

# TYLER POLICE DEPARTMENT

## GENERAL ORDER: 12.100

	<b>USE OF FORCE</b>	
	<b>EFFECTIVE DATE: 11-01-1990</b>	
	<b>REVISED DATE: 04-25-2019</b>	
<b>CALEA STANDARDS: 1.2.2; 4.1.1 – 4.3.4; 11.3.4; 41.3.4; 46.2.3; 70.2.1</b>		

### 12.101 PHILOSOPHY – [CALEA Standards: 4.1.1; 4.1.2; 4.1.5]

- A. In all cases, only that force that is reasonably necessary shall be used by employees of this Department to accomplish lawful objectives. The amount and degree of force that may be employed in attaining lawful objectives will be determined by the surrounding circumstances, including but not limited to:
  1. The nature of the offense.
  2. The behavior of the subject against who force is to be used:
    - a. Verbal dialogue.
    - b. Physical resistive actions.
    - c. Aggressive acts.
  3. Age and physical condition of the subject.
  4. Physical conditions at the scene.
  5. The feasibility or availability of alternative actions.
- B. A graduated escalation of force should be employed in situations not demanding the immediate use of a more severe level of force. The principle by which force is judged is the minimum force reasonably necessary to accomplish a legitimate police objective. The levels of force authorized by the Tyler Police Department in ascending order are:
  1. Physical presence and verbal persuasion.

2. Physical Restraint / Soft Empty Hand Control Tactics or OC (Oleoresin Capsicum) Spray / Chemical Agents. OC Spray should be considered before attempting to physically restrain a subject who has displayed or voiced intentions of resistance, unless unable to do so.
3. Physical Restraint/Hard Empty Hand Control Tactics, Taser X-26 "Electronic Control Device" - or Jaycor PepperBall System.
4. Department approved baton / impact weapon.
5. Long Range impact munitions (12 gauge less lethal) (37mm less lethal)
6. Deadly Force (See Hostile/Tactical Situations for additional, [General Order 17.300](#)).

C. An officer of this Department may only use deadly force when the officer reasonably believes that it is necessary to defend the officer's own life, or that of another person in immediate danger of death or serious physical injury. If circumstances permit, officers of this Department shall exhaust every other reasonable means of apprehension, restraint, or force before resorting to the use of deadly force.

1. Deadly Force - shall be defined as that amount of force intended to cause death or serious physical injury; or that creates such a degree of risk that a reasonable person would consider it likely to cause death or serious physical injury.
2. Reasonable Belief - shall be defined as that set of facts and circumstances that would lead a reasonable person to believe that deadly force is necessary.
3. Serious Physical Injury - shall be defined as any injury that could result in permanent disfigurement, disability, or death.

D. The same standards that apply to the use of force shall apply to the use of deadly force against a fleeing felon. No presumption will be made that a fleeing felon poses an immediate threat in the absence of a previously demonstrated threat to, or disregard for human life. This will be in accordance with the standards set forth in 12.101 C above and according to the requirement of the [Texas Penal Code Section 9.51](#).

E. Appropriate medical attention will be provided to any person who was injured as a result of police action involving any use of force. All injuries, claimed or otherwise, require a patrol supervisor to be notified.

**12.102 GENERAL SPECIFICATIONS – [CALEA Standards: 1.2.2; 4.3.1; 4.3.4; 41.3.4]**

A. Prior to carrying any weapon listed below, department personnel are required to receive training on this use of force policy and a Use of Force instructor who is certified in the weapon or weapon system must review, inspect, and approve the weapon being considered for use by sworn personnel:

1. Firearms
2. Impact Weapon, i.e. PR-24 or expandable
3. Long Range impact munitions

4. Jaycor PepperBall
5. OC spray
6. Chemical Munitions, e.g. CS, CN, OC
7. Taser X 26“Electronic Control Device”

B. If any weapon being considered for use by department personnel is deemed unsafe, the instructor may disallow the use of the weapon / weapon system until repairs, upgrades, and / or replacement can be completed and the weapon / weapon system is deemed safe for use. If an officer's weapon is determined to be unsafe, a memorandum will be directed to the Firearms Coordinator outlining the diagnosis of the weapon in question. The officer may qualify with another department-approved weapon as outlined in [12.108\(A\)](#), if available. If the officer does not have another weapon with which to qualify and carry on-duty, the officer may be issued a department weapon of the same make, model, and caliber from the Property Unit, if available. This will be at the discretion of the Chief of Police. If the officer is issued a department weapon for duty use, the officer will have 30 days in which to have their weapon repaired and inspected by a department firearms instructor. A memorandum that states the weapon has been repaired and inspected will be completed by the firearms instructor inspecting the weapon and forwarded to the Firearms Coordinator prior to the officer carrying the weapon for duty use.

C. Uniformed officers who choose to wear a knife / cutting tool on their utility belt are permitted to purchase their own folding knife or utility tool of the Leatherman style and carrier. If a folding knife or utility tool is carried on the duty belt the carrier must conform to the duty belt and shall have a flap or internal retention device which will securely hold the knife/tool when not in use. Folding knives or utility tools may be carried in the uniform trouser pants, but will not be displayed unless they are affixed to the inside of the pants pocket with only the top portion showing and secured to the pocket with a clip type holder. Carrying for duty use of illegal or prohibited knives as defined under [Chapter 46 of the Texas Penal Code](#) is forbidden.

D. No officer may carry any weapon / weapon system not specified in this policy.

#### **12.103 LEVELS OF LESS LETHAL FORCE**

**[CALEA Standards: 1.2.2; 4.1.4; 4.1.5; 4.2.1; 4.3.1; 4.3.2; 4.3.3; 70.2.1]**

A. Less lethal force shall be defined as any force not designed or intended to cause death or serious physical injury. Such force would not include those situations whereby a slight degree of force is used to handcuff a person or conduct a search. Less lethal force does include the pointing of a firearm at a person.

B. Officers are required to have in-service training on this use of force policy and demonstrate annual proficiency with all less-lethal weapon systems they are certified to carry. Officers that fail to show proficiency with any Less-lethal weapons system they are certified to carry will be required to attend a remedial training course as outlined by the Weapons System Instructor.

C. Less lethal force may be used in instances where a Police Officer reasonably believes it is immediately necessary to take physical action to:

1. Preserve the peace; prevent the commission of offenses, suicide, or serious bodily injury.
2. Make a lawful arrest and / or search, overcome resistance to a lawful arrest and / or search, and/or prevent an escape from custody.
3. Defend the officer or another against unlawful violence to person or property.

D. Physical Presence and Verbal Persuasion - Accomplished through the officer's appearance at a situation or through the officer's dialogue with a subject, resulting in the officer controlling the subject.

E. OC Spray / Chemical Agents- Officers may use OC spray / chemical agents only when force is necessary to subdue individuals who are non-compliant to the officer's physical presence and verbal commands. OC spray / chemical Agents may also be used for crowd control and / or riot situations. Only officers completing the approved OC spray / chemical agents training will be allowed to use this non-deadly force. Officers are required to demonstrate proficiency every year with the OC spray/chemical agent. Some form of documentation is to be routed to the Training Unit indicating those officers that demonstrate proficiency.

Prisoners who have been subdued by OC spray / chemical agents, or who sustained minor injuries which do not require treatment by a doctor, will be taken to the Smith County Jail for immediate decontamination. The prisoner will be taken for medical treatment if the prisoner requests it, or at the sign of breathing difficulty beyond brief initial coughing. If it is known that the prisoner suffers from an asthmatic condition, the prisoner is to be taken for medical treatment.

F. Taser X-26 -“Electronic Control Device” Training and Authorization - A Taser X-26 will only be issued to and used by officers of this department who have completed an approved Taser training course. Officers will be required to demonstrate proficiency with the Taser system every year after initial certification. All Patrol Division officers below the rank of Lieutenant must obtain certification training and carry the Advanced Taser when on duty and the Taser is available. Officers not assigned to uniform patrol may utilize the Taser consistent with department training.

G. Use of the Taser X-26 “Electronic Control Device” - The Taser systems will only be used in accordance with training and department policy. Officers of this department may not draw or display the Taser unless the circumstances present create a reasonable belief that it may be necessary to use it. The Taser will be properly secured prior to entering any detention facility.

1. The Taser may be used when a subject is demonstrating an overt intention to use violence or force against an officer who is attempting to conduct legal law enforcement activities or another person and the subject cannot reasonably be dealt with by a lesser use of force option. As in all uses of force, certain individuals may be more susceptible to injury. Officers should be aware of the greater potential for injury when using the Taser against children, the elderly, persons of small stature irrespective of age, or those the officer has reason to believe are pregnant, equipped with a pacemaker, or in obvious ill health.
2. The Taser Will Not be used:

- a. When the officer knows that the subject has come in contact with flammable and / or volatile substances, or explosive materials are present.
- b. When the subject is in a position where a fall could reasonably be the cause of substantial injury or death (such as in / over water or on an elevated structure).
- c. Punitively for the purposes of coercion or in any unjustified manner.
- d. To escort an individual.
- e. To awaken unconscious individuals.
- f. On any suspect who does not demonstrate an overt intention to use violence or force against the officer or another person.
- g. When visibly pregnant, unless deadly force is the only other option available to the officer(s).

