

# LARAMIE POLICE DEPARTMENT

## USE OF FORCE CONSIDERATIONS

# HIRING PRACTICES

Before force considerations can be discussed, hiring and training practices must be explained briefly, since you can have the best policies and training and **they will be worthless without the best people**

- Hiring includes applicant screening – no primary disqualifiers and consideration OF secondary disqualifiers (all noted in policy) – we look for **moral character and integrity above all else** since we can train people to do the job
- Extensive background including polygraph and psychological exams
  - Psych done by police specialized psychologist

# TRAINING

Training is extensive and takes approximately 10 months

- Wyoming Law Enforcement Academy – 14 weeks – covers the basics of academic and practical police concepts including constitutional law, use of force, investigations, ethics, officer wellness, firearms proficiency, and other topics
- In-house training – 5-6 weeks – we believe you get the basics at WLEA and then we expand on that training for how **we** do policing at LPD
- Field Training – 14 weeks – a trainer (FTO) is paired with the recruit and every action they do is rated on an objective scale. FTO protocol used since 1982.

# TRAINING

Once an officer is released from training, training becomes a career long requirement

- Yearly in-house training on custody & Control (4 times per year), firearms proficiency and scenario training (8 times per year), Taser updates (yearly), Active Shooter (yearly), officer wellness (yearly), Interviewing (required upon release from FTO), and other specialized trainings brought in (trauma informed interviewing, Critical Incident Team (CIT) training, tactical communications, etc.)
- Outside training – all officers are required to consider career path options – child crimes, accident reconstruction, Taser Master instructor, homicide investigation, etc.
- All officers are required by POST to attend a minimum of 40 hours of training every two years to remain qualified to work as a peace officer – our officers receive many more than 40 hours per year

# CRITICAL INCIDENT TEAM

- The PD has trained officers as CIT responders since 2008.
- Based on the nationally recognized Memphis Model, CIT is a 40 hour training that teaches officers to recognize various mental health disorders, de-escalate contacts with people with mental illness or those in crisis, and how to reach out to mental health professionals to solve crisis's v. using criminal laws to address issues
- Approximately 20% of Patrol force is trained in CIT
- Officers not CIT trained are **required** to be ASSIST (applied suicide intervention skills training) or QPR (question – persuade – refer) trained
- We have in-house trainers for all of these disciplines

# POLICE USE OF FORCE

- Police are **statutorily authorized** to use force in the course of their work when it is justified
- Policy outlines the types of force that may be used as well as the circumstances under which force may be used
  - Policy will vary from agency to agency

# GRAHAM V. CONNER

## **1989 US Supreme Court ruling that provides a “reasonableness” examination of all police uses of force**

- Force must be reasonable based on the situation
- Force must be reasonable as evaluated by an officer in similar situations
- Force must be reasonable based on what is known to the officer at the time force was used
- Recognizes that officers work in situations that are “tense, uncertain, and rapidly evolving”
- Recognizes that the use of force must be evaluated based on what was known at the time force was used and not with the luxury of 20-20 hindsight.
- Graham provides for a civil review of force which doesn’t equal intent for a criminal consideration

# LEG: 3 - USE OF FORCE, RESPONSE TO RESISTANCE, AND FIREARMS

This is the PDs “use of force” policy

It is updated yearly or when emerging case law or guidance dictates additional review

Last major update was in 1017 after the IACP Consensus Use of Force Model Policy was released – defined de-escalation

**IN 2014 WAS CONSIDERED A MODEL POLICY BY THE CENTER FOR PUBLIC SAFETY MANAGEMENT**



# DE-ESCALATION

De-escalation is defined “as taking action or communicating verbally or nonverbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.”

These concepts are **trained for all force options** as well as during tactical communication training.

THIS IS WHAT WE DO ALL THE TIME AND HAVE DONE FOR MY ENTIRE CAREER

# FORCE OPTIONS AT LPD

All force options that are trained are addressed in LEG:3

1. Baton
2. **Non-traditional weapons and techniques**
3. Custody & control techniques
4. Chemical / inflammatory agents
5. Conducted Electrical Weapons
6. RIPP Hobble
7. Firearms
8. Less Lethal

# NON-TRADITIONAL WEAPONS AND TECHNIQUES

“This General Order shall not preclude members from using non-traditional weapons and techniques in **exigent** circumstances.”

