

<b>WINTER SPRINGS POLICE DEPARTMENT</b>		<b>GENERAL ORDER</b>		<b>16-2</b>
<b>TITLE:</b> USE OF DEFENSIVE ACTION		Ref: F.S.S. 776.012, 776.05, 776.07		
Effective: 05/17/94		Revised: 06/27/16		
C.F.A. STANDARDS		4.01M, 4.02M, 4.03M, 4.04M, 4.07M, 4.08M, 4.09M, & 14.11M		

**PURPOSE:** This directive is to establish guidelines and regulations for the use of defensive action by officers.

**DISCUSSION:**

Appropriate force is the amount of force reasonably necessary to make an arrest. The U.S. Supreme court [Graham v. Connor, 490 U.S. 386 (1989)] concluded that reasonableness of the use of force must be judged from the perspective of how a reasonable officer on the scene would respond, rather than the perspective of hindsight. An officer's goal is to achieve compliance, that is, the verbal and/or physical yielding to an officer's authority. Law enforcement officers only have the authority to use force if the officer has a reasonable belief that the subject has committed, is committing, or will commit a crime. An officer must be able to clearly articulate why the force was needed. Absent this belief, the law enforcement officer has no authority over a subject and, therefore, no permission to use any amount of force at all.

When vesting police officers with the lawful authority to use force to protect the public welfare, a careful balance of all human interests is required. A sworn officer is empowered by Florida State Statute 776.05 to use that amount of defensive action deemed reasonable and necessary to defend themselves or another from bodily harm while making an arrest or during an act of aggression from a subject. That defensive response may range from verbal persuasion to lethal force.

The force guidelines within this policy are meant to allow the officer to select effective, reasonable, and legal force options to escalate, (increase the use of force), de-escalate (decrease the use of force), or disengage (discontinue the command or use of force). Officers are legally permitted to escalate the use of force in effecting an arrest (776.05, F.S.) and the officer's choices of force are based upon the subject's actions and the risk of harm posed to the officer or others. Once the officer gains compliance and resistance ceases, the officer must de-escalate the use of force. In any situation, the officer may use the tactical option of disengagement if the officer is overwhelmed, is waiting for additional officers, is injured, or otherwise determines the risk of continuing the escalation outweighs the potential benefit. At a minimum, the officer must follow Florida Law and use only the force necessary to effect lawful objectives.

In properly determining the appropriate response to a subject's resistance, several factors must be evaluated by the officer. For example, an unarmed, small framed, juvenile subject is aggressively resisting, but may only require the use of physical control by the average officer. On the other hand, a single officer faced with a very large muscular subject may very well find that their response to even mild resistance must be escalated to a relatively high use of force to gain compliance. It must be remembered that by law, officers need not retreat in their efforts to lawfully control a subject, but may utilize the amount of force necessary to accomplish the arrest. This is not to say that a tactical retreat in the face of overwhelming odds may not be a wise choice.

This directive is for Departmental use only and does not apply in any criminal or civil proceedings. The policy of this Department should not be construed as a creation of a higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this directive should only form the basis of Departmental administrative sanctions. Violations of law should form the basis for criminal and civil sanctions in a recognized judicial setting.

Where defensive action is warranted, officers should assess the incident in order to determine which technique or weapon will reasonably de-escalate the incident and bring it under control safely.

For the purpose of this directive, the term "officer" generally refers to sworn police officers.

**POLICY:** It shall be the policy of the Winter Springs Police Department that personnel may use only that amount of defensive action or force which is reasonably necessary to affect lawful objectives. All officers shall act in accordance with State Statute and in good faith in the exercise of defensive action.

It is the policy of the Winter Springs Police Department that individuals engaged in nonviolent civil rights demonstrations shall not be subjected to excessive force or force that is considered unreasonable or unnecessary when confronted by officers of this Department. The use of defensive actions by officers during civil rights demonstrations shall be in compliance with the accepted policy and procedures of the Winter Springs Police Department.

#### **DEFINITIONS:**

**Administrative Review** – Administrative reviews of Defensive Action Reports are a mandatory part of the reporting process. Administrative reviews are conducted by Chain of Command personnel to ascertain if policy, training, equipment, or disciplinary issues should be addressed.

**Administrative Leave** – A period of time used by the agency to investigate an incident. Administrative leave is with pay and is not a form of discipline.

**Control**- is the action an officer uses to influence or neutralize the resistance of a subject during the investigative process, arrest process, or while under arrest.