3. The Taser **Should Not** be used in the following circumstances (*unless there are compelling reasons to do so which can be clearly articulated*):

- a. When the subject is operating a vehicle.
- b. On a subject that the officer has knowledge of or is displaying symptoms of mental illness, unless a greater use of force would be justified.
- c. When the subject is holding a firearm.
- d. When the subject is a child, elderly, or is physically disabled.
- e. In a situation where deadly force is clearly justified; unless another officer is present and capable of providing deadly force should it become necessary to protect the officer and /or other third person(s).
- f. When a prisoner is handcuffed, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less obtrusive fashion.
- g. On any subject that is fleeing or evading on foot, unless the person has committed a violent felony or presents an articulable threat to another person.

4. Only properly functioning and charged Taser Systems will be issued to officers for use.

5. All Tasers and associated equipment shall be properly secured when not in use. When carried by officers in the field, the Taser shall be carried in the Department approved holster in a cross-draw fashion opposite the officer's duty weapon.

6. Each deployment of the Taser, intentional or accidental, shall be documented on a department incident report as well as a Record of Investigation / Subject Resistance Report. A supervisor shall be notified of every deployment, and shall be required to investigate the incident and report through the chain of command

on the Record of Investigation / Subject Resistance Report as to the circumstances of the deployment. This will include any firing of a cartridge, or any other deployment resulting in a person or animal receiving an electrical charge from the Taser system. A Data Download Sheet is to be downloaded at the time that the use of force documentation is completed by a first line supervisor and attached to all subject resistance forms, showing the Taser usages.

H. Deployment of the Taser X-26 "Electronic Control Device"

1. The Taser is one of the options available to officers. The Taser, like the baton, spray, or empty hand control tactics may not be effective in every situation. Officers must assess the effectiveness of each application of force and determine whether further applications are warranted or if another tactic should be used. The decision to use the Taser will not be based solely upon past failures of OC spray or a lower level of force to work in a similar circumstance, but instead will be dependent upon the actions of the subject, the threat facing the officer, and the totality of the circumstances surrounding the incident at the time.
  - a. Upon firing the device, the officer shall cycle the Taser on the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective. The subject should be secured as soon as practical while incapacitated by the electronic control device to minimize the number of deployment cycles. In determining the need for additional cycles, officers should be aware that a subject may not be able to respond to commands during or immediately following exposure.
  - b. Touch Stun with the Taser should only be used as part of the 3 point contact, only after probe deployment or probe miss. Once probe deployment has failed, officers may use the Taser in touch stun mode to complete the 3<sup>rd</sup> point of contact for NMI (Neuro-Muscular Incapacitation).
  - c. Subjects who have received an electrical charge from the Taser system will be treated in the following manner:
    - (1) Once the subject has been secured the arresting officer will notify EMS and have them respond to the scene. Probes that have penetrated the skin will be removed only in the manner prescribed in the department training course. Only medical personnel may remove or direct to be removed any Taser probes that are embedded in soft tissue areas such as the neck, face, and groin. EMS personnel will determine if the subject should be transported to the hospital for treatment. If the subject requests medical treatment they will be transported to the hospital for treatment.
    - (2) If the probes are no longer attached to the subject, and EMS personnel determine the subject does not need to be transported to the hospital for treatment, the subject should be transported to the Smith County Jail.

- (3) If the subject is transported to the hospital for treatment, the arresting officer will obtain a medical release from the doctor before the subject is transported to the Smith County Jail.
- (4) The following situations require the subject to be transported to the hospital:
  - i. If the subject does not appear to recover properly.
  - ii. If the subject is in a potentially susceptible population group, e.g. children, the elderly, persons of small stature irrespective of age, or those the officer has reason to believe are pregnant, equipped with a pacemaker, or in obvious ill health.
  - iii. If the subject has received more than three (3) energy cycles.
  - iv. If the subject has had more than one Taser used against him or her at the same time in any given incident.
  - v. If the subject has been subjected to a continuous energy cycle of 15 seconds or more.
  - vi. If the subject has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to the Taser deployment.
- (5) When the device has been used, the officer shall collect and tag into property the cartridge, wire leads, and darts as evidence.

d. Supervisor Responsibilities:

- (1) Respond to the scene when a Taser has been or is expected to be deployed.
- (2) Ensure that a Record of Investigation / Subject Resistance Report and TPD Incident Report is completed detailing the circumstances of the Taser use. Other officers present at the time of deployment will complete a Supplement Report.
- (3) Ensure that EMS is called to the scene and appropriate emergency care is administered prior to their arrival, if necessary.
- (4) Ensure that photographs are taken of the probe penetration sites and all secondary injuries are photographed. These photographs are to be turned in as evidence.

I. The Jaycor Pepperball Launcher

- 1. The purpose of this policy is to establish guidelines for the use of the Jaycor PepperBall Launcher. The Department has authorized the use of the Jaycor PepperBall Launcher to provide officers with a non-lethal option for gaining compliance of aggressive subjects during arrest and other law enforcement situations.

a. Training and Authorization:

- (1) Only sworn officers who have completed the required training on the use of the Jaycor PepperBall Launcher are authorized to deploy the system.
- (2) Mandatory training will include qualifying with the Jaycor PepperBall Launcher as well as indirect exposure to the OC powder.
- (3) All officers will use only the Jaycor PepperBall Launchers purchased by the department and will only use department issued projectiles that are designed to be fired by that system.
- (4) Officers who have completed the required training and are authorized to deploy the Jaycor PepperBall Launcher are obliged to demonstrate proficiency with the system annually.
  - i. Officers who fail or elect not to demonstrate proficiency will not be permitted to carry or deploy the Jaycor PepperBall Launcher.

b. Usage of the Jaycor Pepperball launcher:

- (1) The use of the Jaycor PepperBall Launcher by officers is considered a use of force, and shall be used in a manner consistent with the Department's use of force policy and training.
- (2) The Jaycor PepperBall Launcher may be used when a suspect exhibits violent or potentially violent behavior during an arrest and control situation, or any other use of force situation as defined in the [Texas Penal Code Sec. 9.51 and 9.52](#) and attempts to subdue the suspect by verbal persuasion and hands-on control are not effective, inappropriate, or are unsafe to use.
- (3) The Jaycor PepperBall Launcher may be deployed when it is necessary to defend any person from an immediate threat of bodily harm from an aggressive or attacking animal.
- (4) The Jaycor PepperBall Launcher may be used to disperse unruly or riotous crowds.
- (5) Officers will deploy the Jaycor PepperBall Launcher within the guidelines of this policy. Any modifications or repairs to the launchers will be completed by those specifically trained to make such adjustments. All modifications will be in accordance with manufacturer specifications, and approved by the Chief of Police or his designee prior to the modifications being made. Any tampering with the launcher, e.g., horseplay, etc., is strictly prohibited. Any officer who misuses the Jaycor PepperBall Launcher will be subject to disciplinary action up to and including termination of employment.

c. Effects, Decontamination, Transportation and Jail Procedures:

- (1) Officers should remain attentive to the suspect's physical condition after exposure.
- (2) As with other forms of OC, the decontamination process includes:
  - i. Removing the suspect from the contaminated area.
  - ii. Exposing the suspect to air and/or wind.
  - iii. Providing the suspect with water to remove the chemical agent from their skin.
- (3) Officers shall notify jail personnel that a suspect has been exposed to the OC projectiles prior to coming into contact with the prisoner so arrangements can be made to replace the suspect's contaminated clothing if necessary.
- (4) Before leaving the jail or hospital, which ever is applicable, the arresting officer shall document suspect's injuries and the location and number of observed bruises, welts, or abrasions. Officers will take pictures of the injuries and provide those to a supervisor along with the description and number of observed injuries to be included in the Record of Investigation / Subject Resistance Report.
- (5) Officers shall, as soon as practical, notify a supervisor that the PepperBall Launcher has been deployed against a suspect, and if necessary or requested by the suspect, request that EMS personnel respond to the scene or jail to assist with decontamination and assist with any injuries.

J. Physical Restraint

1. Escort / Soft Empty Hand Control - Accomplished by an officer using approved physical restraints (includes restraining holds) as taught in accordance with recognized methods to gain control of the subject.
2. Strikes / Hard Empty Hand Control - Accomplished by an officer delivering blows with the officer's hands, knees, and/or feet to gain control of the subject.

K. Police Department Approved Baton / Impact Weapon - A police baton / impact weapon may be used when reasonable force is necessary to subdue a violently resisting subject, in self-defense, or defense of a third party if lesser methods have failed or if circumstances warrant the immediate use of the baton. Passive resistance such as a prisoner refusing to enter or exit a vehicle, holding room, etc. is not sufficient in itself to justify the use of a baton / impact weapon against the prisoner. [General Order 06.104\(D\)](#) refers to when the baton / impact weapon is to be carried.

1. Baton / Impact Weapon - Officers may carry an approved baton / impact weapon if they successfully complete an approved block of instruction from a certified baton instructor.
  - a. Officers will not intentionally strike the head, neck, sternum, and / or spine unless deadly force is authorized.

