

Oak Park Heights Police Department  
Policy Manual

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Subject: **Use of Force and Deadly Force Model Policy**

Effective Date: **2-12-2021 revised 6-10-2021 rev 12-23-2021**

Rescinds: All other in Conflict

Approved by: **Chief Steve Hansen**

**USE OF FORCE AND DEADLY FORCE MODEL  
POLICY**

MN STAT 626.8452

**1) PURPOSE**

It is the policy of the Oak Park Heights Police Department to provide officers with guidelines for the use of force and deadly force in accordance with:

MN STAT 626.8452 DEADLY FORCE AND FIREARMS USE;  
POLICIES AND INSTRUCTION REQUIRED;  
MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;  
MN STAT 609.06 AUTHORIZED USE OF FORCE;  
MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; and  
MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

**2) POLICY**

It is the policy of this law enforcement agency to ensure officers respect the sanctity of human life when making decisions regarding use of force. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. Officers shall treat everyone with dignity and without prejudice and use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of others and the officer.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

Officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

The decision by an officer to use force or deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using such force.

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This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.

This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties.

Section (4) Procedure, paragraphs (g.1-2), are effective March 1, 2021 and thereafter.

### 3) DEFINITIONS

- a) **Bodily Harm:** Physical pain or injury.
- b) **Great Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- c) **Deadly Force:** Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
- d) **De-Escalation:** Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- e) **Other Than Deadly Force:** Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.
- f) **Choke Hold:** A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.
- g) **Impact Weapons/Kinetic Energy Projectiles:** objects and instruments which are used, or are designed to be used, apply force to the person of another by coming into physical contact with that person. Impact weapons consist of baton, less lethal 12-gauge shotguns, and Pepperball guns.
- h) **Chemical Agents: chemical irritants, including:** CN/Chloroacetophenone, CS/Orthochlorobenzalmalonitrile, OC/Oleoresin Capsicum, or combination of a the forementioned chemical agents.

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- i) **Electronic Incapacitation Device:** a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current. Per Minnesota Statute 624.731., subd. 1(b), Electronic incapacitation device does not include cattle prods, electric fences, or other electric devices which are used in agricultural, animal husbandry, or food production activities.
  
- j) **Authorized Device:** A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
  - a. obtained training in the technical, mechanical and physical aspects of the device; and
  - b. developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

#### 4) PROCEDURE

##### a) General Provisions

1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.
3. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
4. All uses of force shall be documented and investigated pursuant to this agency's policies.

##### b) Duty to Intercede

Regardless of tenure or rank, an officer must intercede when:

- a. present and observing another officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
- b. physically or verbally able to do so

##### c) Duty to Report

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting officer.

**d) De-escalation:**

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of another or the officer and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

**e) Use of Other Than Deadly Force**

1. When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances:
  - a. effecting a lawful arrest; or
  - b. the execution of legal process; or
  - c. enforcing an order of the court; or
  - d. executing any other duty imposed upon the public officer by law; or
  - e. defense of self or another.

**f) Use of Certain Types of Force**

1. Except in cases where deadly force is authorized as articulated in MN STAT. 609.066 to protect the peace officer or another from death or great bodily harm, officers are prohibited from using:
  - a. Chokeholds,
  - b. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
  - c. Securing a person in any way that results in transporting the person face down in a vehicle.
2. Less than lethal measures must be considered by the officer prior to applying these measures.

**g) Use of Deadly Force**

1. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;

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- a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
    - i. can be articulated with specificity;
    - ii. is reasonably likely to occur absent action by the law enforcement officer; and
    - iii. must be addressed through the use of deadly force without unreasonable delay; or
  - b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
2. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).
  3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
  4. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.
  5. Warning shots from a Firearm are not permitted

**h) Training**

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
2. In addition, training shall be provided on a regular and periodic basis and designed to
  - a. Provide techniques for the use of and reinforce the importance of de-escalation
  - b. Simulate actual shooting situations and conditions; and
  - c. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.
3. Before being authorized to carry a firearm all officers shall receive training and instruction with regard to the proper use of deadly force and to the

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agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.

4. Before carrying an authorized device all officers shall receive training and instruction in the use of the device including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.
5. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
6. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.