**Custody**- An officer, acting under the color of law, restricting the freedom of a person, or persons, based on reasonable suspicion that a crime has, or is about to occur. A person may be in legal custody, however, the officer may not have control of the person.

**Defensive Action** - The use of force in a defensive manner by a police officer to overcome a person's physical resistance to the officer's performance of a legal duty, to protect the officer or another person from physical resistance or acts of aggression that are likely to cause bodily harm, or is used to apprehend a fleeing criminal suspect.

**Lethal Force**- Force that is likely to cause death or great bodily harm.

**Non-Lethal Force**- Force that is not likely to cause death or great bodily harm, i.e., baton, OC spray

**Serious Bodily Harm**- Physical condition creating a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

**Physical Control** - The necessary employment of police restraints and/or other defensive actions by a police officer without the use of intermediate or lethal weapons.

**Objective Reasonableness -**

- A. It is the duty of the individual officer to determine the appropriate level of force based upon the facts and circumstances of each situation. In *Graham v. Conner*, 490 U.S. 386 (1989), the United States Supreme Court held that law enforcement use of force cases are to be judged by an objective reasonableness standard based upon the Fourth Amendment. The use of force is to be judged from the perspective of a reasonable officer under the same circumstances without the benefit of hindsight. The Court clearly considered that officers are often required to make split-second, sometimes deadly decisions, in circumstances that are “tense, uncertain, and rapidly evolving.”
- B. Objective reasonableness requires the officer’s action to be reasonable and necessary. The Court concluded that the objective reasonableness test is not a precise or clear rule but requires careful review of the facts and circumstances of each case, including the severity of the crime, whether the suspect posed an immediate threat to the safety of officers or others, and whether the suspect was actively resisting arrest or attempting to evade arrest by flight.

**Officer Response-** The officer's response to resistance will be based upon their perception of the level of resistance and ability to overcome the resistance and gain control of the subject. Generally, there are four occasions in which an officer is justified in using physical control methods:

1. To stop potentially dangerous and unlawful behavior
2. To protect the officer or another from injury
3. To protect subjects from injuring themselves
4. To complete the process of effecting a lawful arrest when the subject offers a degree of resistance

**Reasonable Belief-** The facts or circumstances the officer knows, or should know, are such as to cause an ordinary and reasonable law enforcement officer of sound thinking and within the bounds of common sense, to act or think in a similar way under similar circumstances.

**Subject Resistance-**

- A. **Passive Physical Resistance-** the subject’s physical refusal to respond to the officer’s authority; the subject does not make any overt movement, or obvious intention to subvert the authority of an officer.
- B. **Active Physical Resistance-** the subject’s use of physically evasive movements directed toward the officer such as preparing to or attempting to flee, bracing, tensing, pushing, or pulling to prevent the officer from establishing control over the subject.
- C. **Aggressive Resistance-** a physical assault against an officer that could lead to great bodily harm to the officer or the public.

- D. Deadly Force Resistance-** a subject's hostile, attacking movements with or without a weapon that create a reasonable perception by the officer that the subject intends to cause and has the capability of causing death or great bodily harm to the officer or others.

Examples of defensive action include:

- A.** Officer presence and verbal exchange.
1. Body language, defensive stance, alert, attentive, ready for further action.
  2. Verbal direction, verbal persuasion, dialogue.
  3. The use of an aerosol deterrent
- B.** The use of empty hand control.
1. Soft hand control techniques such as touching, escort holds, joint locks, and pressure point control methods.
  2. Hard hand control techniques such as striking blows with hands, fists, or kicks.
  3. The Taser (Stun & Probe System)
- C.** The use of intermediate weapons.
1. Expandable baton
  2. The use of a canine.
  3. Any object that is used as a weapon.
  4. Impact Munitions
- D.** The use of incapacitating control.
1. Any techniques that are intended to deprive the subject of their ability to continue to resist an officer.
- E.** The use of lethal force.
1. Firearms.
  2. The use of any other object likely to cause death or great bodily harm.

## **RULES AND PROCEDURES:**

### **16-2.1 AUTHORIZED DEFENSIVE ACTION**

- A.** Florida Statute 776.012, "Use of force in defense of person."; F.S. 776.05, "Law enforcement officers; use of force in making an arrest."; and F.S. 776.07, "Use of force to prevent escape," delineate the levels of defensive action that law enforcement officers may use in the course of their duties. Depending upon the level of resistance encountered, the officer may use defensive actions that escalate from verbal commands, to a simple escort of a subject, to the use of techniques that influence behavior by eliciting compliance through pain, to pressure point control techniques, to hand/leg strikes, to the use of a canine bite, impact weapons, or to the use of a firearm.