- b. Officers should avoid striking other areas of the body to include groin, kidneys, elbows, and knees, which could cause severe injury, unless the use of force by the subject justifies striking these areas.
  - c. Officers will use the baton / impact weapon within the guidelines set forth by the training course curriculum governing the use of the weapon.
  - d. Officers must demonstrate proficiency every year in order to retain baton / impact weapon certification.
- 2. Approved Baton / Impact weapons are listed below:
  - a. PR-24 (side-handle)
  - b. ASP (expandable)
  - c. Monadnock (expandable)
- 3. Flashlights - Using a flashlight as an impact weapon is prohibited, except in those situations where deadly force is justified and no other impact weapon as authorized by the Department is immediately available to the officer.
- 4. Firearms - will not be used as an impact weapon.
- 5. The use of Saps, Sap Gloves, Slappers, or any police defensive weapon not authorized in the equipment section is forbidden and may result in disciplinary action.

L. Impact Munitions – are extended range impact weapons designed to temporarily incapacitate non-compliant subjects who are armed with weapons other than firearms, and are exhibiting violent, aggressive, or irrational behavior.

- 1. Officers should remember that the use of impact munitions creates a risk for serious injury.
- 2. Any time an officer strikes a subject with impact munitions, the officer will, as quickly as possible, obtain medical treatment for the subject. This means that before striking a non-compliant, violent, aggressive, or irrational subject the officers must be prepared to restrain the subject before the effect of the impact munitions dissipate.
- 3. Officers will advise jail personnel when an arrested subject had been struck with impact munitions prior to the arrestee being booked-in.
- 4. Any use of impact munitions requires a Record of Investigation / Subject Resistance Report to be completed.
- 5. Anytime impact munitions are deployed an officer capable of providing deadly force cover must be present.
- 6. Officers who have completed the required training and are authorized to carry / deploy impact munition are obliged to demonstrate proficiency annually.

- a. Officers who fail or elect not to demonstrate proficiency will not be permitted to carrying or deploy an impact munitions weapon system.
- M. Flex Belt Leg Restraint - are distributed to patrol vehicles and will only be used on combative suspects who have already been handcuffed.
  - 1. A supervisor shall be notified upon the use of the Flex Belt Leg Restraint device.
  - 2. The leg restraint device is placed around the subject's legs just above the knees or ankles per manufacturer's instructions.
  - 3. The prisoner's knees are moved next to the door and the loose end is placed out the door. The car door is then closed over the end of the restraint device preventing the prisoner from moving about.
  - 4. In cases where the subject continues to be combative in the patrol unit during transport, it may be necessary for an officer to ride in the back seat to restrain the subject further, but only if a BodyGuard Restraint is not available.
- N. BodyGuard Restraint System – are distributed to patrol supervisor vehicles and will only be used on combative suspects who have already been handcuffed. The system is designed to allow for safe transport of combative prisoners in an upright-seated position to avoid positional asphyxia.
  - 1. The Bodyguard Restraint System should only be used with supervisor approval.
  - 2. A minimum of two officers should be present prior to deploying the restraint device.
  - 3. The prisoner is laid face down after being handcuffed with both hands behind his / her back.
  - 4. The restraint device is placed around the subject's legs just above the ankles per manufacturer's instructions.
  - 5. The straps are fastened and legs are immobilized into a straight out position. (Knees do not bend).
  - 6. The prisoner should be immediately rolled up into a seated position.
  - 7. The shoulder harness should be attached and connected to the leg restraint to keep the prisoner in an upright-seated position for transport.
  - 8. The prisoner should be secured with a seat belt. In cases where the subject continues to be combative in the patrol unit during transport, it may be necessary for an officer to ride in the back seat to restrain the subject further.

#### 12.104 USE OF DEADLY FORCE – [CALEA Standards: 1.2.2; 4.1.2; 4.1.3]

- A. The policy of this department specifically forbids:
  - 1. Firing of firearms or use of any deadly force in situations where the use of deadly force is not authorized by this policy.

2. Firing into buildings or other places where offenders are suspected of hiding. The only exception to this will be those instances where there is no doubt of the offender's location and when deadly force or intended deadly force is being directed from that location at the officers or others.
3. Use of deadly force in cases of escape from custody, unless the officer reasonably believes that the suspect poses an immediate threat of death or serious bodily injury to the officer or others.
4. Firing at or from a moving vehicle, except:
  - a. When an occupant of the vehicle is using or attempting to use deadly force on an officer or other persons.
  - b. As a last resort to prevent death or substantial harm to the officer or other person(s). If time and circumstances allow, approval from an on-duty supervisor aware of the situation should be obtained.
  - c. That any such return fire should not be made in a negligent manner.
5. Firing "*Warning Shots*".
6. Shooting of animals, fowl, or other objects unless officers or other persons are in imminent danger of death or serious bodily injury or with specific approval of a supervisor.
7. Use of police baton or any other instrument in such a manner as would likely cause death or serious bodily injury, except in cases where use of deadly force is sanctioned by this policy.
8. The pointing of a firearm at a misdemeanor suspect known to be unarmed, and who is no immediate danger to the officer or others.

B. The policy of this department permits the drawing or displaying of firearms when:

1. An officer, in the exercise of sound judgment, has reason to fear for the officer's own personal safety and / or the safety of others (includes but is not limited to the search of a building for a burglar, a robbery in progress), or
2. The offender is suspected of being in possession of a deadly weapon and such suspicion is based upon facts and circumstances, which would normally and reasonably lead one to suspect the offender has a deadly weapon. (The intent of this provision is to permit the officers to protect themselves and others and to avoid the necessity of actually having to use a firearm when the advantage rests with the officer). Any officer pointing a firearm at a person is required to document the circumstance in written police incident report. This report is mandatory regardless if a Record of Investigation / Subject Resistance Report is required.

**NOTE:** For the purpose of this policy, the terms "*deadly weapon*" and "*dangerous weapon*" will have the same meaning; such definition being the same as in [Section 1.07 \(17\)\(A\)\(B\)](#) of the Texas Penal Code.

12.105 **FIREARMS QUALIFICATIONS – [CALEA Standards: 4.3.1; 4.3.2; 4.3.3; 4.3.4]**

A. Handguns / Shotguns

1. TCOLE Statutes and Rules Handbook: Chapter 218 Section 218.9, mandates that officers must qualify with their service weapon at least one (1) time a year at the Department Firing Range. Safety, proper technique and accuracy are the goals of firearms training. Courses to emphasize both day and night shooting will be established and may include the use of special weapons, equipment, and simulated shooting techniques. The range will be open for regularly scheduled qualifications on designated days throughout the year.
  - a. All officers, with the exception of those excused by the Chief of Police, will be required to participate in firearms training and qualify with a score of at least 80% two (2) times a year. Those excused from the regular schedule will be required to qualify with a score of at least 80% at a scheduled make-up qualification during the one (1) year period.
  - b. Any officer who fails to qualify will be scheduled for supervised training with a certified firearms instructor and coordinated through the Firearms Coordinator.
  - c. Firearms qualifications courses will be provided for primary weapons, secondary weapons, off-duty weapons, shotguns, and patrol rifles.
  - d. Make-up qualifications for those who miss a regularly scheduled qualification will be scheduled with a certified firearms instructor and organized through the Firearms Coordinator.
  - e. At least annually, sworn personnel will receive documented in-service training on this Use of Force policy. The policy training will cover the what, when, where, and how to use force and may be conducted during shift briefings, in conjunction with a scheduled qualification shoots or as part of any other in-service training.
  - f. No sworn officer will be authorized to carry a firearm, impact weapon, O.C. Spray, Taser, or other less-lethal weapon until first receiving a copy of this Use of Force policy. In addition, sworn personnel must complete formal training in conjunction with personal instruction on less-lethal and firearms safety as controlled by this Department and sanctioned in sections [12.101](#), [12.102](#) and [12.103](#) above.
2. All qualifications will be completed following courses provided by the Firearms Coordinator and authorized by the Chief of Police.
  - a. Each course of fire will have a specific time frame sufficient to simulate a stress situation, which causes the officer to apply fundamental concepts of safety, proper technique and accuracy in firing, and the proficient reloading of the firearm.
    - (1) The Firearms Coordinator may recommend to the Chief of Police that an officer not be permitted to carry a particular weapon

because of a lack of proficiency, even though the officer has qualified with it.

- (2) The final decision as to whether the officer may or may not carry a particular weapon rest solely with the Chief of Police.
- b. The Department's minimum qualification course shall meet or exceed the TCOLE firearm's proficiency requirements. The course of fire shall be described / maintained within the semi-annual firearms training procedures.
- c. Firearms training will be conducted in a combination of both day and night settings.
- d. Targets authorized for qualifications are paper silhouettes designed to be individually scored to determine the proficiency and accuracy of the shooter.

