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## Policing

### Legislative/Regulatory Requirements

The *Criminal Code*, other legislation and case law address the use of force by police and other authorized persons.

The *Equipment and Use of Force Regulation* (R.R.O. 1990, Reg. 926), under the *Police Services Act*, sets out requirements in relation to the use of force including use of approved weapons, training and reporting, as well as use/technical specifications for handguns.

### Sample Board Policy

Board Policy # \_\_\_\_\_

It is the policy of the \_\_\_\_\_ Police Services Board with respect to use of force that:

- a) this Board, upon receiving a report on the investigation into an injury or death caused by the discharge of a member's firearm, will:
  - i) review the report and make further inquiries as necessary; and
  - ii) file a copy with the Solicitor General, including any additional inquiries of the Board;
- b) this Board, upon being notified that the Chief of Police has discharged a firearm in the performance of his/her duty, will cause an investigation into the circumstances and file a report on the investigation with the Solicitor General;
- c) the Chief of Police will:
  - i) ensure that members do not use a weapon other than a firearm, with the exception of those used on another member in the course of a training exercise in accordance with procedures, unless:
    - that type of weapon has been approved for use by the Solicitor General;
    - the weapon conforms to technical standards established by the Solicitor General; and
    - the weapon is used in accordance with standards established by the Solicitor General;
  - ii) ensure that, at minimum, police officers are:

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- issued a handgun that meets the technical specifications set out in the *Equipment and Use of Force Regulation*;
  - issued oleoresin capsicum aerosol spray;
  - issued a baton; and
  - trained in officer safety, communication, handcuffing and physical control techniques;
- iii) be authorized to issue a conducted energy weapon to police officers who are:
- front line supervisors;
  - members of tactical/hostage rescue teams;
  - members of preliminary perimeter control and containment teams; and
  - \_\_\_\_\_ (other classes of officers deemed appropriate, in consultation with the Chief of Police)
- iv) ensure that members do not:
- use force on another person unless they have successfully completed a training course on the use of force;
  - carry a firearm unless they have successfully completed a training course on the use of firearms, and are competent in the use of the firearm;
- v) ensure that, subject to section 14.3 (2) of the *Equipment and Use of Force Regulation*, at least once every 12 months, members:
- who may be required to use force on other persons receive a training course on the use of force; and
  - authorized to carry a firearm, receive a training course on the use of firearms;
- vi) permit the use of reasonable weapons of opportunity by police officers, when none of the approved options is available or appropriate to defend themselves or members of the public;
- vii) establish procedures consistent with the requirements of the *Equipment and Use of Force Regulation*;
- viii) immediately cause an investigation to be made where a member unintentionally or intentionally discharges his or her firearm, except on a target range or in the course of weapon maintenance;
- ix) immediately cause an investigation and file a report to this Board where a member, by the discharge of a firearm in the performance of his or her duty, kills or injures another person;
- x) where the Chief discharges a firearm in the performance of the Chief's duties, promptly report the matter to this Board;
- xi) ensure that a written record is maintained of the training courses taken by the members of the police service on the use of force and the use of firearms;

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- xii) ensure the reporting of the use of force by members in accordance with the *Equipment and Use of Force Regulation*;
- xiii) ensure the ongoing review and evaluation of local use of force procedures, training and reporting; and
- xiv) provide a copy of the police service's annual use of force study to this Board for review, and ensure the availability of the study to the community.

## Police Service Guidelines

### General

1. Every Chief of Police shall ensure that members do not use a weapon other than a firearm, with the exception of those used on another member in the course of a training exercise in accordance with procedures, unless:
  - a) that type of weapon has been approved for use by the Solicitor General;
  - b) the weapon conforms to technical standards established by the Solicitor General; and
  - c) the weapon is used in accordance with standards established by the Solicitor General.
2. Every Chief of Police should ensure that, at minimum, police officers are:
  - a) issued a handgun;
  - b) issued oleoresin capsicum aerosol spray;
  - c) issued a baton; and
  - d) trained in officer safety, communication and physical control techniques.
3. Every Chief of Police shall ensure that members do not:
  - a) use force on another person unless the member has successfully completed a training course on the use of force, including training on the following matters:
    - i) legal requirements;
    - ii) the exercise of judgment;
    - iii) safety;
    - iv) theories relating to the use of force; and
    - v) practical proficiencies; and
  - b) carry a firearm unless, during the 12 previous months, they have successfully completed a training course on the use of firearms and are competent in the use of the firearm, subject to section 14.2 (3) of the *Equipment and Use of Force Regulation*.