### **16-2.2 JUSTIFICATION FOR USE OF DEFENSIVE ACTION**

- A.** Justification for the use of defensive action is limited to what is reasonably known or perceived by the officer at the time of use. Facts discovered after the event, no matter how compelling, cannot be used in later determinations of whether the defensive action was justified.

### **16-2.3 USE OF LESS-LETHAL DEFENSIVE ACTION**

- A.** Officers shall only use the amount of less-lethal defensive action that is reasonably necessary to protect officers or others from harm or to effect the lawful arrest of a subject.
  - 1.** In many cases some level of defensive action will be necessary to effect an arrest or to protect the officer(s) and others from danger or harm. That amount of physical control may be as low as placing a hand on the subject's body and directing that subject to place his hands behind his back for handcuffing. Depending upon the level of resistance offered, the officer may use techniques that escalate the amount of defensive action needed to gain compliance from a subject during the arrest process.
- B.** For the resolution of incidents, officers shall use departmentally approved defensive tactics and less-lethal weapons upon which they are trained, qualified and certified as determined by Department training procedures.
  - 1.** To avoid injury to officers, hand to hand confrontations should be avoided whenever possible in situations where increased levels of defensive action are justified.
- C.** When a confrontation escalates suddenly, an officer may use any means or device at hand to defend themselves, as long as the level of the defensive action is reasonable given the existing circumstances.

### **16-2.4 USE OF LETHAL DEFENSIVE ACTION**

- A.** Florida State Law governing the use of deadly force (i.e., lethal defensive action) by law enforcement officers is delineated in Florida Statutes 776.012 and 776.05. Officers should be familiar with these state laws.
  - 1.** "776.012 Use of force in defense of person.--A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if:

2. He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony; or
3. Under those circumstances permitted pursuant to s. 776.013. “
4. “776.05 Law enforcement officers; use of force in making an arrest.--A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:
5. Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
6. When necessarily committed in retaking felons who have escaped; or
7. When necessarily committed in arresting felons fleeing from justice. However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:
8. The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
9. The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person. “
10. A demonstrated threat to human life or wanton disregard for human life may be considered as constituting a threat; however, such a threat must be **imminent** in nature with potential and probability for **imminent** consequences. Long-term or long-range potential and probability for threat are not considered "imminent".

**B.** Winter Springs Police Department policy regarding the use of lethal defensive action (deadly force) is as follows:

1. An officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in **imminent** danger of serious physical injury.
2. An officer may use deadly force to stop a felon fleeing from justice ("fleeing felon") only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in **imminent** danger of serious physical injury.
3. Where feasible, some warning should be given prior to engaging in the use of lethal defensive action.

**C. The use of warning shots is prohibited.**

- D. All new recruit officers who have successfully completed the basic standards program shall be instructed in the Department's defensive action policy set forth in this subsection.
- E. With the General Orders accessible via PowerDMS on the City of Winter Springs Employee Network, the new recruit officers have access to this general order. They are considered to have been provided a copy of this policy and they should make reference to their manual during the instruction period.

## 16-2.5 RESISTANCE AND CONTROL

- A. For purposes of this directive, the use of force shall be examined from the two perspectives, resistance and control. Both resistance and control can take the form of verbal directives or physical action. Justified use of defensive action is measured by two broad standards. First is the requirement that the officer's use of defensive action was initiated by the subject's resistance. Second is the requirement that the level of defensive action used by the officer was necessary and not excessive when considering the type of resistance exhibited by the subject.

- 1. **Resistance:** Resistance is manifested by the subject who attempts to evade an officer's attempts at control. Resistance is action directed at the officer by the subject. The amount and type of resistance will vary based on the actions of the subject. Resistance can be categorized into two broad areas:

- a. **Verbal resistance-** refusal to comply with lawful orders of arrest or commands, verbal threats or assaults.

- b. **Physical resistance-** physical attempts to resist or elude control of the officer.

### **Physical Resistance can be further delineated into sub-categories:**

- 1. **Passive Physical Resistance-** the subject's physical refusal to respond to the officer's authority; the subject does not make any overt movement, or obvious intention to subvert the authority of an officer.
- 2. **Active Physical Resistance-** the subject's use of physically evasive movements directed toward the officer such as preparing to or attempting to flee, bracing, tensing, pushing, or pulling to prevent the officer from establishing control over the subject.
- 3. **Aggressive Resistance-** physical assault against an officer that could lead to great bodily harm to the officer or the public.
- 4. **Deadly Force Resistance-** a subject's hostile, attacking movements with or without a weapon that create a reasonable perception by the officer that the subject intends to cause and has the capability of causing death or great bodily harm to the officer or others.

