



Agenda Item: Discussion Item

Title: Laramie Police Department Use of Force Considerations

Background:

On 25 May 2020 police in Minneapolis encountered a subject after receiving a call of a fraud a local business. During the interaction it is alleged that an officer placed his knee on the neck of the subject while officers attempted to establish control of the person. After the arrest the subject was transported to a local hospital where he died. The incident was videotaped by a local person who subsequently released the video on social media. Since the incident, numerous protests and riots have occurred in cities across the US.

Police Departments almost always have policies in place that address what types of force are permitted as well as the parameters under which force may be used. Regardless of policy, police force (non-lethal force) is guided almost entirely by a 1989 US Supreme Court case – Graham v. Conner. Graham says that police force must be reasonable for the circumstances. Further, Graham allows for force under situations that are tense, uncertain, and rapidly evolving. Under Graham, the guiding principle is that police force must be viewed as reasonable by other officers in similar circumstances. Finally, Graham dictates that police force must be viewed as reasonable or unreasonable based on the facts known at the time force was used, and not by “20/20 hindsight.”

The immediate fallout from the George Floyd incident last week was that four officers were fired. In the next several days, one of those officers was arrested for manslaughter. While statutes vary from state to state, in Wyoming a charge of manslaughter indicates that a person was responsible for the death of another but there was no underlying intent, like there would be for a death in the 1st or 2nd Degree. There is still criminal culpability, but to a much lesser degree.

When police force is used, there are two questions that must be answered. First, was the force used within policy and according to training? If not, administrative outcomes (discipline, remedial training, policy adjustment) are possible. The other question that must be answered was whether the force was criminal. Always, when police force results in death, both questions are addressed. In the Floyd incident, administrative action was taken, and criminal charges were filed. Both the actions will be settled at a later.

At the Laramie Police Department, we have an extensive use of force (UOF) policy. The policy synthesizes the legal parameters under which force may be used by peace officers and summarizes all acceptable uses of force that members of the PD may use. With the exception of the Thomas A. Swift Electronic Rifle (Taser), training is not discussed within the policy but rather, training is documented separately via outlines which are maintained by the PCS Division. Training for all force options is completed and updated yearly. The policy is also reviewed on an annual basis with any new case law, changes in training, or other developing issues included. In 2014, The Center for Public Safety Management (CPSM) reviewed our use OUF policy and determined it to be a “model” for UOF policies that they had reviewed nationally. I remain confident that we are training using the most recent and acceptable practices. I am also confident that our policy remains a model. The most recent and

significant additions to the policy (LEG:3) were made in 2017 when the International Association of Chiefs of Police (IACP) issued their Consensus Model Use of Force Policy, but revisions were made after the 2015 President's 21st Century Policing document and the 2015 Police Executive Research Forum (PERF) Reengineering Police Use of Force document were made public. We continue to look at case law and professional developments for all police uses of force.

In addition to our UOF training and policy, and included in a process outlined in LEG:3, we review every use of force above the level of handcuffing. In fact, even the proper application of handcuffing is documented and reviewed within the police report whenever handcuffs are applied. The PD uses an internal tracking system call IA Pro / Blue Team. Whenever an officer uses force, that officer explains the application of force in his/her report and then enters details of the incident into Blue Team. The UOF force is then reviewed by the officer's supervisor, the Person with the Most Knowledge (PMK), the lieutenant of the officer within the appropriate Unit, the Assistant Chief, and finally the Chief of Police. The PMK is an officer who has been trained in the application of force used (Custody & Control, Firearms, Taser, etc.). At any point of review, if the UOF is determined not to be within policy and according to training, remedial training, counseling, or discipline would also be noted within the Blue Team incident. The UOF incident is then archived in IA Pro. The PD not only looks at every UOF, but all pursuits, officer involved crashes, and citizen complaints are entered into Blue Team.

The PD believes that all of these steps are critical in the proper use of and review of force, but our philosophy is that good management of police UOF starts when we hire police officers. We do extensive background investigations to ensure that the people we are hiring meet our demanding standards as ethical, moral people. We use psychological exams by people who understand who should be in our profession. We then spend approximately 10 months training new officers to the standards we expect.

Certainly, despite the rigorous standards that we have, the potential for something to "go south" in our profession always exists. We spend countless hours at each level of command looking at the actions of our officers. We continually evaluate officer actions even when no complaints are made about officer actions. And we continue to hold officers to exacting standards on matters that don't involve force application. We feel that if we "sweat the small stuff" the likelihood of serious failures is even less likely.

We feel, and through outside evaluations such as the evaluation completed by PCSM five years ago, that we have a Department of highly trained, very professional, and very self-critical officers. By instilling that expectation and attitude, we are doing everything that we can to ensure our officers act, and react, in appropriate ways while doing one of the most difficult, unpredictable, jobs on the planet.

Responsible Staff:

Dale A. Stalder, Chief of Police

Attachments: Use of Force Considerations Power Point Presentation