3. Each semi-annual qualification period will be conducted as stipulated within the semi-annual firearms training procedures. Sworn personnel who fail to meet the minimum qualifying score on at least one (1) of the prescribed relays will be required to attempt the qualification course a second time. Any officer who fails to qualify will be scheduled to attend a minimum of four (4) hours of remedial firearms training. After remedial training the officer will again attempt to qualify on the Tyler Police Department qualification course.
  - a. If after remedial training the officer fails to qualify, the officer will be placed on administrative duty and not permitted to carry a weapon.
  - b. The Firearms Coordinator will forward a memorandum explaining the employee's failure to qualify to the officer's Division Commander within 24 hours.
  - c. The officer's Division Commander will assign the employee to an administrative position for up to ten (10) days pending further remedial training and re-qualification.

- (1) Exceptions to this rule may be made by the Chief of Police.
  - i. Off-duty work in a police capacity will be prohibited until the employee has qualified.
  - d. Officers who fail to qualify with a minimum score of 80% after attending remedial firearms training may be subject to disciplinary action, including suspension and / or termination.

## B. Patrol Rifles

1. Officers desiring to carry a patrol rifle must complete the Basic Patrol Rifle training course prior to being permitted to carry the rifle. Rifles must be inspected and approved by a firearms instructor.
2. Department guidelines mandate officers must qualify with their patrol rifles two (2) times a year at the department Firing Range. Safety, proper technique, and

accuracy are the goals of firearms training. Courses to emphasize both day and night shooting will be established and may include the use of special weapons, equipment, and simulated shooting techniques. The range will be open for regularly scheduled qualifications on designated days throughout the year.

- a. All officers wishing to carry the patrol rifle will be required to participate in firearms training and qualify two (2) times a year.
- b. Any officer who fails to qualify will be scheduled for supervised training with a certified firearms instructor and coordinated through the Firearms Coordinator.
- c. Make-up qualifications for those who miss a regularly scheduled shoot will be scheduled with a certified firearms instructor and coordinated through the Firearms Coordinator.
- d. No sworn officer will be authorized to carry a patrol rifle until first receiving a copy of this Use of Force policy. In addition, sworn personnel must complete formal training in conjunction with personal instruction on firearms safety as controlled by this Department and sanctioned in sections [12.101](#), [12.102](#) and [12.103](#) above.
- e. All qualifications will be completed following courses provided by the Firearms Coordinator and authorized by the Chief of Police.
  - (1) Each course of fire will have a specific time frame sufficient to simulate a stress situation, which causes the officer to apply fundamental concepts of safety, proper technique and accuracy in firing, and the proficient reloading of the firearm.
    - i. The Firearms Coordinator may recommend to the Chief of Police that an officer not be permitted to carry a particular weapon because of a lack of proficiency, even though the officer has qualified with it.
    - ii. The final decision as to whether the officer may or may not carry a particular weapon rest solely with the Chief of Police.
  - (2) The minimum qualification course shall be as described in the annual firearms training plan.
  - (3) Firearms training will be conducted in a combination of daylight and darkness.
  - (4) Targets authorized are the paper silhouette type designed to be individually scored to determine the proficiency and accuracy of the shooter.
3. Any officer who fails to qualify will be given individual training by a firearms instructor to assist the officer in qualifying. After instruction the officer will again attempt to qualify on the Tyler Police Department qualification course.
  - a. If the officer fails to qualify during the second relay, the officer will be suspended from carrying the patrol rifle. The officer will be required to

complete remedial rifle training as prescribed by the Firearms Coordinator and approved by the Chief of Police. If after remedial training the officer is still unable to qualify, he / she will be suspended from carrying a patrol rifle, and will be required to complete the Basic Patrol Rifle Course again should the officer still desire to carry the patrol rifle.

- b. The Firearms Coordinator will forward a memorandum explaining the employee's failure to qualify to the officer's Division Commander within 24 hours.
- c. If at any time an officer who is qualified as a patrol rifle carrier desires to discontinue carrying the patrol rifle, that officer must notify the Firearms Coordinator in the form of departmental memorandum through that officer's chain of command.

#### **12.106 AMMUNITION – [CALEA Standard: 4.3.1]**

##### **A. Handguns:**

1. Practice / Qualification Ammunition
  - a. The Department will furnish 9mm, .38 Special or .38 Special +P (Plus P), .357 Sig, .40 S&W, or .45 ACP ammunition for qualification.
  - b. Officers who qualify with the .357 Magnum must furnish at least 100 rounds of factory first run, or remanufactured ammunition, for each qualification.
  - c. Duty ammunition used during qualification must be of the same make, type, and grain that the officer carries on duty.
  - d. The make, type, and grain of the officer's duty ammunition will be noted on his / her qualification sheet.
2. Duty Ammunition
  - a. Only factory loaded hollow point ammunition will be permitted for duty use.
  - b. Officers may only carry a single make, type, and grain of ammunition in the duty weapon and all reloading devices.
3. Prohibited Ammunition:
  - a. Explosive, poisonous, or toxic bullets.
  - b. Tracers or incendiary bullets.
  - c. Armor-piercing bullets.
  - d. Glaser (all pre-fragmented ammunition).

- e. Any ammunition the Firearms Coordinator and / or certified firearms instructor deems unsuitable for on-duty use.

**12.107 PATROL RIFLES – [CALEA Standard: 4.3.1]**

A. Practice Ammunition

- 1. Reloaded ammunition and full metal jacketed ammunition provided by the officer will be allowed for training only. Tracer, explosive, incendiary, or armor-piercing ammunition is not permitted.

B. Duty and Qualification Ammunition

- 1. The department shall furnish officers with a minimum of 50 rounds of duty ammunition annually.
- 2. Any additional ammunition carried by an officer for duty use must be identical to that provided by the department.
- 3. Officers must qualify at least once per year using duty ammunition.

**12.108 APPROVED DUTY WEAPONS – [CALEA Standards: 4.3.1; 4.3.2; 41.3.4; 46.2.3]**

A. Handguns

- 1. Each sworn officer from the date of the officer's employment must provide their own double action or striker fired semi-automatic pistol of any approved manufacture; chambered for either 9 mm, .357 Sig, .40 S&W or .45 ACP.
- 2. Firearms carried on-duty must be of the same make, model, and caliber as the officer's most recent qualification. The officer may be qualified with more than one type of weapon during the one (1) year qualification period.
  - a. Any officer who desires to change their primary on-duty weapon will be required to qualify with the weapon prior to carrying it on-duty.
- 3. The following firearms are approved for on-duty use:
  - a. Double Action or Striker Fired Semi-Automatic Pistols, 9mm, .40 S & W, .357 Sig, or .45 ACP only.
    - (1) Beretta
    - (2) Glock
    - (3) Sig-Sauer
    - (4) Smith & Wesson 3rd Generation or later models
    - (5) Heckler and Koch (H&K) Handgun
    - (6) Ruger

(7) Springfield Armory

- b. Double Action Smith & Wesson Revolvers, .357 Magnum or .38 Special are approved only for those officers who are currently qualified with those weapons. Should those officers not qualify with these weapons or change to another weapon, then they must comply with section 3(a) above.
- 4. All handgun and handgun accessories must be gun metal blue, black, or stainless steel in color unless individually authorized by the Chief of Police.
  - a. No officer shall be permitted to carry, on-duty, any handgun or handgun accessories manufactured with embedded, engraved, or in some form adhered emblems, logos or slogans unless authorized by the Chief of Police.
  - b. No officer shall be permitted to embed, engrave, or in some form adhere emblems, logos or slogans to their handguns or handgun accessories unless authorized by the Chief of Police.
- 6. All primary on-duty handguns carried by uniformed officers must be classified as full size by the weapon's manufacture. Officers with small hands or other reasonable need to carry a handgun classified as compact by the weapons manufacture for on-duty purposes may request an exception through the Firearms Coordinator.
  - a. The Firearms Coordinator shall submit, through their Chain of Command, a recommendation to the Chief of Police concerning the officer's request to carry a compact handgun.
  - b. The decision to permit any uniformed officer to carry on-duty a compact handgun rests solely with the Chief of Police.
  - c. No uniformed officer shall be permitted to carry on-duty any handgun classified as sub-compact by the weapon's manufacture.
- 7. All primary on-duty handguns carried by plain clothes officers must be classified as either full size or compact by the weapon's manufacture. Plain clothes officers who have a reasonable need to carry a handgun classified as sub-compact by the weapons manufacture for on-duty purposes may request an exception through the Firearms Coordinator.
  - a. The Firearms Coordinator shall submit, through their Chain of Command, a recommendation to the Chief of Police concerning the officer's request to carry a sub-compact handgun.
  - b. The decision to permit any plain clothes officer to carry on-duty a sub-compact handgun rests solely with the Chief of Police.
  - c. Plain clothes officers assigned to specialized positions (i.e. Vice / Narcotics Unit) or any officer specifically designated and authorized by the Chief of Police to working in an undercover capacity may carry a handgun (pistol or revolver) classified as sub-compact by the weapons manufacture for on-duty purposes.

8. Senior staff members assigned to administrative functions (i.e. Asst. Chief of Police) may carry handguns classified as sub-compact by the weapons manufacture as their primary on-duty handgun.
9. All handguns must have a minimum trigger pull of four (4) pounds.
10. All handguns, regardless of manufacture, will be carried with a round chambered so as to render the weapon ready to fire in the fastest manner. All handguns will be loaded with the maximum number of rounds as stated by the manufacturer and all additional spare magazines will also be loaded to the manufacturer's recommended capacity.
11. All sworn on-duty uniformed personnel shall carry a duty weapon and at least two reloading devices.
12. All sworn on-duty plain clothes personnel shall carry a duty weapon and at least one reloading device at all times.
13. Sworn personnel wearing a duty weapon will carry the weapon secured in a holster that has some form of retention device such as a thumb break or an internal locking mechanism. Holsters that rely solely on friction to retain the weapon are prohibited.
14. Employee installed aftermarket grips, sights and rail mounted lights are allowed and do not require any additional approval or documentation. Any other modifications to an officer's handgun must comply with section [12.108\(E\)](#) detailed below.
  - a. Electronic sighting systems are approved for on-duty handgun use. However, the handgun shall be equipped with front and rear iron sights that allow for an unobstructed sight picture through the secondary electronic sighting system.
    - 1) The electronic sighting system must be mounted in such a manner that it allows for a "co-witnessing" sight picture when viewed through the iron sights. The sight picture shall be considered co-witnessing if the illuminated dot of the electronic sighting system is visible and appears positioned on the tip of the front sight when the shooter acquires a proper sight picture through the iron sights.
  - b. Department approved optics (electronic sighting systems) manufacturers are listed on the [Approved Firearms Manufacturers List](#). The list is maintained by the Firearms Coordinator and found on the W drive and in PowerDMS.
    - 1) Any sworn employee wishing to add a manufacturer not listed will need to notify the Firearms Coordinator. The Firearms Coordinator will evaluate the suggested manufacture and provided a written recommendation to the Chief of Police for review.

- 2) Final approval to carry any other optic variant rests solely with the Chief of Police prior to it being carried on duty.
15. All Department owned handguns and handgun accessories issued to personnel shall comply with the above stated policy.

B. Shotguns

1. Any shotgun to be carried for on-duty use after the effective date of this policy must have a 14 inch or longer factory manufactured barrel.
2. Officers who elect to furnish / carry their own shotgun for on-duty use with a barrel length less than 18 inches must have appropriate Bureau of Alcohol, Tobacco, Firearms, and Explosives Tax Stamp and related paperwork on file with BATF.
  - a. The weapon must first be submitted to a firearms instructor for inspection to ensure the weapon is in good working order.
  - b. All shotgun and shotgun accessories must be gun metal blue, black, or stainless steel in color unless individually authorized by the Chief of Police.
  - c. No officer shall be permitted to carry, on-duty, any shotgun or shotgun accessories manufactured with embedded, engraved, or in some form adhered emblems, logos or slogans unless authorized by the Chief of Police.
  - d. No officer shall be permitted to embed, engrave, or in some form adhere emblems, logos or slogans to their shotgun or shotgun accessories unless authorized by the Chief of Police.
3. All Department owned shotguns and shotgun accessories issued to personnel shall comply with the above stated policy.
4. Department approved shotgun manufacturers are listed on the [Approved Firearms Manufacturers List](#). The list is maintained by the Firearms Coordinator and housed on the W drive and in PowerDMS.
  - a. Any sworn employee wishing to add a manufacturer not listed will need to notify the Firearms Coordinator. The Firearms Coordinator will evaluate the suggested manufacturer and provide a written recommendation to the Chief of Police for review.
  - b. Final approval to carry any other shotgun variant rests solely with the Chief of Police prior to it being carried on duty.
5. Officers shall carry only department issued 12-Gauge shotgun ammunition.
6. Shotguns will not be loaded or unloaded inside any building or vehicle. Shotguns will be loaded or unloaded in a safe manner. Loaded shotguns will not be brought into the police building. Shotguns will be carried with the firing chamber empty at all times unless immediate use is imminent.

C. Patrol Rifles

1. Patrol Rifles must be chambered for .223 caliber (or 5.56mm) and configured for semi-automatic use only.
2. Officers who elect to furnish / carry their own rifle for on-duty use with a barrel length shorter than 16 inches require the appropriate National Firearms Act registration with copies of paperwork in the officer's firearms file.
  - a. Both the upper and lower receiver must be constructed from aluminum or steel.
  - b. All rifle and rifle accessories must be gun metal blue, black, or stainless steel in color unless individually authorized by the Chief of Police.
  - c. No officer shall be permitted to carry, on-duty, any rifle or rifle accessories manufactured with embedded, engraved, or in some form adhered emblems, logos or slogans unless authorized by the Chief of Police.
  - d. No officer shall be permitted to embed, engrave, or in some form adhere emblems, logos or slogans to their rifle or rifle accessories unless authorized by the Chief of Police.
3. All Department owned rifles and rifle accessories issued to personnel shall comply with the above stated policy.
4. Department approved patrol rifle manufacturers are listed in the [Approved Firearms Manufacturers List](#). The list is maintained by the Firearms Coordinator and housed on the W drive and in PowerDMS.
  - a. Any sworn employee wishing to add a manufacturer not listed will need to notify the Firearms Coordinator. The Firearms Coordinator will evaluate the suggested manufacturer and provide a written recommendation to the Chief of Police for review.
  - b. Final approval to carry any other AR-15 variant rests solely with the Chief of Police prior to it being carried on duty.
5. User installed aftermarket grips, sights, slings and rail mounted lights are allowed and do not require any additional approval or documentation. All other modifications must comply with section [12.108\(E\)](#) detailed below.
6. Patrol Rifles must have a minimum trigger pull of four (4) pounds.
7. The maximum magazine capacity is 30 rounds for the patrol rifle.
8. Patrol Rifles will be stored and transported with the firing chamber empty. All rifle magazines will be loaded two rounds short of the manufacturer's recommended maximum capacity.

9. Electronic sighting systems are approved for patrol rifle use. However, the rifle shall be equipped with front and rear iron sights that allow for an unobstructed sight picture through the secondary electronic sighting system.
  - a. The electronic sighting system must be mounted in such a manner that it allows for a "co-witnessing" sight picture when viewed through the iron sights. The sight picture shall be considered co-witnessing if the illuminated dot of the electronic sighting system is visible and appears positioned on the tip of the front sight when the shooter acquires a proper sight picture through the iron sights.
  - b. Department approved optics (electronic sighting systems) manufacturers are listed in the [Approved Firearms Manufacturers List](#). The list is maintained by the Firearms Coordinator and is found on the W drive and in PowerDMS.
    - 1) Any sworn employee wishing to add a manufacturer not listed will need to notify the Firearms Coordinator. The Firearms Coordinator will evaluate the suggested manufacture and provided a written recommendation to the Chief of Police for review.
    - 2) Final approval to carry any other optic variant rests solely with the Chief of Police prior to it being carried on duty.
10. Magnified sighting systems are approved for patrol rifle use. However, they must have a low magnification setting of 1.5X or less and a high magnification setting no more than 5X.
  - a. Rifles equipped with magnified sighting systems must also have back-up mechanical sights. If it is necessary to remove the optic to utilize the mechanical sights, the optic must have a quick release mount that allows for rapid removal without tools.
  - b. Department approved optics (magnified sighting systems) manufacturers are listed in the [Approved Firearms Manufacturers List](#). The list is maintained by the Firearms Coordinator and housed on the W drive and in PowerDMS.
    - 1) Any sworn employee wishing to add a manufacturer not listed will need to notify the Firearms Coordinator. The Firearms Coordinator will evaluate the suggested manufacture and provided a written recommendation to the Chief of Police for review.
    - 2) Final approval to carry any other optic (magnified sighting system) variant rests solely with the Chief of Police prior to it being carried on duty.
11. If officers choose to utilize an approved electronic or magnified sighting system they must complete a qualification course utilizing both the optic and iron sights in the presence of a certified firearms instructor before carrying the weapon on duty.

12. Rifles transported in patrol vehicles must be locked in a rifle rack or stored in a case in the trunk of the car. In the case of a specialty vehicle with no trunk, the patrol rifle will be stored in the rear of the vehicle and out of sight.
  - a. Officers who are issued department owned patrol rifles are prohibited from repairing or altering the weapon in any way except that the officer may attach a weapon mounted light, sling, and / or approved electronic sighting system. The weapon must be returned to its original condition prior to being returned to the department.
13. If a rifle is stored in the Ferguson Police Station, Faulkner Police Station, M.L. King Substation, or airport the weapon will be kept out of sight and secured in a manner as to prevent unauthorized access or use. Weapons carried into any location will not be left unattended at any time.

D. Specialized Weapons

1. Counter sniper rifles and fully automatic weapons will only be assigned to authorized personnel on the Special Weapons and Tactics Team (SWAT). These officers will be under the direction and control of a SWAT Supervisor. Exceptions to this restriction will only be made by the Chief of Police.
2. SWAT members may use any specialized weapons as deemed necessary by the unit supervisors to accomplish their task, provided the weapons meet Department authorized specifications.
3. The following specialized weapons / tools are utilized by the Special Weapons and Tactics Team:
  - a. .308 caliber counter-sniper rifles
  - b. 40mm launcher
  - c. 12-gauge launcher - bean bag/gas
  - d. air rifle / pellet gun
  - e. diversionary devices
  - f. chemical munitions
  - g. Jaycore PepperBall System
  - h. Taser Shockwave
4. Qualifications with Specialized Weapons
  - a. Officers who are authorized to carry and use specialized weapons will qualify with these weapons at least annually.
  - b. Qualifications for any authorized specialized weapons will be on courses of fire designed specifically for the specialized unit and supervised, or attested to, by an instructor in that discipline.

- c. Officers are required to meet the qualification standard for any specialized weapon before use of the weapon.
- 5. Chemical munitions weapons are considered specialized equipment for use by specifically trained personnel only.
  - a. Inventory and maintenance of these munitions is the responsibility of the assigned Special Weapons and Tactics Team (SWAT) personnel.
  - b. Other specialized chemical munitions are assigned to, and under the control of, the Special Weapons and Tactics (SWAT) teams whose supervisor is responsible for coordinating the training, maintenance, and cleaning of the weapons.
- 6. In all instances the Police Chief will determine the need for specialized weapons.

E. Modification of Weapons

- 1. Handguns
  - a. Laser and holographic sights are allowed. However, they must be approved by the Firearms Coordinator and inspected by a firearms instructor with written documentation of both being placed in the officer's firearms file prior to being carried on duty. Officers must qualify and demonstrate proficiency with all sighting systems on their weapon prior to carrying them on duty.
- 2. All Weapons
  - a. Any modification or repair to an officer's weapons firing mechanism must be reviewed by the Firearms Coordinator in writing and forward, through their Chain of Command, to the Chief of Police for his consideration. The authority to approved or disallow any modification or repairs made to the weapon's firing mechanism rest solely with the Chief of Police. If authorized, all work must be done by an armorer or gunsmith who is certified to work on the weapon in question. No trigger pull below four (4) pounds will be allowed. The armorer or gunsmith must provide written documentation detailing the modification or repair as well as a statement that the weapon, as modified, is safe for law enforcement duty use. Proof of the armorer or gunsmith's qualification may be required prior to work being approved. All documentation of the modification, along with pictures, if necessary, will be kept on file in the officer's firearms file.
  - b. It shall be the responsibility of every officer to notify the Firearms Coordinator, in writing, of any additional modifications made to their weapon(s) prior to or immediately following the implementation of this policy. Upon notification, the Firearms Coordinator shall submit a recommendation concerning the modification(s) through their Chain of Command to the Chief of Police for his consideration. The authority to approve or disallow any additional modifications rests solely with the Chief of Police. The additional modifications must be approved by the Chief of Police prior to the weapon being carried on-duty.

- (1) Documentation, along with pictures, if necessary, will be placed in the officer's firearms file.
- (2) Modifications involving armorer level disassembly, machining or gunsmith work must be performed by a certified armorer or gunsmith qualified to work on the weapon in question.
- (3) The officer may be required at his own expense to have an armorer or gunsmith inspect and certify the weapon or return it to its factory configuration.

c. Barring an emergency, the Chief of Police alone has the authority to deny or disapprove any modification deemed unfit for on-duty use.

F. Records

1. Any weapon, which an officer carries on or off duty, must be on record in the employee's departmental training file. This record shall include make, model, caliber and serial number as well as any additional documentation required by this policy. It shall be each officer's responsibility to ensure that their firearms file is up to date and contains all written documentation and authorizations required by this policy prior to carrying any weapon on duty.

**12.109 OFF DUTY WEAPONS FOR POLICE USE – [CALEA Standards: 4.3.1; 4.3.2]**

- A. Officers may carry a weapon off-duty, but shall exercise discretion as to when and where it will be worn.
  1. The weapon must be concealed and any display or use of the officer's off-duty weapon will be governed by the same regulations that apply to on-duty personnel.
  2. No off-duty weapon will be carried when an officer has consumed an intoxicant (i.e. Alcoholic Beverages) or any other substance that may impair an officer's physical or mental abilities.
- B. The calibers approved for off-duty police weapons are: .22, .25, .32, .380, and all approved on-duty caliber. Ammunition must be new factory-loaded, designed for the particular weapon and not exceeding the specification for on-duty ammunition.
- C. All weapon(s) carried off-duty for police use shall be inspected by a certified firearms instructor and approved by the Firearms Coordinator prior to authorization by the Chief of Police being given for off-duty use of the weapon.
- D. Officers who desire to carry a weapon(s) while off-duty must qualify with their off-duty weapon(s) with a score of at least 80% once a year.
- E. When carrying an off-duty weapon, an officer will be in possession of the officer's identification card and badge.
- G. All off-duty weapons, regardless of manufacture, will be carried with a round chambered as to render the weapon ready to fire in the quickest manner possible. All weapons will be loaded

with the maximum number of rounds stated by the manufacturer and all additional magazines will be loaded to the manufacturer's recommended capacity.

H. Based on the presentation / recommendation of any Firearms Instructor / Coordinator the Chief of Police may revoke or deny the approval of an off-duty weapon should the officer fail to qualify or demonstrate proficiency in handling such weapon.

**12.110 SECONDARY ON-DUTY WEAPON – [CALEA Standard: 4.3.1]**

A. Tyler Police Officers are permitted to carry at least one (1), but no more than two (2) small, concealed, secondary firearms while on duty; conforming to all off-duty weapon standards.

1. Secondary weapons shall only be used in extreme emergency.

B. All approved on-duty and .22, .25, .32, and .380 caliber ammunition shall be authorized for secondary weapons.

C. The weapon will be concealed and secure from loss, inadvertent discharge, or from dropping or falling.

D. A secondary weapon carried for on-duty police use must be inspected by a certified firearms instructor and approved by the Firearms Coordinator prior to authorization by the Chief of Police being given for use of the secondary weapon.

E. Officers must qualify annually with any secondary weapon(s) with a score of at least 80%.

1. Officers may qualify with no more than two (2) secondary on-duty weapon.
2. All secondary weapons may be carried concealed as off-duty weapons.

F. Based on the presentation / recommendation of any Firearms Instructor / Coordinator the Chief of Police may revoke or deny the approval of a secondary weapon if the officer should fail to qualify or demonstrate proficiency in handling such weapon.

**12.111 DISCHARGE OF WEAPONS – [CALEA Standards: 4.2.1; 4.2.3; 4.3.1]**

A. All officers shall exercise the utmost care and caution in handling firearms and explosives. Any officer who intentionally or accidentally discharges a weapon while either on-duty or off-duty, other than as a part of a sanctioned firearms qualifications course, practice course, personal firearms training, or sporting activity, will notify a supervisor in writing of the discharge as soon as practical and advise the supervisor of the circumstances of the discharge. The supervisor will then notify the officer's Division Commander / Asst. Chief of Police, in writing, who will determine what action, if any is to be taken.

B. The written account will set forth the circumstances surrounding the incident. If the discharge was found to be accidental, or the facts of the incident support a conclusion that the discharge was the result of negligence, the officer will be required to undergo firearms training with a certified firearms instructor and be approved by the Firearms

Coordinator; exceptions to the firearms training requirement can be made by the Chief of Police.

- C. Officers involved in deadly force incidents occurring in the officer's capacity as a Police Officer whereby injury to the officer or another (including death) is incurred the officer may at the discretion of the Chief of Police be required to obtain counseling from a licensed professional psychologist or psychiatrist.
- D. The decision about counseling will be made only after careful consideration following input from the officer and appropriate supervisor. Costs incurred shall be borne by the Department.

#### **12.112 RECORD OF INVESTIGATION (NON-DEADLY FORCE)**

##### **[CALEA Standards: 4.1.5; 4.2.1; 4.2.2]**

- A. All uses of force deployed by members of this Department shall be reported and documented in the appropriate manner. Employees are required to make verbal notification of their use of force to their immediate supervisor or any on-duty supervisor whether or not the person whom the force was used sustained an injury or alleges an injury.
- B. Any employee whose use of force results in a non-life threatening injury of another person, or allegedly non-life threatening injury of another person will make verbal notification of the incident to the employee's immediate supervisor or any on-duty supervisor. This will be done as soon as practical after learning of or receiving a complaint of the non-life threatening or alleged on-life threatening injury.
  - 1. The supervisor notified of the incident should immediately respond to the scene.
- C. A written Record of Investigation / Subject Resistance Report will be completed and submitted whenever an employee:
  - 1. Applies force through the use of any less-lethal weapon (e.g. OC Spray, weaponless strikes, baton / impact weapon, Taser).
  - 2. Takes an action that results in (or is alleged to have resulted in) the injury of another person.
  - 3. Any other time deemed necessary by a supervisor.
- D. The incident report should contain information detailing the type of force used and the subsequent results of that force, such as types of injuries, medical treatment required, etc. This will be done prior to the end of the employee's shift unless authorized by the Chief of Police or his designate. A copy of the incident report should be attached to the Record of Investigation / Subject Resistance Form.
- E. The Record of Investigation / Subject Resistance form and a copy of the incident report are too forwarded through the Chain of Command to the Chief of Police for review. The review will be for the purpose of determining:
  - 1. If the employee's use of force complied with state law and departmental policy;

2. If the employee's use of force indicates a need for special counseling and/or training; and
3. Whether the incident requires further investigation / action.

F. The final review and decision for taking any action rests with the Chief of Police.

G. The original Record of Investigation / Subject Resistance report will be maintained by the Integrity Unit.

**12.113 RECORD OF INVESTIGATION (DEADLY FORCE) – [CALEA Standard: 4.2.3; 11.3.4]**

- A. Any employee whose actions results in the death or serious physical injury of another person, or any employee whose actions allegedly results in the death or serious physical injury of another person will immediately make verbal notification of the incident to the employee's immediate supervisor or any on-duty supervisor.
  1. The supervisor notified of the incident shall respond immediately to the scene.
- B. A written Record of Investigation / Subject Resistance Report will be completed and submitted whenever an employee:
  1. Applies deadly force by any means against another.
  2. Takes an action that results in (or is alleged to have resulted in) the serious physical injury or death of another person.
  3. Any other time deemed necessary or appropriate by a supervisor.
- C. The following procedures shall be used to investigate all incidents in which an employee's actions or alleged actions result in the death or serious physical injury of another person. This includes, but is not limited to the intentional or accidental discharge of an employee's firearm.
  - 1) Involved Employee(s)
    - a. When an employee's actions or alleged actions result in the death or serious physical injury of another person, the employee shall, if possible:
      - 1) Secure the prisoner;
      - 2) Assess the physical condition of any injured persons and render first aid;
      - 3) Request emergency medical personnel;
      - 4) Notify the Communications Unit of the incident and location;
      - 5) Notify their immediate supervisor or any on-duty supervisor of the incident and its location;
      - 6) Secure and protect any and all weapons utilized during the incident for examination purposes.

- a) All weapons used during a deadly force incident shall remain under the control of the employee and will only be released to a Crime Scene Investigator upon their arrival and in the presence of Integrity Unit personnel.
- b) Whether or not the employee's firearm was utilized during the incident, both the firearm and all unspent ammunition (including ammunition magazines) shall be released to the CSI.
  - i. The involved employee's firearm will be turned over to the CSI Investigator away from the scene of the incident and preferably at either the Ferguson or Faulkner Police stations.
  - ii. An exception will be if the employee was injured or there are other exigent circumstances as determined by the managing sworn supervisor.
  - iii. If the employee's firearm should be held in the possession of the Integrity Unit, the employee will be issued a temporary replacement firearm by the Department, if necessary.

7) As soon as possible offer a brief statement of safety to the managing on-scene sworn supervisor concerning the state of the scene. The intent of this statement is to convey and establish an on-scene threat level, aid in the initial response to locating any and all suspects and involved parties, and focus the investigation. Questions should be limited to the following:

- a) Type of force used by the employee and suspect;
  - i. If a firearm was used the direction and approximate number of rounds fired by both the employee(s) and suspect(s).
- b) Location of all known injured persons;
- c) Description of at-large suspect(s), their mode and direction of travel, time elapsed since they fled, and any known weapon(s) available to or in the suspect(s) possession;
- d) Description and location of any known victim(s) or witnesses;
- e) Description of all known evidence and known or suspected location; and
- f) Information that would ensure the safety of Department personnel and the community and assist in the apprehension of suspect(s).

- b. With the exception of the safety statement, the involved employee(s) will not discuss the incident with anyone except attorneys, mental health providers, Integrity Unit Sergeant or their designee, and authorized investigative personnel.
- c. At the direction of the Integrity Unit Sergeant or their designee the involved employee(s) will prepare a detailed report of the incident. The Chief of Police alone may authorize a written statement of the incident to be completed by the involved employee(s) in place of an incident report.
- d. Should any employee's actions or alleged actions result in the death or serious physical injury of another the employee shall be placed on administrative leave or reassigned to an administrative function by the Chief of Police.
- e. At the direction of the Chief of Police any employee(s) involved in an incident that results in the death or serious physical injury of another person may be required to submit to a blood and/or urine test.

2) Communications Unit

- a. The involved Telecommunicator shall:
  - 1) Immediately dispatch all available units believed necessary and reasonable to contain / control the scene;
  - 2) Notify emergency medical personnel, if needed;
  - 3) Notify an on-duty supervisor.
  - 4) Notify the on-duty shift lieutenant / commander or acting shift commander.
  - 5) Notify the on-duty Communications Unit Supervisor.

3) Patrol Shift Supervisor

- a. The first available patrol shift supervisor shall respond immediately to the scene of an incident involving an employee's use or alleged use of deadly force.
- b. The first patrol shift supervisor to arrive on scene shall:
  - 1) Establish control of the scene.
    - a) The supervisor shall be responsible for managing the scene until relieved by the Shift Lieutenant / Commander, Acting Shift Commander, the highest ranking Investigations Division supervisor (i.e. Investigations Division Asst. Chief / Division Commander, Investigative Division Lieutenant, the Crimes Against Persons Sergeant) or any other person

designated by the Chief of Police to manage the scene / incident.

- 2) Ensure a perimeter of the scene is established.
- 3) Direct / manage all on-scene personnel, personnel responding to the scene, and disregarding those no longer necessary.
- 4) Determine the preliminary facts of the incident.
  - a) If the involved employee(s) are capable, the supervisor, as soon as practicable, should obtain a brief statement concerning the safety of the scene as outlined in subsection [12.113\(C\)\(7\)](#) of this policy.
- 5) Locate and make certain that any weapon used during the incident by the involved employee(s) is under the protection of or has been secured by the involved employee(s).
  - a) Ensure the involved employee's firearm has been secured by the employee, regardless of whether or not the employee discharged their firearm.

c. Unless exigent circumstances dictate, the involved employee's firearm should **NOT** be removed from the employee if holstered or in the case of a rifle or shotgun, slung. The firearm should not be opened, unloaded, reloaded, or tampered with in any manner.

d. If it is safe to do so, any weapon used by the involved employee(s) that was dropped, including the employee's firearm, should not be tampered with and left undisturbed.

- 1) If exigent circumstances exist that require a weapon to be moved, the location and position of the weapon should be photographed or marked and the weapon secured in an acceptable manner.
- 2) If weapons belonging to more than one involved employee are moved and secured, the weapons will be secured in different locations.

e. Assign a Caretaker Officer to the involved employee(s) for the purposes of providing emotional support. The Caretaker Officer shall also serve as a witness to the security of the involved employee's weapon(s) until it is released to Crime Scene Investigators.

- 1) The involved employee(s) will be directed to accompany the Caretaker Officer to the closest police department station (Ferguson or Faulkner).

f. Instruct the involved employee(s) **NOT** to talk about the incident to persons (including the Caretaker Officer) other than attorneys, mental health providers, the Integrity Unit Sergeant or their designee, or authorized investigative personnel.

- g. Brief the Shift Lieutenant / Commander, Acting Shift Commander, and, if necessary, the Asst. Chief of Police / Patrol Division Commander.
- h. Once clear from the scene the patrol shift supervisor shall be responsible for completing an incident report documenting their actions and ensure both their in-car and body worn videos are correctly annotated and downloaded prior to the end of their duty day.

4. Shift Lieutenant / Commander

- a. The shift lieutenant / commander shall respond immediately to the scene of an incident involving an employee's use or alleged use of deadly force.
- b. Once on scene the shift lieutenant / commander shall assume control of the scene and is responsible for the overall management of the incident.
  - 1) The patrol lieutenant / commander shall responsible for the scene / incident until relieved by the highest ranking Investigations Division supervisor (i.e. Investigations Division Asst. Chief / Division Commander, Investigative Division Lieutenant, the Crimes Against Persons Sergeant) or any other person designated by the Chief of Police to manage the scene / incident.
- c. The patrol lieutenant / commander shall make every effort to ensure the notifying of the individuals listed below.
  - 1) Investigative Division Lieutenant; or
  - 2) Crimes Against Persons Sergeant;
  - 3) Integrity Unit Sergeant or his designee;
    - a) The Integrity Unit Sergeant or his designee is responsible for conducting the internal investigation of all employee-related actions or alleged actions that result in the death or serious physical injury of another, including the discharge (accidental or intentional) of an employee's firearm.
    - b) The Integrity Unit Sergeant or his designee is also tasked with the investigation of all discharges (accidental or intentional) of an employee's firearm, whether or not any person is injured or killed.
  - 4) Patrol Division Commander / Asst. Chief of Police;
  - 5) Public Information Officer (PIO) or in their absence a member of the PIO Team; and
    - a) The PIO or a member of the PIO Team shall be responsible for the handling of all on-scene and post-

incident media requests concerning the incident in accordance with [General Order 14.100 – Public Information](#) and detailed in the Department's [PIO Police Action Death Investigation Plan](#).

- 6) Chief of Police
  - d. Ascertain the location and provide for the security of the involved employee(s), witnesses, in-custody suspects, deceased persons, and evidence. All involved parties (i.e. witnesses, in-custody suspects) are to be kept separate until interviewed by investigative personnel.
    - 1) Ensure all involved employees are kept separate and provided a designated Caretaker Officer.
  - e. If not already given, obtain a brief statement concerning the safety of the scene as outlined in subsection [12.113\(C\)\(7\)](#) of this policy.
  - f. Monitor the state of the surrounding community for increasing tension or aggression towards on-scene personnel; request / disregard personnel and equipment as necessary.
  - g. Render command assistance to assigned investigative and Integrity Unit personnel. Conduct or assign on-scene supervisory personnel to conduct briefings and walk-throughs of the scene with assigned investigative personnel.
  - h. Relieve / rotate personnel as necessary and appropriate.
  - i. Ensure the incident is documented appropriately (e.g. date, time, involved personnel, assignments, notifications, logs, etc.) and that **ALL** responding patrol personnel complete an incident report (original or supplemental) and that all in-car and body worn videos are correctly annotated and download prior to the end of their duty day.
  - j. Once clear from the scene shift lieutenant / commander shall complete a detailed report of the incident and the actions taken during the incident and ensure both their in-car and body worn videos are correctly annotated and downloaded prior to the end of their duty day.
4. Caretaker Officer
  - a. The Caretaker Officer shall be designated by the managing on-scene supervisor to:
    - 1) Provide company and comfort to the involved employee(s) as is necessary and appropriate.
    - 2) Serve as a witness that all weapons used by the involved employee, including their firearm, during the deadly force incident have been maintained by the involved employee(s) and not tampered with in any manner.

- a) The Caretaker Officer also serves as a witness that all weapons used by the involved employee, including their firearm, during the deadly force incident were released to only Crime Scene Unit personnel.
- b. The Caretaker Officer is prohibited from eliciting any statements or entertain conversation about specifics of the deadly force incident.

5. Crimes Against Persons Investigator

- a. A Crimes Against Persons Investigator shall be designated by the Department and responsible for conducting a thorough investigation of every incident involving an employee's use or alleged use of deadly force.
- b. Once notified of an incident involving an employee's use or alleged use of deadly force the investigator shall:
  - 1) Proceed immediately to the scene and initiate a criminal investigation into the actions or alleged actions of the involved employee(s) in accordance with [General Order 18.100 – Investigative Services](#);
  - 2) Upon arrival contact the managing supervisor so as to be briefed about the incident and conduct a walk-through of the scene;
  - 3) Ensure the crime scene has been secured and photographed, along with all known/recovered evidence; and
  - 4) Make certain that the involved employee(s), witnesses, and in-custody suspects are separated and secure.
    - a) Interview all witnesses and in-custody suspects, which may be conducted at the scene or at either the Ferguson or Faulkner police stations.
    - b) A sworn statement shall be requested of the involved employee, but no involved employee will be interviewed by investigative personnel until receipt of the employee's sworn statement unless waived by the Chief of Police.
      - i. The involved employee will normally be given three (3) to four (4) business days to submit their sworn statement, which may be waived at the discretion of the Chief of Police.
- c. Upon completion of their investigation, the assigned investigator shall forward their investigative findings to the lead investigating agency or District Attorney's Office and Integrity Unit Sergeant.
  - 1) The District Attorney's Office shall be responsible for conducting a review of the investigative findings for prosecutorial or dismissal purposes per [Texas Code of Criminal Procedure Article 2.01 – Duties of District Attorneys](#).

6. Integrity Unit Sergeant
  - a. The Integrity Unit Sergeant or designee shall be responsible for conducting a thorough investigation of every incident involving an employee's use or alleged use of deadly force.
  - b. Once notified of an incident involving an employee's use or alleged use of deadly force the Integrity Unit Sergeant or designee shall:
    - 1) Proceed immediately to the scene.
    - 2) Upon arrival initiate an internal investigation focused on whether the involved employee(s) actions or alleged actions violated Department policy and procedures in accordance with [General Order 03.400 – Integrity Unit](#).
  - c. As part of the internal investigation request that a Garrity Statement be completed by the involved employee(s) following the designated waiting period.
    - 1) The involved employee will normally be given three (3) to four (4) business days to submit their Garrity Statement, which may be waived at the discretion of the Chief of Police.
  - d. Upon completion of the internal investigation the Integrity Unit Sergeant or their designee shall prepare a detailed report of their findings for presentation to the Chief of Police and a Shooting Review Board.
7. When an incident of an employee – involved use of deadly force (or alleged use of deadly force) occurs, two separate and distinct investigations will be initiated.
  - a. One investigation will focus on possible criminal conduct by the involved employee for the purposes of forwarding the case to the Smith County District Attorney's Office for review in accordance with state law.
  - b. A second administrative investigation will be conducted by the Integrity Unit that focuses solely on possible policy and procedure violations committed by the involved employee(s).
  - c. Both investigations shall run concurrent to each other unless otherwise directed by the Chief of Police.
8. To preserve community confidence in the Department, the Chief of Police may request investigatory assistance from the Texas Rangers or another outside law enforcement agency to lead the investigation when an employee's use of force or alleged use of force results in the death or serious physical injury of a suspect or third person.
- D. Periodically, all supervisory and command level personnel shall receive training on the Department's internal investigative process regarding the deadly force or alleged deadly force of Department employees.

E. Awareness training shall be provided to all Department personnel that could be impacted by an employee's use or alleged use of deadly force.

**12.114 RECORD OF INVESTIGATION / SUBJECT RESISTANCE REVIEW PROCESS**

**[CALEA Standards: 4.2.2; 4.2.3]**

A. When the use of force by a Department employee results in death or serious injury to any person, the incident will be subject to departmental review. *Serious injury is defined as an injury that requires one or more days of hospitalization.*

B. In all incidents involving a firearm being discharged by an employee of the Tyler Police Department, whether on or off-duty, the Chief of Police shall convene the Shooting Review Board to review the incident. Exceptions may include incidents where an employee was engaged in reasonably accepted firearms practice, lawful hunting, or the discharging of a firearm to protect themselves or a third person from an animal attack. These exceptions will be at the discretion of the Chief of Police. The Chief of Police must approve any deviation from this policy in the interest of the Department.

1. The Shooting Review Board will consist of the following personnel:
  - a. Officer's chain of command (including Chief of Police)
  - b. Firearms Coordinator
  - c. One officer of equal rank selected by the Chief of Police.
  - d. Any other member designated by the Chief of Police.
2. The Shooting Review Board will review the incident and submit the recommendation to the Chief of Police as to whether or not the shooting was justified according to policy and the appropriate law.
3. The final decision will rest with the Chief of Police.
4. It shall be the responsibility of the Integrity Unit Sergeant to record the findings of the Shooting Review Board and prepare a written synopsis for the file. In the absence of the Integrity Unit Sergeant this responsibility shall transfer to the person designated by the Chief of Police.
5. It shall be the responsibility of the Integrity Unit Sergeant to maintain a computerized listing of all Shooting Review Board sessions; maintain a file on each employee with a cross reference indicator be placed in the employee's personnel file and the internal affairs file if applicable.

C. If the preliminary investigation or Shooting Review Board reveals that any violation of policy occurred, and the Chief of Police concurs, the Chief may direct that a chain of command review, as defined in [General Order 03.507\(C\)](#) be conducted for possible disciplinary action.

D. If the Shooting Review Board and the Chief of Police concur that no violation of policy occurred, the involved officer's Division Commander / Asst. Chief of Police may be required to make a recommendation to the Chief of Police regarding:

1. Tactical considerations.
2. Training considerations.
3. Policy changes.

E. Department employees will be subject to call before the Shooting Review Board.

**12.115 INVESTIGATIONS BY OUTSIDE AGENCIES**

A. It shall be the policy of the Tyler Police Department to cooperate fully with any outside agency investigating allegations of misconduct by any member of the department and approved by the Chief of Police. All employee rights will be observed during the investigation.

**12.116 END OF YEAR REVIEW – [CALEA Standards: 4.2.4; 4.2.5]**

A. Annually, the Integrity Unit Sergeant shall submit a comprehensive analysis of all use of force occurrences to the Chief of Police for the preceding year. The analysis will, at a minimum, included:

1. The date and time of the incidents;
2. Types of encounters that resulted in force being used;
3. Any identified patterns or trends related to race, age, and gender of the persons in which was used;
4. Any identified patterns for trends that result in the injury of any person, including employees; and
5. The impact of the analysis findings on department policy, practice, equipment, and training.

B. Furthermore, the Integrity Unit Sergeant shall complete an Assault on Police Officers Review. The review shall be complied annually and contain recommendations, if any, regarding patterns or trends, officer safety matters, training issues, and policy revision concerns.

1. The [Assault on a Police Officer reporting form \(TPD Form T-101\)](#) shall be completed by the officer's shift / unit supervisor and forwarded to the Integrity Unit Sergeant for tabulation and reporting purposes.
  - a. The reporting form is to be completed anytime an officer of this department is assaulted because of their status as a sworn peace officer.
  - b. An officer does not have to be on-duty, acting in an official capacity or have sustained an injury for this subsection to apply.

C. The Use of Force Analysis and the Assault on a Police Officer Review shall be included as part of the Annual Integrity Unit Report presented to the Chief of Police for review.

Approved: 04-09-2018



A handwritten signature in black ink, appearing to read "Jimmy Toler", is written over a horizontal line. The signature is fluid and cursive.

Jimmy Toler  
Chief of Police