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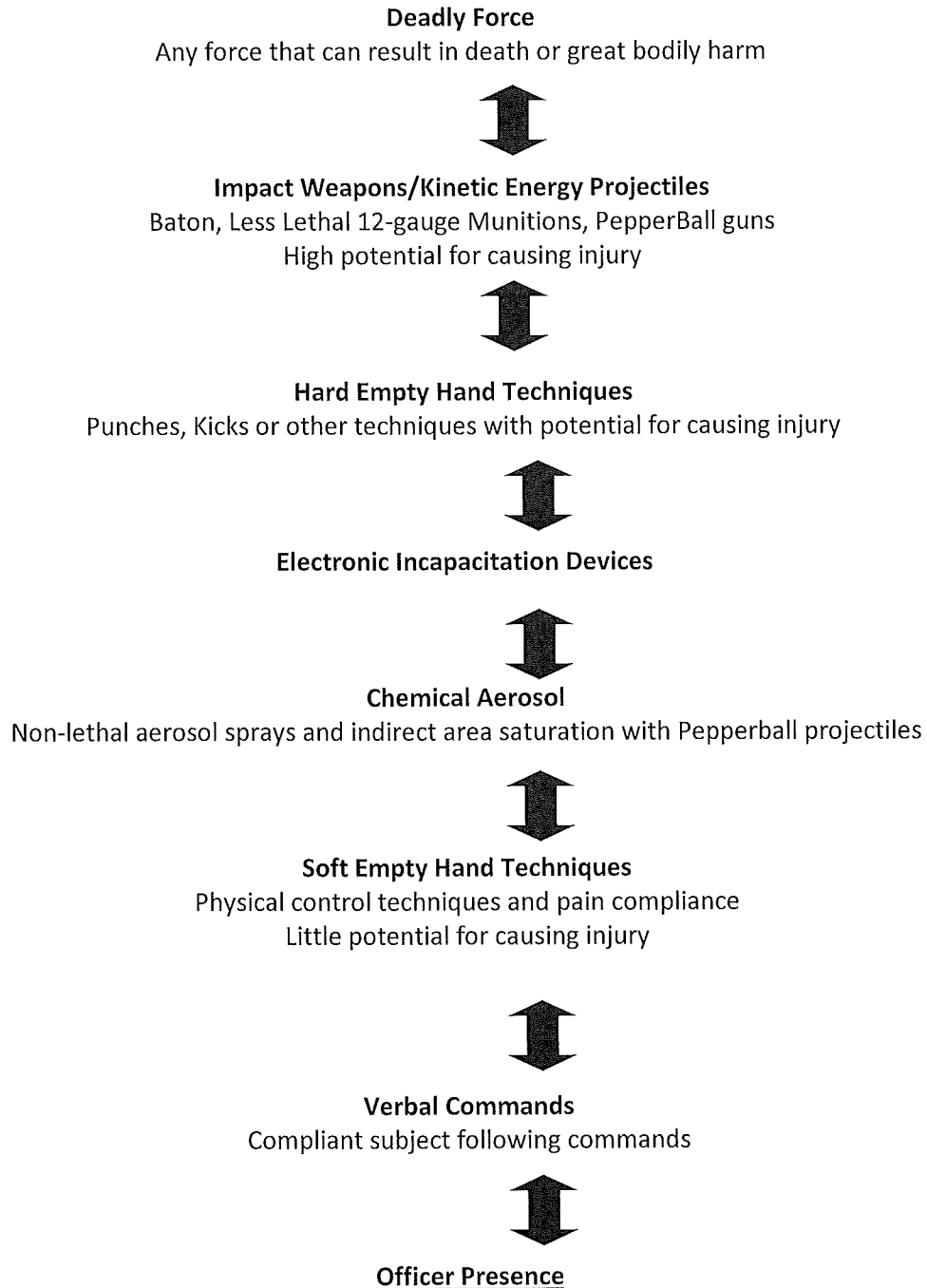
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**USE OF FORCE CONTINUUM**

1. The department adopts this use of force continuum. Officers may escalate or deescalate within the continuum as the situation evolves and the perceived need for force is assessed.

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Use of Force Continuum



**g) Recordkeeping Requirements**

The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.