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

- C. Officer Response:** The officer's response to resistance will be based upon their perception of the level of resistance and ability to overcome the resistance and gain control of the subject. Generally, there are four occasions in which an officer is justified in using physical control methods:
1. To stop potentially dangerous and unlawful behavior
  2. To protect the officer or another from injury
  3. To protect subjects from injuring themselves
  4. To complete the process of effecting a lawful arrest when the subject offers a degree of resistance

#### **16-2.7 FACTORS EFFECTING APPROPRIATE DEFENSIVE ACTION LEVELS**

- A.** In properly determining the appropriate response to a subject's resistance, several factors must be evaluated by an officer. The term "Totality of Circumstances" is used by courts to refer to all the facts and circumstances known to the officer at the time or reasonably perceived by the officer as the basis for a use of force decision. The courts will look at the Totality of Circumstances in determining whether the decision was objectively reasonable and, therefore, legally justified. The Totality of Circumstances includes consideration of the subject's form of resistance, all reasonably perceived factors that have an effect on the situation, and the response options available to the officer.
- B.** It should be remembered that by law, an officer need not retreat in their efforts to lawfully control a subject, but may utilize the amount of defensive action necessary to accomplish their lawful duty. This is not to say that a tactical retreat in the face of overwhelming odds may not be the wisest choice.
- C.** Additional factors that must be considered when making decision regarding appropriate levels of defensive action include:
1. **Subject factors**
    - a. Seriousness of the crime committed by the subject
    - b. Size, age, and weight of the subject
    - c. Apparent physical ability of the subject
    - d. Number of subjects present who are involved or who may become involved
    - e. Weapons possessed by or available to the subject
    - f. Known history of violence by the subject
    - g. Subject's mental or psychiatric history, if known by the officer
    - h. Subject's combative skills and access to weapons
    - i. Presence of innocents or potential victims in the area

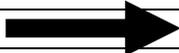
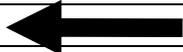
j. Whether the subject can be recaptured at a later time

**2. Officer Factors**

- a. Size, physical ability and defensive tactics expertise of the officer
- b. Number of officers present or available
- c. The necessity for immediate reaction in the case of sudden attack
- d. Weapons or restraint devices available to the officer
- e. Legal requirements
- f. Department policy

**3. Environmental Factors**

- a. Physical terrain and weather conditions
- b. Duration of confrontation; officer/subject injuries, exhaustion, etc.
- c. Whether evidence is likely to be destroyed
- d. Physical location of confrontation; examples would include isolated parking lot, large groups of persons in a confined area, active roadway with traffic, etc.
- e. Time of day

<b>Subject Resistance</b> 	<b>Situational Factors</b>	
Is the subject verbally or physically resisting my lawful authority?	What subject factors influence this situation? Weapon? Physical size? Demeanor? Others?	
Is the subject making attacking movements that are not likely to cause death or great bodily harm?	What officer factors influence this situation? Training? Experience? Physical size? Others?	
Is the subject making attacking movements that are likely to cause death or great bodily harm?	What environmental factors influence this situation? Weather? Location? Presence of others?	
<b>Justification</b> 	<b>Officer's Response</b>	
Were my actions reasonable based on the subject's resistance and the Totality of the Circumstances?	Can I physically control the subject?	
Am I able to articulate the reasons for my actions?	Could I use a non-lethal weapon not meant to cause death or great bodily harm?	
Was I in compliance with constitutional and state laws, agency policy, and training?	Is deadly force the appropriate option to prevent death or great bodily harm to myself or others?	

## **16-2.8 VERBAL SKILLS**

- A.** The direction and result of most encounters with subjects can be controlled by good communication skills on the part of the officer. In most encounters, the mere presence of an officer and proper verbal direction will be sufficient to resolve potential problems and allow the officer to execute their duty. When verbal confrontations arise, the subject's fear and anger must be defused before the subject will be able to understand and follow the officer's commands. Again, this will require good communication skills and patience on the part of the officer.
- B.** Good communication skills and proper application of communication techniques can prevent many physical confrontations from escalating to higher levels. Officers are encouraged to consciously develop and practice good communication skills as part of their basic proficiency in policing techniques.

