Investigation - A criminal investigation will be conducted into the alleged criminal activity of the suspect that resulted in the use of deadly force. This investigation will include all evidence from the initial crime scene, suspect and witness statements, statements from all officers who were not involved in the application of deadly force, and all other information required in a criminal investigation.
- 101.222 Administrative Investigation - A concurrent but independent administrative investigation will be conducted into the officer's use of deadly force. This investigation will include a technical investigation of the immediate scene where the deadly force was applied, statements from

witnesses to the actual application of deadly force, detailed statements from all involved officers who did not actually apply deadly force, and all evidence, both physical and testimonial, applicable to the incident of applied deadly force.

- 101.223 Assignment of Personnel - The assignment of investigators will be made by the Chief of Police. Additional personnel may be used at the discretion of the Chief.
- 101.23 Officer(s) Involved - As soon as possible, the officer or officers involved in the application of deadly force will be transported to the police station by another officer assigned by the officer-in-charge at the scene of the deadly force incident. This will be done as soon as the scene has been rendered safe and stabilized, aid given to the injured and evidentiary safeguards put in place. The placement of evidentiary safeguards is the responsibility of the officer in charge at the scene.
- 101.231 Weapon(s) - Unless there is a clear evidentiary reason, it will not be necessary to take the weapon(s) of the officer(s) involved until arriving at the police station. However, surrender of the involved weapon will be required prior to any legal or familial consultation.
- 101.232 Legal Representation - The officer in charge at the scene will advise the involved officer(s) of the availability of legal representation prior to the involved officer being transported to the police station. At the police station, the involved officer(s) will be afforded any aid required and all necessary means to communicate

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with a private attorney as well as a reasonable amount of time for the attorney to respond to the police station and consult with the officer.

101.233 All personnel are prohibited from interfering with an officer's right to communicate with an attorney and to have an attorney present immediately after the use of deadly force. However, the attorney will not be permitted to enter any crime scene or to interfere with the investigation

101.234 Statement(s) - It is generally accepted that the statement of an officer involved in the use of deadly force is fundamental to the investigation, and the investigation must be completed in a timely manner. In the event that an officer's private attorney cannot be contacted or cannot respond in a reasonable amount of time, the investigation, including any required statements by the officer involved, will continue. As a guideline, a reasonable amount of time will be considered to be when all other aspects of the preliminary investigation are completed, and the involved officer's statement is required in order to continue or complete the preliminary investigation.

101.235 Family or Clergy - Requests by the officer(s) involved for the presence of family or clergy will generally be honored.

101.30 Administrative Leave - The Chief of Police will advise the officer that he will be on administrative leave during the investigation of the incident. The officer involved will be clearly advised that:

1. This leave is not disciplinary in nature.
2. The officer will continued to be paid during this time.
3. Some duties such as submitting additional statements, answering questions, and submitting to counseling will be required.
4. During the time of administrative leave, the officer involved in the use of deadly force will not be permitted to work extra employment as a Harveysburg Police officer.

101.40 Preliminary Findings - The officer in charge of the investigation regarding the application of deadly force will advise the Chief of Police of the facts of his investigation as determined up to that point, as soon as possible and at least prior to going off duty after the deadly force incident. Based on this information and the other known facts, the Chief of Police will advise the involved officer of one of the following in writing as soon as adequate information exists to make a determination:

1. The facts known at the time indicate that this incident is within departmental policy. It does not appear, based on the known facts, that any charges either criminal or disciplinary will be filed. The officer is required to disclose his complete statement regarding the incident.
2. The facts known at this time indicate that this incident or parts of it may be outside of departmental policy. Based on the facts known at the time, no criminal charges are anticipated, but the incident will continue to

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be reviewed in light of departmental policy. The officer is required to disclose his complete statement regarding the incident. If it is the decision of the Chief or Captain to pursue the investigation as a disciplinary matter, it must be understood that a statement compelled in this situation will generally not be useable in a subsequent criminal prosecution.

3. The facts known at this time indicate that his incident or parts of it may constitute criminal activity and that the officer is suspect. If it is the decision of the Chief of police to sustain the investigation as a criminal matter, the officer must be read his Miranda rights and no statement can be required. In all cases, the officer will be informed of the initial investigation results as soon as possible, unless doing so would taint, impact, or prevent the completion of the investigation or the gathering of evidence.

101.50 Final Report - At the conclusion of both investigations, one detailing the criminal activity of the suspect, and the second detailing the actions of the officer that applied deadly force, the officers in charge of these investigations will submit detailed reports to the Chief of Police containing the following:

1. Chronological narrative of the events leading up to the application of deadly force, including all of the information required in a detailed investigatory report.

2. List of names and addresses of all persons present for any part of the incident.
3. Copy of the written or transcribed oral statements made by anyone regarding the incident
4. Copies of all investigatory photographs
5. Accounting of all rounds fired, if possible
6. Background information on the suspect, including a criminal history, if available
7. Audio tape copy of incident from the communications center
8. Documentation and photographs of any evidence collected regarding the incident
9. Diagram of the scene including officer's position, suspect's position, and appropriate measurements.
10. Ballistic samples from the officers weapon may be required based on the circumstances

101.51 The Chief of Police will compile the completed results of these investigations in a file to be maintained as the official record of the incident. If the incident has resulted in the death of the suspect, or if the officer is determined to be a criminal suspect in the case, the Chief of Police will meet with the Prosecuting Attorney as the legal representative of the Township, and explain the facts of the case. This is to ensure that the prosecutor has an adequate working knowledge of the case should later litigation arise or to facilitate the criminal process.

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101.52 The Chief of Police or his designee shall conduct an annual documented analysis of use of force and discharge of firearms. The review is meant to determine patterns or trends that could indicate training needs and/or policy modifications.

101.63 Documentation from the Mental Health Professional - This documentation shall be limited only to the employees' clearance to return to duty.

101.60 Counseling and Evaluation - Any officer compelled to use deadly force on another will be required to attend counseling with a Mental Health Professional as soon as possible following the incident. The Chief of Police will choose a Mental Health Professional, but requests by the officer may be considered. The assigned Mental Health Professional will determine when the employee is capable of returning to work.

101.61 Others Involved in Incident - An employee deemed at significant risk from critical incident stress shall, at the direction of the Chief of Police, or upon the employee's request and with the approval of the Chief of Police, be placed on administrative leave without loss of pay or benefits, pending psychological counseling and evaluation. For purposes of this policy, administrative leave shall terminate when the psychologist or counselor determines that the employee is capable of returning to work. (See #128.20 of the Critical Incidents policy).

101.62 Multiple Officers Involved - Any time multiple employees of the Harveysburg Police Department are involved in a critical incident, the Chief of Police shall, upon review of the circumstances, determine whether a Critical Incident Stress Debriefing (CISD) will be held. (See #128.30 Critical Incident Stress Debriefing)