**REPORT REQUIREMENTS**

1. An officer using deadly or non-deadly force should, in instances resulting in injury to the officer or the subject, prepare a use of force report in addition to all other reports concerning the incident. All uses of force should be reported in the offense reports, regardless of injury. The chief law enforcement officer or a supervisory officer may suspend the application of this provision where an otherwise complete investigation of the incident will be undertaken. Officers using deadly force or directly involved in serious incidents resulting in death or great bodily harm will be provided the option to wait for a period of 1 or several days before providing a statement in the investigation of the incident. The officer may be allowed to review any video or walk through of the scene to help refresh their memory. The officer will be allowed to have union and legal representation with them if requested. This time will allow officers to regain composure and review the incident providing more complete detail.
2. The chief law enforcement officer or a supervisory officer should review all incidents involving the use of force with all officers involved and make additional inquiries, if necessary, to determine whether the use of force was in compliance with this policy and other policies that might be relevant to the incident. The chief law enforcement officer or supervisory officer should make an endorsement upon the use of force report, specifying the details of that determination which will include any additional facts not specified in the report that are relevant to the chief law enforcement officer's or supervisory officer's determination.
3. The chief law enforcement officer will designate a Sgt. to review all use of force incidents in which the chief law enforcement officer is personally involved, and all use of force reports which the chief law enforcement officer will personally prepare in accordance with this section. The officer so designated will review each incident in the manner described in the previous section. The designated officer should submit the use of force report, with his or her endorsement, to the City/County Attorney for further review.
4. If the results of review and investigation of a forceful encounter indicate a violation of this policy or other policies that might be relevant to the incident, then a copy of the report and any investigatory data should be forwarded to the City/County Attorney for review, direction on further handling, and directions on dissemination of the report and investigatory data.



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5. If the use of firearm results in serious injury or death to another, the officer should be placed on Leave of Absence with pay by the chief law enforcement officer. This assignment to Leave of Absence with pay should not be interpreted to imply or indicate that the officer has acted improperly. The officer should be encouraged to see a person who has knowledge and expertise in post-trauma stress reactions prior to returning to work, however this is not a requirement.

## **PREPARE TO USE**

Nothing in this policy shall be construed as preventing an officer from drawing a weapon or being prepared to use it in a threatening situation.

## **OFFICER SURRENDERING WEAPONS**

An officer or the officer's partner may be at the mercy of an armed suspect who has the advantage decide to surrender their weapon, but the officer must consider that the danger is not necessarily reduced by the giving up of a firearm upon demand. Surrendering a weapon might mean giving away an officer's only chance for survival; therefore, an officer should use every tactical tool at the officer's disposal to avoid surrendering a weapon. However, this does not preclude an officer from surrendering a weapon if the officer believes no other option is available.

## **DEPLOYMENT IN ANTICIPATION OF A CRIME**

The purpose of deploying officers at the scene of an anticipated crime is to arrest the perpetrator of the attempted or consummated crime; however, since that objective is subordinate to the protection of life, officers should not subject themselves or other innocent persons to unreasonable risks.

## **UNIFORMED OFFICERS AT PLANNED ARRESTS AND SEARCH WARRANT SERVICE**

During the planning stage for the service of a search warrant or an arrest operation which primarily involves plain clothes personnel, consideration should be given to the deployment of at least one uniformed officer whenever tactically feasible in a highly visible position to reduce the possibility of mistaken identity.

## **USE OF FORCE REPORTING PROCEDURE**

- A. A Use of Force Report should be submitted whenever an officer takes an action that results in (or is alleged to result in) the injury or death of another person and/or applies force through the use of physical force or non-lethal weapons. The Use of Force Report should be completed prior to the involved officer leaving the Police Department at the end of the shift during which the incident occurred. This requirement may and should be waived by the Chief of Police in incidents involving a critical incident or injury to the officer requiring medical attention for the officer and to give the officer time to fully recall the incident and prepare them to complete a thorough report.

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Personnel should be allowed to seek legal or union consultation prior to completing a use of deadly force incident report. This report may also be waived by the Chief of Police in incidents involving a complete investigation in which the officer is interviewed independently as part of the investigation.