## **16-2.9 HANDCUFFS AND RESTRAINTS**

- A.** The purpose of handcuffs, flex cuffs, appendage restraints and transport cuffs are to restrain the movement of a subject in a manner that allows a safe means for transporting the subject. Restraining devices also can be used to prevent further physical resistance from a subject. Whatever the application, restraining devices should be considered temporary in nature and as a means for safely achieving other goals.

## **16-2.10 EMPTY HAND CONTROL**

- A.** Empty hand control is a physical contact technique which includes many different methods of subject control. Some of these methods may be as subtle as gently guiding a subject's movements, to an escort hold, to joint locks, to pressure point control methods, to hand strikes and kicks. Such techniques that have minimal implications of injury to the subject are known as "soft" empty hand controls. Those techniques that have a higher probability of injuring the subject are known as "hard" empty hand controls.
- B.** "Soft" empty hand controls such as touching, escort holds, pressure point controls, etc., are appropriate for use against passive physical resistance and some forms of active physical resistance.
- C.** "Hard" empty hand controls are appropriate for use against some forms of active physical resistance and against all forms of aggressive physical resistance and aggravated physical resistance. Techniques that fall into this category have a higher probability of creating soft or connective tissue damage, skin lacerations, or bone fractures which require medical attention.
  - 1.** Techniques that are considered as "hard" empty hand tactics include stunning and striking actions delivered to the subject's body with the hand, fist, forearm, leg, or foot. Preferably, the target for these tactics will 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 the officer to bring the subject under control. However, in extreme cases of self defense, the officer may need to strike more fragile areas of the body where the potential for injury is even greater.

### **16-2.11 AEROSOL DETERRENT**

- A.** The use of an aerosol deterrent minimizes the time that an officer is subject to assault by temporarily disabling the subject, thereby reducing the potential for injury to both the officer and the subject. The use of an aerosol deterrent is authorized as follows:
  - 1.** An aerosol deterrent may only be used by officers successfully trained in its use by Department approved trainers.
  - 2.** Only an aerosol deterrent specifically authorized by the Chief of Police may be used.
  - 3.** An aerosol deterrent may only be used when:
    - a.** the subject is being arrested
    - b.** verbal dialogue has failed to bring about the subject's compliance with an officer's directions
    - c.** the subject has signaled his intention to actively resist the officer's efforts to make the arrest
  - 4.** An aerosol deterrent may also be used in self-defense when necessary to prevent injury to an officer.
- B.** Officers should be cognizant of their location and take into consideration innocent bystanders before deciding to use an aerosol deterrent.
- C.** All aerosol deterrent agents are dated equipment. It is the responsibility of the members who carry the aerosol deterrent to inspect the canister for serviceability and manufacture date. Any canister found not to be serviceable or has date five (5) years past the manufacture date must have it replaced.

### **16-2.12 INTERMEDIATE WEAPONS**

- A.** Intermediate weapons are defined as Department approved tools which provide a method for controlling a subject when lethal defensive action is not justified and empty hand control techniques are not sufficient in effecting control over the subject. Whenever an officer uses an intermediate weapon, it should be used with the intent to obtain control of the subject and never with the intent of creating a permanent injury.
- B.** Batons may be used for defensive actions necessary to gain control of a subject engaged in some forms of active physical resistance or any form of aggressive physical resistance and aggravated physical resistance.
- C.** Officers shall not carry on their person or in a Department vehicle any impact weapons or other intermediate weapons which are not officially approved for use by the Winter Springs Police Department. These may include impact weapons (e.g., nunchuck, saps, etc.) which may be approved by other law enforcement agencies for use by their officers.
  - 1.** Officers shall not carry or use any impact weapon for which they have not received training and certification in accordance with training standards established for the Winter Springs Police Department.

2. Impact weapons shall be carried in a proper receptacle or in a low profile position when not in use. Officers shall not brandish or use an impact weapon as an intimidation device unless the officer is attempting to prevent the further escalation of resistance by the subject.
- D. All strikes with an impact weapon shall be targeted at the following areas because of low implications of injury to the subject, targeted areas of major muscle mass and muscle structures to include the upper arm, forearm, thighs, or calves.
  - E. A subject's head, neck, throat, spine, groin and clavicle shall not be used as targets for impact weapon strikes unless the officer is justified in the use of deadly force. These striking points have high implications of injury resulting in death or great bodily harm.
  - F. All members authorized to carry impact weapons are responsible for the inspection of their weapon for serviceability. If an unserviceable condition is noticed it shall be removed from service and replaced.

### **16-2.13 ELECTRONIC CONTROL DEVICES**

- A. Electronic Control Device is a less than lethal weapon used to control a subject engaged in physical resistance. For the directive regulating the use and operation of the ECD see G.O. 16-6.
  1. An ECD fires two probes connected to the device by fine wires. Once the probes are in place, approximately 1200 volts of electricity can be discharged into the subject at the control of the ECD operator. The subject will then be immobilized for a short period of time, allowing officers to gain control. Although the subject will be dazed, there will be no permanent after effects. This is used for non-close encounters.
  2. The ECD can also be used as a stun gun without the use of the probes. The unit with two electrodes attached to it can be placed in contact with a subject and a momentary trigger engaged to discharge a maximum of 50,000 volts. This is used in close encounters.
  3. All members authorized to ECD's are responsible for the inspection of their weapon for serviceability. If an unserviceable condition is noticed it shall be removed from service and replaced.

### **16-2.14 IMPACT MUNITIONS**

- A. Less than Lethal Impact Munitions are ammunition designed and developed to be launched at human targets with a lower probability of producing fatal results. These Munitions can cause similar injuries as traditional police impact weapons, such as batons, Etc. and can be referred to as "Extended Range Impact Weapons." For the directive regulating the use and operation of the impact munitions see G.O. 16-7.

### **16-2.15 FIREARMS**

- A. Regulations governing the authorized carrying and handling of firearms are discussed in General Order 16-4 "Firearms Protocol and Authorization."

- B.** Some general principles regarding the use of firearms are as follows:
1. Firearms are considered lethal weapons and their use constitutes lethal defensive action. The use of firearms to control the resistance of a subject shall be limited to those situations in which lethal defensive action is warranted.
  2. Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation. It creates unnecessary anxiety on the part of citizens and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or display a firearm unless there is a threat or reasonable suspicion of a threat, of death or great bodily harm to an officer or another person.
  3. An officer's decision to draw or exhibit a firearm should be based on the tactical situation to the point where lethal defensive action may be justified. When the officer has determined that the use of lethal defensive action is not necessary, the officer shall as soon as practical secure or holster the firearm.
  4. Officers shall not discharge a firearm except to protect themselves or others from death or great bodily harm in accordance with the provisions set forth in Subsection 16-2.4 of this directive.
  5. Officers shall discharge their firearms only when doing so will not endanger innocent persons.
  6. Officers shall not discharge a firearm (with the exception of using less than lethal projectiles as in impact munitions) at anyone whose actions are destructive to property or injurious to themselves and which do not represent an imminent threat of death or great bodily harm to an officer or others.
  7. Officers shall not discharge their weapons at a moving vehicle unless it is absolutely necessary to do so in order to protect an officer or other persons from death or great bodily harm. When feasible, a verbal warning should be directed to the driver of the vehicle.
- C.** An officer shall not surrender their weapon. An occasion may arise when an officer or their partner may be at the mercy of an armed suspect who has the advantage. Experience has shown that the danger to an officer is not reduced by giving up their weapon upon demand. An officer who surrenders their weapon may be giving away the only chance for survival. In addition, it provides the subject with another weapon to be used against fellow officers. An officer will use every tactical tool available to avoid surrendering the weapon.
- D.** As a humanitarian measure, an officer may discharge a firearm to safely destroy a seriously wounded or injured animal only after receiving authorization from a supervisor. All reasonable attempts must have been made to request assistance from the appropriate agency responsible for the proper disposal of the animal (e.g., humane society, animal control, state conservation department, etc.).
1. The destruction of vicious animals should be guided by the same considerations that apply for use of lethal defensive actions if the animal represents an immediate threat to the safety of the officer, other persons, or the public in general.

## **16-2.16 REPORTING USE OF DEFENSIVE ACTION**

- A.** Officers who are required to use physical levels of defensive action while in the performance of their official duties shall verbally report the incident to their supervisor. The officer must explain the level of physical resistance by the suspect that necessitated the use of defensive action, and the extent of any injuries inflicted on the officer or the suspect. The incident shall be documented as soon as practical by the officer involved. The application of defensive action is to be documented on a Defensive Action Report (DAR) by their supervisor.
- B.** Officers who have used physical levels of defensive action or who discharge a firearm shall document the incident completely. Such documentation shall include the level of physical resistance that was encountered, the level of defensive action that was required to overcome the physical resistance, and a complete account of the incident. For incidents involving the discharge of a firearm, see section 16-2.17 below.
- C.** When a subject is injured or complains of an injury as the result of the use of defensive action by an officer, or when an officer uses lethal force regardless of whether such action causes injury, the incident shall be documented in an event or arrest report by the officer and by a supervisor with a "Defensive Action Report". The D.A.R. is to be submitted for review by the Chain of Command, including the Chief of Police. Attached to the D.A.R. shall be any event, arrest or supplement reports and any other relevant documentation such as medical papers, photographs, tape recordings, etc.
- D.** Anytime when an aerosol deterrent is used, even though it does not lead to an injury or complaint of an injury requires documentation on a Defensive Action Report. This paperwork shall be forwarded to Internal Affairs for statistical reporting purposes.
- E.** Anytime an Electronic Control Device or Impact Munitions are used, the use of the specific forms on the use of these shall be completed.
- F.** Whenever a police canine bites any person, (suspect, offender, citizen, or officer), the incident will be documented by the Officer in an event, arrest or supplement report. The D.A.R. is forwarded to the on-duty Watch Commander. The original form will be filed by Internal Affairs.

## **16-2.17 INCIDENTS INVOLVING USE OF LETHAL DEFENSIVE ACTION**

- A.** The Department shall conduct an investigation into all incidents involving the use of any weapon or use of lethal defensive action (except those involving the destruction of vicious animals) which will be reviewed by the member's Chain of Command. Upon the conclusion of the Criminal Investigation an administrative investigation shall be conducted by the Internal Affairs Unit unless otherwise directed by the Chief of Police. The Florida Department of Law Enforcement shall be called at the direction of the Chief of Police.
- B.** In all instances where lethal defensive action is used or the discharge of a firearm occurs (other than in training or for authorized recreational purposes), including incidents involving the destruction of an animal, officers shall immediately notify their supervisor or the next available supervisor in their Chain of Command. The officer is required to complete an incident report.

- C.** In all instances where lethal defensive action results in death or great bodily harm to a person, the officer shall, if able:
1. Immediately notify the communications operator of the incident and location, and request the appropriate field supervisor to respond.
  2. Determine the physical condition of any injured person and render first aid as appropriate.
  3. Request necessary medical assistance.
  4. Secure the scene.
  5. Remain at the scene (unless injured) until the arrival of the appropriate supervisor. However, if the circumstances are such that a hazardous situation may develop (e.g. a violent crowd), the supervisor shall have the discretion to instruct the officer to respond to an alternate location.
  6. Provide a brief oral explanation of the incident to assist the Department in determining the appropriate course of investigation. The brief explanation should include information necessary to preserve the crime scene and identify suspects and witnesses.
  7. Protect their weapon for examination and submit said weapon to the Florida Department of Law Enforcement, preferably at the police station or out of view from the public or media.
  8. Be escorted/transported to the police station when directed by the supervisor.
- D.** In all instances where lethal defensive action is used or where a firearm is discharged (other than in training or for authorized recreational purposes), excluding incidents involving the destruction of an animal, the officer's immediate supervisor shall:
1. Ensure that an event report is submitted by an officer not involved in the use of lethal defensive action, except in cases involving destruction of an animal in which the officer using the lethal defensive action will submit the report.
  2. Notify a supervisor as dictated by the circumstances.
  3. Notify the Officer in Charge of Internal Affairs Unit and the Criminal Investigation Bureau Commander.
  4. The officer shall keep their firearm in their holster until the Florida Department of Law Enforcement requests the firearm.
  5. The Winter Springs Police Department shall replace the officer's firearm.
- E.** Whenever a member's actions or use of defensive action in an official capacity results in death or serious bodily injury, or lethal force is used against a member, the following procedures will apply:
1. The member shall be removed from their present duty status and placed on administrative leave, pending administrative review, for a minimum of three days. While on administrative leave the member shall be available for interviews by investigators. Authorization to return to duty must be obtained by the Chief of Police or his designee.

2. Member's shall undergo a debriefing with a Department provided psychologist within 48 hours of the incident. The purpose of this debriefing will be to allow the member to express their feelings and to deal with the moral, ethical, and/or psychological after effects of the incident. The debriefing discussions shall not be used in violation of the physician-patient privilege.
3. Members shall not discuss the incident with anyone except personnel assigned to the investigation, the State Attorney's Office, the member's psychologist, the member's private attorney, the member's chosen clergy and the member's immediate family.
4. Upon returning to normal duties, the member may be assigned to administrative duty for a period of time deemed as appropriate by the member, their mental health professional, and/or Chief of Police.

**16-2.18            REQUIRED NOTIFICATIONS FOR INCIDENTS INVOLVING LETHAL DEFENSIVE ACTION**

- A. The Internal Affairs Unit is responsible for making the required notifications whenever the following circumstances exist:
  1. In all cases where police officers have been killed or seriously injured by the deliberate act of any person.
  2. In all cases where any person has been killed or seriously injured by police officers using defensive actions.
  3. In all cases involving the discharge of firearms by sworn officers as a result of an incident involving the use of lethal defensive action.
- B. The following are required notifications that must be made to include the after hours notification of the "On-Call" person for each listed component:
  1. Chief of Police
  2. Criminal Investigator shall respond to all lethal defensive action incidents who will in turn:
    - a. Notify Technical Services who will respond to all lethal defensive action incidents.
  3. The Internal Affairs Investigator shall respond to all lethal defensive action incidents.
  4. State Attorney's Office.
  5. The Public Information Officer.
  6. The affected Bureau Commander.
  7. The Victim Assistance Coordinator/Volunteer, when needed for injury or death situations.
  8. Florida Department of Law Enforcement

## **16-2.19 REVIEW OF DEFENSIVE ACTION INCIDENTS**

- A.** Upon the conclusion of the investigation into a level of force incident described in 16-2.16, a Defensive Action Report shall be completed by the member's supervisor. The Defensive Action Report shall include the following information at a minimum:
1. Case number
  2. Date and location of the incident
  3. Officers involved
  4. Defensive action used
  5. Injuries sustained by any involved party
  6. Suspect information
  7. Narrative describing the incident
  8. Any other applicable documentation pertaining to the incident to include photographs, videos, reports, etc.
- B.** Each completed Defensive Action Report shall be submitted to the Chief of Police via the Chain of Command for administrative review. Any questions, concerns, or recommendations relating to the incident shall be submitted in writing to the Internal Affairs Unit.
- C.** All completed Defensive Action Reports shall be maintained by the Internal Affairs Unit in a manner consistent with existing records retention laws.
- D.** The Internal Affairs Unit shall conduct an annual analysis of all reports of the use of defensive action for review by the Chief of Police. This analysis shall be used to reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

## **16-2.19 DEFENSIVE ACTION REVIEW BOARD**

- A.** Annually, the Department shall convene a Defensive Action Review Board. The mission of such a Board is to review all incidents involving use of force as indicated in 16-2.16. The board shall review each incident in its entirety and the actions of all involved officers and make recommendations concerning the findings of the incident as well as changes, if any, in training or procedures. The recommendations of the Board are advisory in nature.
- B.** Officers of any Defensive Action Review Board shall be comprised of the following:
1. The Internal Affairs Member (chairperson)
  2. One Bureau Commander
  3. One Watch Commander
  4. Training Coordinator
  5. One high liability instructor

**6. Accreditation Manager**

- C.** Upon reviewing all incidents, the Board shall attach a report, including any recommendations, for review by the Chief of Police.

**16-2.20 NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS**

- A.** Officers of the Department shall not use unnecessary or excessive defensive action while Nonviolent civil rights demonstrations would include anti-abortion protests, environmental protest rallies, extremist group gatherings, and other such assemblies.
- B.** Officers may use that amount of defensive action or force which is reasonable and necessary during a nonviolent civil rights demonstration should the officer or any other person be placed in imminent danger as the result of actions occurring during such a demonstration, to protect property from a violent act, or to carry out a lawful duty.
- C.** The right of citizens to engage in peaceful assembly is one of the most basic Constitutional rights in the United States. However, there may be times when police action must be taken during assemblies that are classified as nonviolent civil rights demonstrations. Officers are expected to exercise restraint during such an assembly and use only that amount of defensive action which is reasonable and necessary while enforcing the law.

**16-2.21 RENDERING MEDICAL AID AFTER USE OF DEFENSIVE ACTION**

- A.** An officer who uses any form of defensive action including lethal and less-lethal action is responsible for obtaining necessary medical attention for an injured arrestee if the officer is physically capable of doing so. The following procedures are to be used:
- 1.** Assess the medical condition of the injured arrestee, render appropriate aid as necessary in critical incidents, and request EMS.
  - 2.** In situations where an arrestee's injuries are not life threatening and do not require EMS, the officer is responsible for taking the arrestee to the hospital for medical treatment. Visible injuries require the arrestee be taken to the hospital where they can refuse medical treatment, if they so desire.
  - 3.** Should an arresting officer be injured or otherwise incapable of providing medical aid, the supervisor is responsible for ensuring that an injured arrestee receives medical treatment.

**BY ORDER OF:**  
*Kevin P. Brunelle*  
**CHIEF OF POLICE**