Chokeholds and strangleholds are not taught at LPD

I cannot say that an officer would never use these techniques because the potential exists that an officer could, **in order to save his or her life**, resort to using every means available to stop a lethal attack. As mentioned in answer to a Councilor’s question about his topic, a rock or table leg could become the “non-traditional weapon” in a certain situation.

# USE OF FORCE REVIEW

The PD reviews **EVERY** use of force, including routine handcuffing.

- IA Pro / Blue Team - Utilized since 2014
- The PD tracks use of force incidents, citizen complaints, internal investigations, pursuits, and crashes.
- Review process defined in LEG: 3

# USE OF FORCE REVIEW PROCESS

1. Force is used
2. Blue Team completed prior to end of shift
3. Blue Team routed to officer's supervisor for initial review (policy calls for supervisor to proceed to scene of force use if possible, which provides an additional step of review)
4. Supervisor routes Blue Team to Unit Lieutenant (most often Patrol Unit)
5. Lieutenant routes Blue Team to Training Sergeant, who assigns review to Person with the Most Knowledge (PMK) – this may be a custody & control instructor, a Taser Master Instructor, or a RIPP instructor
6. PMK routes Blue Team to Lieutenant for 2<sup>nd</sup> Review
7. Lieutenant routes Blue Team to Assistant Chief
8. Assistant Chief routes Blue Team to Chief
9. Chief routes Blue Team to IA Pro (archived with final disposition of “within policy and according to training” or “out of policy” or “with notes.”)

# USE OF FORCE STATISTICS

	2020		2019		2018		2017		2016		2015		2014	
Disposition	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF
Exonerated	0		1		2		2		3		4		2	
Resolved	0		0		0		0		0		1		0	
Substantiated	0		1		2		1		3		1		3	
Unfounded	0		0		4		2		0		2		11	
Unfounded w/notes	0		0		0		0		0		0		1	
Unsubstantiated	0		1		4		0		0		1		1	
No Entry	0	15	0	1	0	0	0	0	0		2	11	0	1
Within Policy		6		67		1		60		96		91		125
Within Policy w/notes		1		2		60		7		15		2		12
Out of Policy		0				4		1		0		0		0
Total	0	22	3	70	12	65	5	68	6	111	11	104	18	138
Discipline/All Entries														
Demotion	0		0		0		0		0		0		0	
Payment	0		0		0		0		0		0		0	
Suspension	1		0		0		1		1		1		2	
Termination	1		0		0		1		1		0		1	
Verbal Counseling	3		4		13		2		4		9		6	
Written Reprimand	0		0		5		1		2		4		2	

# ATTEMPT TO LOCATE (ATL) WELFARE CHECKS

- ATL welfare checks have increased dramatically over the past several years.
- Proposals exist for agencies other than the police to handle these calls. In Laramie, we don't have the capacity outside of the PD to respond to these calls.
- These calls have the potential to be very dangerous, so it is appropriate that police have some involvement.
- PD shifted their response 2 years ago to not force contact but instead leave resource packets if subjects refuse to engage in consensual contact.
  - Graham doesn't apply to non-criminal contacts

# CONCEPT OF NOT USING DEADLY FORCE FOR “NON-CAPITAL” CRIMES

- Police do not make a decision to use force based on the severity or criminality of the call
- Force is used (reasonably) based on what the officer is faced with in totality
- Officers are continually trained in force decision-making scenarios in an attempt to “right size” uses of force in the field
  - This training includes simulator and live consolidated decision-making training (providing scenarios that present variables in which an officer considers **all** force options)



# 8 CAN'T WAIT

Recently, attention has been given to this concept. The 8 are:

1. Ban chokeholds and stranglehold
2. Require de-escalation
3. Require warning shots before shooting
4. Requires exhausting all alternatives before shooting
5. Duty to intervene
6. Ban shooting at moving vehicles
7. Require Use of Force Continuum
8. Require comprehensive reporting

LET'S TAKE A LOOK AT THESE...

# CHOKEHOLDS AND STRANGLEHOLDS

We have already discussed this – these techniques are not taught at the Laramie Police Department and would not be acceptable unless there were **articulable exigent circumstances**

## REQUIRE DE-ESCALATION

We have discussed this – de-escalation is a piece of **everything** that the PD trains to and it is defined and included in our use of force policy

# REQUIRE WARNING SHOTS

Tennessee v. Garner (1985) was a US Supreme Court ruling that discussed the use of deadly force

- Deadly force must be **objectively reasonable** based on the totality of circumstances surrounding its use
- Suspect poses an immediate threat of serious bodily harm or death to the officer or some other person **OR**
- Officer has probable cause to believe suspect has committed a violent felony involving the infliction or threatened infliction of serious bodily harm or death **AND**
- By his escape he poses an eminent danger to the community at large **AND**
- **Warnings should be given when possible**

# REQUIRES EXHAUSTION OF ALL ALTERNATIVES BEFORE SHOOTING

I am going to add #7 here, “require use of force continuum” because they are related

As we have discussed, officers use reasonable force to stop the force used against them or to effect a lawful arrest

The UOF continuum has been an **outdated concept since the late 1980s**, largely in response to the Graham case

The continuum essentially theorized that officers in all situations had to consider the least amount of force and then “walk up a ladder” of options and then articulate that they did so. You can see how this is impractical and more important, very dangerous, since the evaluation caused delays in acting.

# DUTY TO INTERVENE

The duty to intervene is present in departments that have a healthy culture, solid training, administrative oversight and policies that mandate intervention

By requiring supervisory response to force incidents and reinforcing that UOF incidents are tracked, intervention will occur

LPD officers are trained that if any of their team members are acting outside of training and policy **they have a duty to intervene**

# BAN SHOOTING AT MOVING VEHICLES

The US Supreme Court case that most narrowly addresses this topic is  
Plumhoff v. Rickard (2014)

An officer's use of deadly force to prevent the continuation of a dangerous high-speed chase and reckless pursuit did not violate the 4<sup>th</sup> Amendment

There are other Supreme Court rulings regarding this issue – Scott v. Harris (2007), Brosseau v. Haugen (2004), Mullenix v. Luna (2015)

It would be unwise to establish a policy that would limit an officer's ability to intervene to end a very dangerous situation

# REQUIRE COMPREHENSIVE REPORTING

We have discussed this. The PD believes that our UOF review process is as comprehensive as it can be.

- There is progress being made toward a national system of reporting all incidents in which result in “serious bodily injury” or death
  - In place since 2018 and reporting is voluntary at this time
  - Confusion over the definition of serious bodily injury



# OFFICER INVOLVED SHOOTING PROCESSES

There is widespread confusion about the processes that take place after an officer involved shooting (OIS) incident

In **ALL** instances, there should be a side-by-side criminal and administrative investigation of the OIS (prefer that outside agency completes criminal investigation but that doesn't happen in all agencies (does here))

Both processes take time that should be afforded to ensure fair outcomes with consideration of due process for officers involved

Our OIS processes are included in LEG: 3 and we have checklist in place to ensure best practices are followed after an OIS

# BODY CAMERAS

- The LPD has been fully deployed with body cameras since 2013 (18 months prior to the Ferguson incident)
- Body cameras are incredibly useful tools but they are not the “end all - cure all” for documenting police activity in the field
  - Two dimensional
  - Don't look where an officers eye looks all the time
  - Can fail or be knocked off
  - Expensive

# CITIZEN COMPLAINTS

The question was posed how citizens can make complaints

- We accept complaints via phone, email, and in person
- All complaints are documented in Blue Team unless a supervisor determines that the “complaint” is a misunderstanding of policy or process and the complainant is satisfied with the explanation provided by the supervisor

# OFFICER WELLNESS

- The work police do is extremely difficult and unpredictable. Suicide and PTSD are prevalent and pressing issues in the profession – more documented police suicides in 2019 than line of duty deaths.
- The LPD has an extensive employee assistance plan that includes:
  - Up to 6 free counseling visits each year
  - Yearly wellness training on various topics
  - Yearly “check-in” visits
  - Funding for critical incident debriefs

# RECOMMENDED READING

- Use of Unauthorized Force by Law Enforcement Personnel (FBI - 1991)
- Developing Constitutional & Effective Policies (Daigle Law Group)
- National Consensus Policy on the Use of Force (IACP – 2017)
- Re-Engineering Training on Police Use of Force (PERF – 2015)
- President's 21<sup>st</sup> Century Policing Taskforce (White House – 2015)

This is not by any means an extensive list of reading options, but it captures much of what has occurred since the Ferguson incident in August 2014

# QUESTIONS