B. Discharge Firearms. In all cases except for firing on the range or in competition, and discharging animals in the conformance with official duty, the following procedures should be adhered to after an officer has discharged a weapon:

1. Whenever an officer fires a weapon, either accidentally or in the performance of police duty, the officer shall verbally notify the on-duty supervisor immediately. If a supervising officer is not on duty at the time, an attempt shall be made to contact the Chief of Police at home, or a senior officer on duty if the Chief of Police or another supervisor cannot be reached.
2. The officer who fires a weapon should fill out a Use of Force Report. The officer should also file a written, narrative report of the incident. This report should be on a departmental communication form signed by the officer and should include the following information:
  - a. Date, time, and exact location where the discharge occurred;
  - b. A listing of personal injury or property damage, including animals, caused by the discharge;
  - c. Number of shots fired and their caliber
  - d. Make, model and serial number of the weapon fired;
  - e. Location and property number of spent number of spent cartridges (and weapon, if appropriate);
  - f. All circumstances surrounding the discharge of the weapon.
3. Officers using their weapon to discharge an animal will complete an incident report giving full details of the discharge.

C. Non-Lethal Weapons or Force

1. Incidents involving the use of physical force or a non-lethal weapon should be reported on the Use of Force Report.

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2. The Use of Force Report should be forwarded with the written, narrative report of the events to the Chief of Police.
  
3. If the responsible officer is unable to complete the use of force report and/or the written, narrative report for any reason, it will become the responsibility of that officer's immediate supervisor to ensure an investigation and documentation of the incident occurs.

### **INVESTIGATION OF DISCHARGE OF WEAPONS**

Every discharge of a firearm by an employee of the Oak Park Heights Police Department should be investigated personally by the ranking on duty supervisor when the discharge took place. This does not apply to discharges authorized by the department at firearms qualifications or other competitions, and discharge for animal enforcement. If the discharge resulted in personal injury or death, a qualified Minnesota law enforcement investigation organization will be requested to immediately investigate the incident.

Additionally, the Chief of Police shall be notified immediately. If the chief of police is unavailable and there is no supervisor on duty, an off-duty supervisor will be notified, starting with the senior ranking officer.

Officers involved in shooting incidents resulting in personal injury or death shall turn over the weapon involved to the investigator from the investigating organization and shall cooperate fully with the investigation. Immediately following the completion of the initial investigation and reporting requirements, the officer(s) involved may be placed on leave with pay status pending further investigation and approval for a return to duty by the chief of police.

After conducting a thorough investigation of the circumstances surrounding the discharge of firearms, the investigating supervisor should submit a detailed written report of the results of the investigation to the chief of police. The report shall contain the observations and conclusions of the supervisor as to whether the discharge was justified.

### **LIABILITY – USE OF FIREARMS**

This policy is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Procedural violations of this directive, if proven, can only form the basis of a complaint by this department and then only in a non-judicial administrative setting.

### **HANDCUFFING**

Handcuffing of persons is not considered a use of force for the mandatory reporting use of force report requirement. Officers will document the application of handcuffs in their incident reports.

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**A. PERSONS ARRESTED OR BEING DETAINED**

All persons arrested will be told they are under arrest as soon as the officer knows they are making the arrest or as soon as practical. All persons arrested should be handcuffed and transported in the secured area of the squad car. Handcuffs will not be applied or used as punishment or to cause pain. Handcuffs applied should be double locked and checked for tightness and proper application as soon as practical after application. Suspects fighting or uncooperative may prevent or delay checking of tightness and this should be documented by the officer in their report.

Small children or persons under 14yrs. old should not be handcuffed unless due to continued or possible violent behavior for their and others safety.

Officers may apply handcuffs to persons being detained for investigation for officer safety. The person being detained should be told that they are being detained and the handcuffs are for safety reasons. Officers will articulate in their report the reasons for handcuffing due to officer safety considerations only.

Persons will not be handcuffed to immovable objects and left unattended except in a secure detention facility in conformance with the facility policy and procedures.

Persons will not be left unattended in the secure area of a squad car for longer than necessary to complete the required duties of the officer for that incident. If the officer expects to be away from the squad out of verbal range of the detained person the officer should ask for back up personnel. Officers leaving a person in the secured area of a squad car while the officer is out of the squad should leave a window partially open to allow the detained person to verbally notify the officer of a problem.

Officers will monitor subjects that are restrained and secured to detect possible medical or other safety concerns of the subject.

**B. HOBBLE OR SIMILAR RESTRAINTS**

The use of hobble or other department issued or approved restricting device is authorized for trained personnel on combative detainee's threatening or causing injury to themselves or property damage. Due to the restrictions in movement of a person in a hobble or other similar restraint the subject should be transported as soon as possible to a secure facility to be removed from the police vehicle.