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4. Every Chief of Police shall ensure that, subject to section 14.3 (2) of the *Equipment and Use of Force Regulation*, at least once every 12 months, members:
    - a) who may be required to use force on other persons receive a training course on the use of force; and
    - b) authorized to carry a firearm, receive a training course on the use of firearms.
  
  5. Every Chief of Police should ensure that training on the use of force is:
    - a) in the context of the Use of Force Model currently used in Ontario;
    - b) consistent with the Ministry's approved Use of Force options that include:
      - i) officer presence;
      - ii) communication;
      - iii) physical control:
        - empty hand techniques;
      - iv) intermediate weapons:
        - impact weapons;
        - conducted energy weapons, as applicable;
        - aerosol weapons; and
      - v) lethal force:
        - firearms; and
    - c) conducted by a Use of Force Trainer, certified by the Ministry.
  
  6. Every police service's procedures on use of force:
    - a) shall address the reasonable use of weapons of opportunity by police officers, when none of the approved options is available or appropriate to defend themselves or members of the public;
    - b) shall address the issuance of a firearm to an auxiliary member as set out in the *Equipment and Use of Force Regulation*;
    - c) should set out Special Investigations Unit (SIU) liaison policies and practices;
    - d) should require that any potential use of force situation where a subject appears to be in a state of "excited delirium" be treated as a medical emergency;
    - e) should require, if possible, a response strategy be developed in cooperation with emergency medical service personnel to address situations in 6 d); and
    - f) should require that if an injury to a member of the public is claimed or observed, the injury be documented;
    - g) should ensure arrangements for critical incident trauma aftercare for members.

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### *Officer Safety*

7. Every Chief of Police should ensure that annual refresher\* training on officer safety:
  - a) is integrated into other appropriate use of force options; and
  - b) covers a review of the topics set out in Appendix A: *Ontario Police College Guideline* section 2 (c).

### *Communication*

8. Every Chief of Police should ensure that annual refresher\* training on communication covers a review of the topics set out in Appendix A: *Ontario Police College Guideline* section 3(b).

### *Physical Control*

9. Every Chief of Police should ensure that annual refresher\* training on empty hand techniques includes a minimum of 2 hours of training and covers a review of the topics set out in Appendix A: *Ontario Police College Guideline* section 4.

### *Intermediate Weapons*

10. Every police service's procedures on impact weapons should require that:
  - a) batons are the only impact weapon permitted for use when dealing directly with the public;
  - b) officers are not issued with, or trained in the use of, impact devices commonly known as 'saps' or 'blackjacks'; and
  - c) batons have the following features:
    - i) the capability of being used defensively;
    - ii) they must be rigid at all times, including when expanded;
    - iii) they must be straight, handled, or expandable design; and
    - iv) minimum length (when expanded) of 16 inches.
11. Every Chief of Police should ensure that the annual re-qualification\*\* training on the use of a baton includes a minimum of 1 hour of training and requires officers to demonstrate competency in the following skills and knowledge to the satisfaction of the Use of Force Trainer certified by the Ministry:
  - a) use context;

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- b) stances;
- c) control techniques;
- d) blocks/strikes; and
- e) baton retention techniques.

### *Aerosol Weapons*

12. Every police service's procedures on aerosol weapons shall require that:
- a) aerosol weapons are not used if the active ingredient is a gas or chemical; and
  - b) the use of a substance commonly known as tear gas is not applied intentionally in a concentrated form directly to a person.
13. Every police service's procedures on aerosol weapons should:
- a) address the use of aerosol weapons as a legitimate force option, only when alternatives reasonably present a risk of injury to a subject or police officers;
  - b) require that canisters for aerosol weapons:
    - i) be issued to individual officers who are responsible for the canister;
    - ii) be identified by an individual serial number either engraved or stamped on the can, or through numbered adhesives;
    - iii) carried by uniformed officers, be in a secure holder that can be securely fastened to the duty belt to prevent accidental loss; and
    - iv) be equipped with a safety device, which may be part of the canister or may be integrated into the design of the holster, to prevent unintentional discharge;
  - c) require that the active ingredient of aerosol weapons is oleoresin capsicum (5%-10%);
  - d) require that aerosol weapons, where the active ingredient is oleoresin capsicum products blended with tear gas (CS-CN), not be permitted for use;
  - e) require that the propellant for aerosol weapons:
    - i) be provided by the manufacturer;
    - ii) be non-flammable; and
    - iii) not be chlorofluorocarbon (CFCs), such as Freon 113, as prohibited by the *Montreal Protocol on Substances that Deplete the Ozone Layer*;
  - f) require that the shelf life of aerosol weapons is as recommended by the manufacturer, but no longer than 2 years;
  - g) require that aerosol weapons be replaced as recommended by the manufacturer, but no less than every 2 years; and

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h) require that all reasonable efforts be taken to decontaminate sprayed individuals at the earliest safe or practicable opportunity, including the consideration of aerosol water mist decontamination devices.

14. Every Chief of Police should ensure that the annual refresher\* on aerosol weapons includes a minimum of 1 hour of training that:

- a) covers a review of the following issues:
  - i) technical data on the product, including active ingredients and propellant;
  - ii) the effects of being sprayed;
  - iii) use of force legislation including the *Criminal Code*, *Police Services Act*, *Provincial Offences Act*, and case law; and
  - iv) local police service policies and procedures and case studies of recent use; and
- b) ensures competence is demonstrated in:
  - i) proper application of spray; and
  - ii) decontamination procedures.

*Conducted Energy Weapons*

15. Every Chief of Police should ensure that:
- a) all training on conducted energy weapons is conducted by a ministry-certified Use of Force Trainer who has successfully completed the Conducted Energy Weapon Trainers course; and
  - b) conducted energy weapon trainer, user, user re-qualification, trainer re-certification and familiarization training is consistent with ministry training standards as per the appendices to this guideline.
16. Every Chief of Police should ensure that police officers are issued conducted energy weapons in accordance with the policy of the Police Services Board.
17. A Chief of Police may permit an officer to use a conduct energy weapon subject to the following:
- a) the conducted energy weapon must be the TASER M26 or TASER X26;
  - b) the conducted energy weapons must conform to the technical standards contained in Appendix H;
  - c) the officer believes a subject is threatening or displaying assaultive behavior or, taking into account the totality of the circumstances, the officer believes there is an imminent need for control of a subject; and
  - d) the officer believes it is reasonably necessary to use a conducted energy weapon, which may involve consideration of the following factors:
    - i. whether efforts to de-escalate the situation have been effective;
    - ii. whether verbal commands are not practical or are not being followed;
    - iii. the risk of secondary injury (e.g., as a result of a fall); and
    - iv. the conducted energy weapon's capabilities in relation to the context and environment.
18. Every police service's procedures on conducted energy weapons should include the following:
- a) at the commencement of each shift during which a conducted energy weapon is to be carried:
    - i) a spark test should be conducted before use to ensure proper functioning;
    - ii) the results of the spark test should be recorded in the officer's notebook or the appropriate log book; and

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- iii) if the weapon is not personally issued, the serial number of the conducted energy weapon being used should be recorded in the officer's notebook or the appropriate log book;
- b) in an incident in which a conducted energy weapon is used, one or more additional officers should be present to provide support when possible and restraint of a subject should be attempted when appropriate during the conducted energy weapon activation cycle;
- c) when appropriate, an announcement should be made to other officers on the scene that a conducted energy weapon is going to be activated;
- d) conducted energy weapon use should be avoided in the presence of flammable or explosive substances (e.g., alcohol, gas vapours, natural gas, propane) especially in interventions in clandestine labs;
- e) as with any use of force option, a conducted energy weapon should only be used as necessary to gain physical control of a subject;
- f) conducted energy weapon use should be avoided:
  - i) on a handcuffed subject;
  - ii) on a pregnant woman, elderly person, young child or visibly frail person;
  - iii) on sensitive areas of the body (i.e., head, neck, genitals); and
  - iv) on a subject in control of a moving vehicle, bicycle or other conveyance;
- g) the subject should be informed that a conducted energy weapon has been used and the effects are of short duration;
- h) once the subject is controlled, he or she should be placed in a position for care and observation by officers (e.g., sitting or recovery position);
- i) a medical assessment should be obtained in the following circumstances:
  - i) when a conducted energy weapon is used on a subject who is pregnant, elderly, young, or visibly frail;
  - ii) when a CEW is used on a sensitive area of the body (see section 18 f));
  - iii) when both probes are deployed on the chest near the heart;
  - iv) if a subject loses consciousness or strikes his/her head during a fall; or
  - v) when the CEW is used multiple times or for an extended period of time.
- j) embedded probes should be removed by medical personnel or an officer who has received specific training in doing so
- k) the officer removing the probes should seek medical assistance if he/she has concerns regarding the potential for injury resulting from removal of the probes;
- l) officers should request medical personnel remove probes embedded in sensitive areas;
- m) probes that have penetrated the subject's body should be handled with the same precautions as other biohazards;

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n) following CEW use, data should be downloaded for audit and analysis by designated personnel as soon as practicable;

o) secure storage requirements for CEWs.

19. Every Chief of Police should ensure a response strategy/protocol be developed in cooperation with emergency medical service personnel to address post-deployment medical attention for individuals subjected to activation of a CEW.

### ***Firearms***

20. Every Chief of Police shall ensure that every police officer is issued and carries a handgun that meets the technical specifications set out in the *Equipment and Use of Force Regulation*.

21. Every police service's procedures on firearms should provide that the authority to use firearms is an exceptional responsibility and must be exercised with the highest concern for human life.

22. Every police service's procedures on firearms shall require that a member of a police force shall not draw a handgun, point a firearm at a person, or discharge a firearm unless he or she believes, on reasonable grounds, that to do so is necessary to protect against loss of life or serious bodily harm; or unless

- a) they are engaged in a training exercise, target practice or ordinary weapon maintenance in accordance with the rules of the police force;
- b) the discharge of a handgun or other firearm is to call for assistance in a critical situation, if there is no reasonable alternative; or
- c) the discharge of a handgun or other firearm is to destroy an animal that is potentially dangerous or is so badly injured that humanity dictates that its suffering be ended.

23. Every police service's procedures on firearms shall:

- a) address the authorization of members by the Chief of Police to carry firearms (except revolvers) of a type other than that permitted by section 3(1) of the *Equipment and Use of Force Regulation*, including:
  - i) whether or not the Chief of Police has designated another police officer to give authorization; and
  - ii) the special purpose for which the firearms will be carried;
- b) prohibit members from altering or modifying their issued handguns;
- c) require that members who are issued a handgun:

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- i) are issued a minimum of three full magazines; and
- ii) one of the issued full magazines is loaded in the handgun while the member is on duty;
- d) require that ammunition issued for handguns, other than those authorized for a special purpose, meet the specifications set out in subsection 3(3) of the *Equipment and Use of Force Regulation*; and
- e) provide that procedures addressing subsections 23 (a)-(d) do not apply to members when engaged in a training exercise, target practice or ordinary weapon maintenance in accordance with procedures governing these activities.

24. Every police service's procedures shall require that members not discharge their firearm for the sole purpose of attempting to stop a fleeing motor vehicle.

25. Every Chief of Police should ensure that the annual re-qualification\*\* on service handguns:

- a) includes an inspection of service handguns and related equipment by a qualified armorer and an exchange of duty ammunition for new ammunition; and
- b) is divided into the following three areas:
  - i) a minimum of 1 hour of in-class academic training that provides a review of the following topics:
    - use of force legislation, including the *Criminal Code*, *Provincial Offences Act*, *Police Services Act* and case law;
    - reporting requirements;
    - principles of firearms safety; and
    - safe storage and security practices;
  - ii) a minimum of 1½ hours of proficiency training that:
    - requires the firing of a minimum of 100 rounds of live service velocity ammunition of which at least 50 rounds will be a test on the Ministry's approved Course of Fire under daylight conditions;
    - may provide police officers the opportunity to shoot more, including, if practicable, under low light and outdoor conditions; and
    - reinforces handgun training received at the basic qualification level; and
  - iii) a minimum of 1½ hours of judgment development training that:
    - is designed to develop decision-making skills in stressful conditions;
    - may be delivered in several different ways, including role-playing, live or simulated fire and/or branching/interactive simulator systems;
    - allows sufficient time for a Use of Force Trainer, certified by the Ministry, to determine the police officer's competency in using good judgment;

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- ensures that officers are debriefed on powers of arrest, threat perceptions, communication skills, tactics used, less than-lethal force options, justification for force used, weapons discipline, reaction time and accuracy, following the completion of training; and
- requires that an officer will not be considered qualified to carry a firearm unless a Use of Force Trainer, certified by the Ministry, determines that the officer has the judgment skills, regardless of the officers performance in other components of handgun training.

### ***Accountability***

26. Every Chief of Police shall immediately cause an investigation to be made consistent with sections 12 and 13 of the *Equipment and Use of Force Regulation*:

- a) where a member unintentionally or intentionally discharges his or her firearm, except on a target range or in the course of weapon maintenance; or
- b) where a member, by the discharge of a firearm in the performance of his or her duty, kills or injures another person.

27. Every Chief of Police shall ensure that a written record is maintained of the training courses taken by the members of the police service on the use of force and the use of firearms.

28. Every police service's procedures should address remedial training and administrative steps to be taken when a police officer does not qualify in a specific use of force area.

### ***Use of Force Reporting***

29. Every police service's procedures on use of force reporting shall require that:

- a) a report be submitted by a member to the Chief of Police whenever the member:
  - i) draws a handgun in the presence of a member of the public, excluding a member of the police service while on duty;
  - ii) points a firearm at a person;
  - iii) discharges a firearm;
  - iv) uses a weapon other than a firearm on another person, including a conducted energy weapon in cartridge/probe mode, three point contact, and drive/push stun mode; or
  - v) uses physical force on another person that results in an injury requiring medical attention;

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- b) the report be in Form 1 as set out in the *Equipment and Use of Force Regulation*;
  - c) the retention period on Part B of a use of force report is consistent with section 14.5 of the *Equipment and Use of Force Regulation*;
  - d) Section 29 a) does not apply when:
    - i) a handgun is drawn, a firearm is pointed at another person, or a firearm is discharged, in the course of a training exercise, target practice or ordinary firearm maintenance, in accordance with the procedures of the police force;
    - ii) a weapon other than a firearm is used on another member of a police service in the course of a training exercise in accordance with the procedures of the police force; or
    - iii) physical force is used on another member of a police service in the course of a training exercise; in accordance with the procedures of the police force;
  - e) use of force reports not be admitted in evidence at any hearing under Part V of *The Police Services Act*, other than a hearing to determine whether the police officer has contravened section 14.5 of the *Equipment and Use of Force Regulation* and local procedures on use of force reporting;
  - f) the Chief of Police deliver or make available to the Solicitor General a copy of a report, upon the request of the Solicitor General; and
  - g) a regular review is conducted on the police service's procedures, training and reporting on the use of force based on information obtained from the reports.
30. Every police service's procedures on use of force reporting should:
- a) require that a use of force report be submitted by a member to the Chief of Police whenever the member uses a CEW as demonstrated force presence (i.e., overt display of the CEW with the intent to achieve compliance);
  - b) require use of force reports to be collected and used only to identify individual and group training requirements, or organizational use of force policy and procedure requirements;
  - c) require use of force reports and associated occurrence reports to be completed and submitted to the front-line supervisor as soon as possible after the relevant incident;
  - d) where a member is incapacitated, allow for the completion of the report by the member's immediate supervisor;
  - e) allow for the completion of team reports by leaders of specialist teams (e.g., tactical units);
  - f) require front-line supervisors to:

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- i) report, in conjunction with associated occurrence reports, to identify individual training requirements;
- ii) indicate on the use of force report whether additional training is required by the officer; and
- iii) forward the use of force report to the training analyst;
- g) set out the supervisory levels, if any, beyond the front-line supervisors, who will review the use of force reports, prior to review by the training analyst;
- h) require that use of force reports not be introduced, quoted from, or in any way referred to, during considerations of promotion or job assignment without the consent of the reporting officer;
- i) require that information from a use of force report not be contained in an officer's personnel file;
- j) require the appointment of a training analyst responsible for:
  - i) reviewing use of force reports to identify individual and group training requirements;
  - ii) maintaining a database (electronic or manual) of use of force data from Part A of all use of force reports; and
  - iii) at least once every calendar year, producing a study, including an analysis of use of force trends for the entire police service, which does not contain data that identifies reporting police officers;
- k) require review by the Chief of Police and the police services board of the annual use of force study; and
- l) require the availability of the annual use of force study to the community.

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\*Refresher training is training which does not involve a pass/fail test.

\*\*Re-qualification training is training with pass/fail evaluation of an individual's skills or knowledge.

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Ministry of Community Safety  
& Correctional Services

