

RESOLUTION NO.: R-2004-015

Adopting Section 1, Chapter 2, of the Police Department Policy and Procedures Manual as official City policy

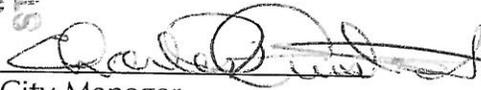
BE IT RESOLVED this 10th day of March, 2004, that the Mayor and City Council of the City of Columbia, South Carolina hereby adopts as official City Policy Section 1, Chapter 2 of the Police Department Policy and Procedures Manual attached hereto.

Requested by:



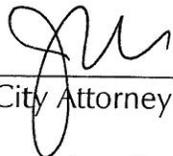
Mayor

Approved by:



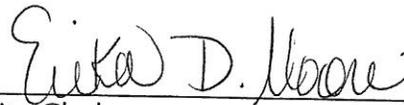
City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 3/10/2004

Final Reading: 3/10/2004

ORIGINAL
STAMPED IN RED

SECTION 01 CHAPTER 02 USE OF FORCE

1.0 POLICY

This Department recognizes and respects the value and special integrity of each human life. Investing police officers with the lawful authority to use force to protect the public welfare requires a careful balancing of all human interests. Therefore, it is the policy of this department that police officers will use force only as a last resort and will only use the minimum amount of force necessary to affect an arrest and overcome any resistance being offered.

To insure an understanding of this policy, all new recruits shall receive instruction from a certified weapons instructor and demonstrate proficiency in the use of all weapons and receive a copy of this policy and the Use of Force Report prior to being issued any weapon, lethal or non-lethal, by the Department. The Use of Force policy will be reviewed annually with each officer during the annual Firearms Qualification Training Program.

2.0 FIREARMS

2.1 Departmental Side Arms

All officers of the Columbia Police Department are issued a .45 ACP semi-automatic pistol and twenty-two (22) rounds of ammunition to be carried while on duty. The weapon will be inspected by a Department armorer for safety and proper function prior to issue. Any weapon deemed unsafe will be removed from service and either repaired or retired.

Officers will only carry departmentally issued .45 caliber ACP, 230 grain, factory loaded, jacketed hollow point ammunition.

2.2 Departmental Shotguns

Police vehicles may be equipped with a 12-gauge shotgun, which has been inspected and approved by a department armorer prior to initial issue. The shotgun will be secured in the trunk of the vehicle with the safety in the "on" position, hammer down and four (4) rounds of departmentally issued "00" buckshot in the magazine. The chamber will remain empty.

If a police vehicle is taken out of service for any reason, the shotgun and ammunition will be transferred to the replacement vehicle or stored securely and maintained by the shift supervisor.

2.3 .223 Rifle

Individual officers may be issued a departmental .223 caliber patrol rifle that has been inspected and approved by a department armorer. The weapon will be secured along with the departmental shotgun in the trunk of the vehicle. Forty (40) rounds of .223 Remington ammunition will be issued and maintained with the weapon. The chamber will remain empty.

2.4 Non-Issued Firearms Prohibited

All officers, while on duty, will possess only departmental issued weapons and ammunition on their person or in any departmental vehicle.

2.5 Carrying Side Arms Off-Duty

Officers of the Columbia Police Department are not required to carry a side arm off-duty. Officers may, at their discretion, carry side arms off-duty in accordance with state law and the following departmental regulations:

1. The weapon and holster are concealed at all times.
2. Revolvers must be chambered for a commercially produced cartridge, in .38 or .357 caliber and hold a minimum of five cartridges.
3. Pistols must be chambered for a commercially produced cartridge, in a caliber between .380 and .45 and hold a minimum of five cartridges.
4. The ammunition carried must be commercially produced. No magnum ammunition is authorized.
5. Any personally owned side arm to be carried off-duty must be inspected by an armorer, registered with the Training Unit and approved by the Chief of Police.
6. Officers must qualify annually with each personally owned side arm they are authorized to carry off-duty.
7. Officers will not carry any side arm off-duty while consuming or after consuming alcoholic beverages.
8. The officer must carry the side arm in a safe and prudent manner.
9. Officers are required to have their departmentally issued badge and credentials in their possession when carrying a side arm off-duty.
10. Records on all off-duty side arms will be maintained by the Training Unit.

2.6 Firearms Qualification

All officers of the Columbia Police Department will be required to qualify at least annually with their issued departmental side arm on a course monitored by a certified Firearms Instructor. A passing score for each weapon will be required for qualification.

Officers of the Columbia Police Department who are authorized to use the 12 gauge shotgun and /or the .223 rifle will be required to qualify at least annually on a course monitored by a certified Firearms Instructor. A passing score will be required for qualification.

All officers will also be required to qualify at least annually with any personally owned off-duty side arm that has been approved and authorized by the Chief of Police. A passing score will be required for qualification.

Active SWAT members will be required to qualify at least annually with any special weapon(s) they are issued and authorized to use.

All officers will be required to attend a training class that will be conducted in conjunction with the annual firearms qualification training. The class will review departmental policies and procedures that govern weapons and the use of force. A written test will be administered to each officer at the end of the class. Training and proficiency records will be maintained by the Training Unit.

Officers on light duty status may not carry their Departmental issued firearm or perform uniform duties until returned to full duty status.

Those officers unable to qualify due to light duty status at the time of firearms qualification must qualify before returning to their full duty assignment.

2.7 Failure to Maintain Sidearm Proficiency

All sworn personnel are required to maintain competence and to demonstrate proficiency with their departmental sidearm. Sworn personnel who fail to maintain competence with their departmental sidearm, as

evidenced by the demonstrated inability to meet firearms qualification requirements, will be reported immediately to the Chief of Police who will determine a course of action. They may be assigned to duties that do not require a sidearm for a period not to exceed two (2) calendar weeks.

While assigned to temporary duty, additional on-duty counseling and training will be provided. Retesting will be conducted within the two (2) week temporary assignment period. The repeated failure to demonstrate competence with the departmental sidearm will be cause for dismissal.

2.8 Failure to Maintain Other Firearms Proficiency

Sworn personnel who fail to maintain competence with any other departmentally issued firearm(s), as evidenced by the demonstrated inability to meet the established qualification requirements, will be required to remove the weapon from the vehicle that they are driving before each shift. The weapons removed from the vehicles will be securely stored and maintained by the shift supervisor.

Those sworn personnel that fail to meet the established qualification requirements and fail to remove the weapon from their police vehicle prior to their shift will be subject to a written reprimand for the first offense. A second offense violation will be subject to two (2) to five (5) days suspension.

2.9 Servicing of Departmental Weapons

The Equipment/Supply Unit will issue and maintain records on all issued weapons. Any officer whose issued weapon requires servicing, must deliver the weapon to the Equipment/Supply Unit with a written description of the problem. The weapon will then be turned over to a departmental armorer for repair. Under no circumstances will any officer modify a departmentally issued weapon.

This does not relieve the individual officer from full responsibility for the routine maintenance and cleaning required by normal use of a weapon.

The maintenance of other weapons in the Columbia Police Department will be the responsibility of the immediate supervisor of the unit that the weapon is assigned. Normal cleaning and maintenance shall be performed, or assigned by the supervisor. Service beyond that point will be handled by the departmental armorer.

3.0 USE OF DEADLY FORCE

Deadly force is defined as that force which is likely to cause serious physical injury or death. Serious physical injury is defined as a bodily injury that creates a substantial risk of death; causes serious permanent physical disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

An officer may use deadly force under the following circumstances:

1. When he believes that such force is necessary to protect himself or others from the imminent danger of serious physical injury or death.
2. To prevent the escape of a fleeing felon who the officer has probable cause to believe is attempting to escape by means of a deadly weapon or who, by conduct or other means, indicates that he presents an imminent threat of serious or deadly physical injury to others unless apprehended without delay.

Probable cause is more than mere suspicion, but less than proof beyond a reasonable doubt. Probable cause in relation to deadly force means that reasonable grounds exist in which the facts and circumstances are such to lead a just and prudent person to believe that the suspect poses an imminent threat of death or serious injury to the officer or others unless apprehended without delay.

Firearms will not be discharged under the following circumstances:

1. As a warning shot;
2. When circumstances indicate that discharging a firearm would endanger the safety of an innocent person;
3. From a moving vehicle;
4. At a moving vehicle except when the officer has probable cause to believe that there is a threat of serious bodily injury or death for himself or for a third party if the officer does not do so. Before discharging a firearm at a moving vehicle, an officer must have probable cause to believe that the only reasonable means of protecting himself and/or a third party is the use of deadly force and the officer must consider the surroundings to ensure that an innocent person will not be injured.

4.0 NON-LETHAL WEAPONS

All officers of the Columbia Police Department will be issued a non-lethal defensive baton that will be carried by officers while on duty in accordance with their assignment. An officer may use this weapon when necessary to defend himself or another from physical harm, to overcome resistance to effect an arrest or to prevent the escape of an arrested person. An officer will use only the minimum amount of force necessary to accomplish lawful objectives. The Training Unit will conduct an annual in-service training program in the use of the defensive baton and Aerosol OC Compound.

Officers of tactical units may be issued additional non-lethal weapons, such as tear gas and smoke grenades, which are to be used in special situations. The members of tactical units will be required to undergo training in the use of any weapon they are issued and authorized to use.

Officers will only possess and use those non-lethal weapons issued by the Columbia Police Department and on the use of which they have been trained. The possession and use of any other type of non-lethal weapon is prohibited.

5.0 USE OF NON-DEADLY FORCE

In situations where deadly force is not authorized, officers will assess the incident in order to determine which non-deadly technique or weapon will best de-escalate the incident and bring the situation under control in a safe manner. Departmental officers are authorized to use department approved non-deadly force techniques and issued equipment for the resolution of incidents, as follows:

1. To protect themselves or another from physical harm.
2. To restrain or subdue a resistant individual.
3. To bring an unlawful situation safely and effectively under control.

5.1 Aerosol OC Compound spray

Aerosol oleoresin capsicum (OC) is a food grade organic substance that when used as a weapon causes localized topical heat, redness, inflammation and pain to all exposed skin and tissues.

5.2 Use/discharge of Aerosol OC Compound

Aerosol OC Compound is considered a use of force and shall be employed in a manner consistent with established policies and procedures. Aerosol OC Compound is not an absolute. Officers must be prepared to utilize alternative department approved techniques or weapons that will best de-escalate the incident and bring the situation under control in a safe manner. Deployment of OC Compound shall be guided by the following criteria:

1. Deployment of Aerosol OC Compound is permitted when soft hand control has failed to bring about the subject's compliance and the subject has signaled his intention to actively resist the officer's efforts to make the arrest, which would needlessly jeopardize officer safety.
2. Aerosol OC Compound shall not be deployed when the subject has ceased actively resisting or is fleeing on foot.
3. Aerosol OC Compound should not be deployed if there is less than three feet of safe distance between the officer and the subject.
4. Aerosol OC Compound will not be deployed at distances of more than twelve feet, (Excluding SWAT and/or CDT tactical applications)
5. Deployment of Aerosol OC Compound should be avoided where infants, children up to seven years of age, or elderly persons are in close proximity.
6. Once the subject is incapacitated or restrained, the use of OC Compound is no longer justified.

5.3 Reporting Use/Discharge of Aerosol OC Compound

All incidents involving the use Of Aerosol OC Compound will be reported utilizing the Use of Force Report Form accompanied with an Investigative Summary. The following procedures apply:

1. A Use of Force Report shall be completed following all discharges of Aerosol OC Compound except during training or as a result of malfunction.
2. The report shall contain the serial number of the Aerosol OC Compound canister involved in the incident.
3. A copy of the Use of Force Report and Investigative Summary will be forwarded to the Training Unit for evaluation of trends that may require additional training.

5.4 Decontamination of Subjects

Assistance will be rendered to any individuals accidentally exposed to the Aerosol OC Compound who feel effects from the exposure. All such incidents will be immediately documented and reported.

Subjects exposed from the deployment of Aerosol OC Compound and are in custody should be decontaminated by Columbia - Richland EMS prior to being transported to RCDC. Detention Center personnel will be advised that the subject has been exposed to Aerosol OC Compound.

5.5 Aerosol OC Compound Training/Annual Certification and Qualifications

Only Department issued Aerosol OC Compound will be carried and used by officers of the Columbia Police Department.

Aerosol OC Compound will only be carried and used by police officers that have successfully completed a minimum of four (4) hours of classroom instruction, including direct exposure and decontamination from the Aerosol OC Compound, conducted by a qualified Columbia Police Department approved instructor. Training completion will be documented and maintained in officer training files. Classroom retraining is required annually.

5.6 Aerosol OC Compound Canister Disposal and Replacement

Aerosol OC Compound canisters are the property of the Columbia Police Department. All canisters shall be maintained in an operable and charged state. Replacement of damaged, inoperable and/or empty canisters are the responsibility of the officer to whom the equipment has been issued.

Incidents of malfunction and/or an inoperable Aerosol OC Compound canister will be reported to the officer's immediate supervisor as soon as possible. The immediate supervisor shall forward a report through the chain of command. Copies of this report will be forwarded to and reviewed by the Use of Force Review Board as well as to the Training Unit for a review of product reliability and/or training needs.

Damaged/ inoperable/ empty Aerosol OC Compound will be returned to the Equipment/Supply Unit for disposal. Replacement Aerosol OC Compound canisters will be issued through the internal requisition process.

Unexplained depletion of Aerosol OC Compound canisters shall require an investigation and written report to be forwarded through the chain of command to the Office of the Chief.

6.0 OFFICER RESPONSIBILITY

Any use of force, lethal or non-lethal, carries the responsibility to render immediate aid to any injured party. Any injury that is reported will be considered to be of sufficient gravity for the officers on the scene to summon medical assistance.

The duty supervisor will be called to the scene of any reported injury and will, after consultation with the medical personnel, assure that a proper level of care is provided in a timely manner.

7.0 REPORTING INCIDENTS INVOLVING THE USE OF FORCE

7.1 Non-Lethal Weapons

All incidents involving the use of physical force in which an injury requiring medical attention occurs or any use of a non-lethal weapon, shall be investigated by the supervisor of the officer(s) involved. The mere restraint of an individual by using force, in which no injury occurs, will not require a Use of Force Report. The Supervisor shall complete a Use of Force Report form and attach a summary report detailing the findings of his investigation. The report should be forwarded to the Internal Affairs Unit by 8:00 a.m. the following business day. A copy of the report also shall be forwarded through the Chain-of-Command to the respective Division Commander. The Internal Affairs Unit shall review the report and shall notify the Chief of Police of the incident by 9:00 a.m. The Chief of Police shall then determine if any further investigation of the incident is necessary.

7.2 Lethal Weapons: Injury, Death or Property Damage

In the event of the intentional or accidental discharge of any firearm involving the injury or death of any person or damage to any property, the officer(s) involved, regardless of duty status, shall immediately notify a supervisor of the incident. The supervisor shall respond to the incident location and treat it as a crime scene. The supervisor shall take possession of the weapon(s) involved once the scene is no longer determined hostile or the officer(s) involved have been removed from the incident location.

The supervisor also shall notify the on-call Crime Scene Investigator and the on-duty Watch Commander who in turn shall immediately notify the Internal Affairs Unit, the on-duty Criminal Investigator, other appropriate members of the Command Staff, and the Chief of Police. If it is reported that the discharge is a result of a weapon malfunction, a Departmental armorer will be called to examine the weapon.

An armorer will inspect the weapon and submit a written report that contains the nature of the malfunction and

the armorer's conclusion as to the serviceability of the weapon and repairs performed (if any). This report will be forwarded to the Internal Affairs Unit by 8:00 a.m. on the following business day for inclusion in their investigation. The Internal Affairs Unit and the Criminal Investigator shall be responsible for conducting independent investigations into the incident. Both the Internal Affairs Unit and the Criminal Investigator shall submit a written report to the Chief of Police by 9:00 a.m. the next business day. The reports shall include a Use of Force Report form and a written report including statements from the officer(s) involved and any witnesses to the incident. The Chief of Police or his designee, at his discretion, may request the assistance of the State Law Enforcement Division in the investigation.

The employee(s) involved will be placed on "relieved of duty" status pending the results of the investigations.

7.3 Lethal Weapons: No Injury, No Property Damage

In the event of the intentional or accidental discharge of a firearm in which there are no injuries or property damage, the officer(s) involved, regardless of duty status, will immediately notify a supervisor of the incident. The supervisor shall respond to the incident location and take possession of the weapon(s) involved once the scene is no longer determined hostile or the officer(s) involved have been removed from the incident location.

The supervisor also shall notify the on-duty Watch Commander who in turn shall immediately notify the Internal Affairs Unit and other appropriate members of the Command Staff. If it is reported that the discharge is a result of a weapon malfunction, a Departmental armorer will be called to examine the weapon.

The armorer will inspect the weapon and submit a written report that contains nature of the malfunction and the armorer's conclusion as to the serviceability of the weapon and repairs performed (if any). This report will be forwarded to the Internal Affairs Unit by 8:00 a.m. on the following business day for inclusion in their investigation.

The Internal Affairs Investigator shall prepare a full written report to include a Use of Force Report form and written statements from the officer(s) involved and any witnesses to the incident. The Internal Affairs Unit shall forward a report detailing the findings of the investigation to the Chief of Police by 9:00 a.m. Upon reviewing the report, the Chief of Police shall determine if any further investigation of the incident is necessary.

The supervisor may return the weapon and the employee may be returned to regular duty if approved by the Watch Commander with concurrence of the Internal Affairs Investigator.

7.4 Training or Recreational Shooting

The discharge of a firearm during a training exercise or during recreational shooting, that does not involve any injury or property damage, will not require the notification of a supervisor and the completion of the Use of Force Report form.

8.0 "RELIEVED OF DUTY STATUS"

In every instance in which an officer uses force and where such force results in death or serious bodily injury to another person, the officer shall immediately be relieved of normal duties. Assignment to a "relieved-of-duty" status shall be administrative (non-disciplinary) with no loss of pay or benefits.

"Relieved of duty" status with full pay and benefits is intended to serve two purposes:

1. To address the emotional needs of an officer involved in the use of deadly force; and
2. To assure the community that verification of the facts surrounding such incidents are fully and professionally explored.

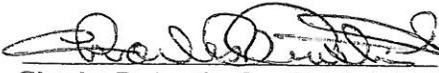
Officers so relieved from duty shall remain on a "relieved-of-duty" status during the preliminary investigation of the incident, after which the officer may be reassigned to normal duty status at the discretion of the Chief of Police.

Any officer who uses force, where such force results in death or serious bodily injury, will be required to see a departmentally approved Mental Health Specialist and will not return to normal duty status until approval is received from the Mental Health Specialist.

9.0 USE OF FORCE ANNUAL REVIEW

The Internal Affairs Unit will conduct an annual review of the Use of Force forms in an attempt to reveal patterns or trends that could indicate training needs and/or policy modification. The results will be forwarded to the Chief of Police for review.

This policy is effective upon receipt.


Charles P. Austin, Sr., Chief of Public Safety
City of Columbia, SC Police Department