Persons in hobble or other similar restraints should not be left unattended in a squad car or other secure area not being monitored.

**C. FLEX CUFFS**

Flex cuffs may be applied by trained persons as needed in situations of mass arrest or detentions and other incidents when the officer may be turning the arrested or detained persons over to another officer or department. Flex cuffs may be used on subjects that traditional handcuffs will not fit due to size or other impediment.

Only safety medical scissors or special cutters should be used to remove flex cuffs. Knives or other sharp instruments should not be used.

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**OAK PARK HEIGHTS POLICE DEPARTMENT**

USE OF FORCE REPORT

Type of incident \_\_\_\_\_ Case  
number \_\_\_\_\_

Date occurred \_\_\_\_\_ Time \_\_\_\_\_  
Location \_\_\_\_\_

Officer involved \_\_\_\_\_ Badge  
number \_\_\_\_\_

On duty     Off duty    If on duty:     uniformed     non-uniformed

Incident occurred:     indoors     outdoors

Supervisor on scene:  yes     no    Name of supervisor \_\_\_\_\_

Type of premises \_\_\_\_\_  
—

Lighting:     daylight     darkness     dusk/dawn     good artificial     poor artificial

Weather:  clear     rain     snow     cloudy     fog     ice     blowing dust     n/a

Suspects involved in use of force:

# injured \_\_\_\_\_     serious     killed     superficial     critical     unknown

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Description \_\_\_\_\_

—

Officers involved in use of force:

# injured \_\_\_\_\_ serious killed superficial critical unknown

Description \_\_\_\_\_

—

Type of force used:

Suspects: physical strength firearm other

Police: physical strength firearm baton taser less lethal shotgun  
Pepperball Chemical other

\_\_\_\_\_

Reporting officer information:

Describe manner in which you became involved:

\_\_\_\_\_

\_\_\_\_\_

—

Describe circumstances that justified your use of force:

\_\_\_\_\_

\_\_\_\_\_

—

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Describe how your force was used:

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Effect of use of force on suspect(s):

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Force used by Police – Fill in appropriate section(s)

Baton       Taser      \_\_\_ Pepperball       12 gauge less lethal shotgun

Method of use:

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Result of use:

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Firearm

Weapon description:

Officers      Type Ammo \_\_\_\_\_ # of  
Shots \_\_\_\_\_



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Suspects Type Ammo \_\_\_\_\_ # of  
Shots \_\_\_\_\_

Officer:  standing  kneeling  sitting  prone

Cover used:

\_\_\_\_\_

Concealment used:

\_\_\_\_\_

Did you:

Sight & Aim:  yes  no Reload:  yes  no Count your shots:  yes   
no

Did your weapon function properly:  yes  no (explain below in misc.)

Misc: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

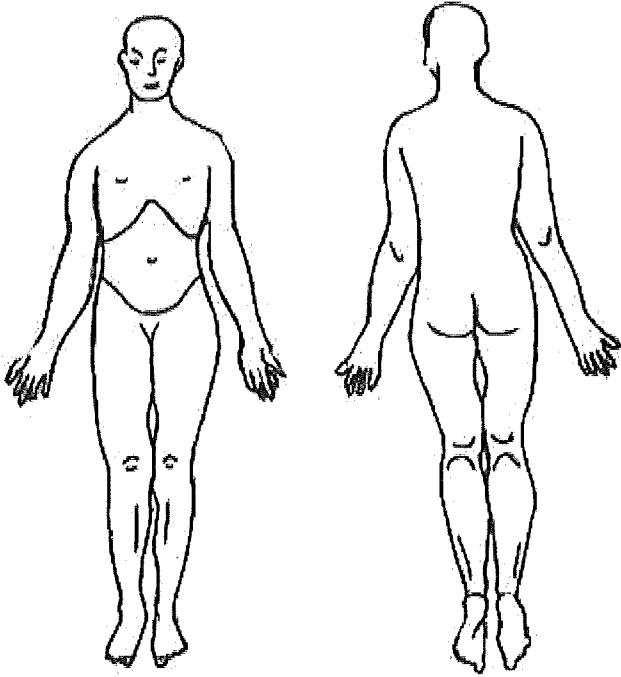
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Place an "X" in the area(s) where force was used and circle same. If marks were visible or there was an injury, label each location with a number. Note details to the right.

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1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_

Additional Information: