

## ORDINANCE NO. 2020-05

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### AN ORDINANCE ESTABLISHING POLICE USE OF FORCE POLICY

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**BE IT HEREBY ORDAINED THAT THE CITY OF MIDFIELD, ALABAMA HEREBY ADOPTS THE FOLLOWING USE OF POLICE FORCE AS FOLLOWS:**

#### **POLICE USE OF FORCE POLICY**

##### **SECTION (1): PURPOSE**

Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of officers and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.

##### **SECTION (2): GENERAL POLICY ON THE USE OF FORCE**

- 1) The decision to use force requires careful attention to the facts and circumstances of each case, including the severity of the crime at issue, the safety of the officer and others, and whether the suspect is actively resisting arrest.
- 2) In addition, the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them.

##### **SECTION (3): DEFINITIONS**

- 1) **Use of Force** — An incident in which an officer causes visible injury to a person; an incident in which an officer punches or strikes a person; an incident in which an officer uses a chemical agent, taser, pepper ball gun, defensive tactics, baton, or other defensive equipment on an individual.

- 2) **Deadly Force** — Any use of force that creates a substantial risk of causing death or serious bodily injury.
- 3) **Less-Lethal Force** — Any use of force other than that which is considered deadly force that involves physical effort to control, restrain or overcome the resistance of another.
- 4) **Objectively Reasonable** — The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.
- 5) **Serious Bodily Injury** — Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.
- 6) **De-Escalation** — Taking action or communicating verbally or non-verbally 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.
- 7) **Exigent Circumstances** — Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.
- 8) **Choke Hold** — A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

## **SECTION (4): USE OF FORCE**

- 1) Any use of force that is not objectively reasonable, in light of the circumstances confronting the officer, is prohibited.
- 2) Use of physical force should be discontinued when resistance ceases or when the incident is under control.

- 3) Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
- 4) Once the scene is safe, as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured or request medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
- 5) Nothing in this policy shall be construed to permit, excuse or justify the use of unreasonable or excessive force. When accessing the need to use force, officers shall consider the nature and extent of any threat posed by the subject, as well as all other circumstances of the encounter, including but not limited to the following:
  - The severity of the crime;
  - The degree to which the subject resists arrest or detention;
  - The degree to which the subject attempts to evade arrest/flight.
- 6) An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so.

## **SECTION (5): DE-ESCALATION**

- 1) An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
- 2) Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.
- 3) Officers of the Midfield Police Department will be required to attend de-escalation training every calendar year.

## **SECTION (6): LESS-LETHAL FORCE**

1) When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use Police Department approved less-lethal force techniques and issued equipment for resolution of incidents as follows:

- To protect themselves or another from physical harm,
- To restrain or subdue an individual who is actively resisting or evading arrest, or
- To bring an unlawful situation safely and effectively under control.

## **SECTION (6): DEADLY FORCE**

1) Under Alabama Code 13A-3-27, officers are authorized to use deadly force when it is objectively reasonable under the totality of circumstances. Use of deadly force is justified when one or both of the following apply:

- To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury,
- To prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended.

2) Where feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.

3) An officer shall not discharge a weapon as a warning at any time.

4) Deadly Force should not be used against persons whose actions are a threat only to themselves or property.

5) Firearms shall not be discharged at a moving vehicle unless:

- A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
- The vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

- 6) Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.
- 7) Choke Holds are strictly prohibited except in situations where deadly force is justified to protect personnel or a third party from serious physical injury or death and no other option to protect life is available.

## **SECTION (6): FORCE CONTINUUM**

- 1) **Level I - Officer Presence** The officer is present on the scene. This includes identification and awareness by the Subject that he/she is dealing with an officer.  
(Standing, walking or running).
- 2) **Level II - Verbal Commands** Whisper, Conversation, Shout
- 3) **Level III - Firm grip/Pain Compliance; Restraint Control**  
Taser, OC Chemical Aerosol, Pepper Ball Gun, Handcuffs, Empty Hand, Impact Tools.
- 4) **Level IV - Temporary Incapacitation**  
Chemical Weapon, other than OC, hand held, Thrown, Propelled, Empty Hand, Impact Tools
- 5) **Level V - Deadly Force**  
Empty Hand, Impact Tools, Firearms
- 6) Situations will dictate which level of force should be used at that time and place. Officers will also use the appropriate de-escalation of force as the situation, time and place changes and dictates.

## **SECTION (6): TRAINING, DOCUMENTATION AND NOTIFICATION**

- 1) On an annual basis, officers will review the Midfield Police Department's policies concerning the use of deadly and less-lethal force. This review will

include the use of force continuum and the escalation as well as the de-escalation of use of force. Sergeants will document this review.

- 2) Officers are not authorized to carry or use any equipment, weapons, etc. they have not been trained to use.
- 3) Officers who use force as defined above, shall report the extent of force used and justify the use of force accurately in a State of Alabama Arrest or Incident/Offense Report. The officer shall ensure the report is reviewed by a sergeant prior to the end of his or her tour of duty.
- 4) When the use of force is to the extent the person is injured and requires medical treatment, the sergeant shall personally view the person and thoroughly document the extent of the injuries along with statements and photographs.
- 5) If an off-duty officer uses force, they shall notify a sergeant immediately. The same procedures apply to this incident.
- 6) The officer shall request necessary emergency medical aid.
- 7) A firearm shall be regarded as a defensive weapon and used only when the individual officer is compelled to do so by existing circumstances. When an officer, for whatever reason, fires his or her firearm, except during authorized training functions, a written report shall be made promptly to the immediate sergeant, giving all facts of the incident.
- 8) An officer who discharges a firearm, either accidentally or officially, that results in the injury or death of an individual, will result in the sergeant of the officer who shoots an individual to go to the scene of the shooting incident.
- 9) Incident Reports of shooting and other incidents that involve the use of force, shall not be considered formal statements.
- 10) The officer will protect the weapon that was discharged for examination, and the officer shall remain available at all times for official interviews and statements regarding the case.

## **SECTION (7): PROCEDURES FOR HANDLING OFFICERS**

- No official statement will be given by officers until they have had two full sleep cycles.
- The State Bureau of Investigation will observe the officer, take pictures of the officer and take the officer's firearm and clothes.

ADOPTED THIS \_\_\_\_ DAY OF NOVEMBER, 2020.

ATTEST:

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Carolyn Wilson, Acting City Clerk

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Gary R. Richardson, Mayor

### **Clerk's Certification**

I, Carolyn Wilson, Acting City Clerk of the of Midfield, Alabama, certify for the sole purpose of administering and implementing the above and foregoing Ordinance, that it is a true and correct copy of the Ordinance, adopted and approved by the City Council of the City of Midfield, Alabama at the council meeting held on the \_\_\_\_ day of \_\_\_\_, 2020 as same is represented in the Recorded Minutes.

Moreover, I hereby certify that the above and foregoing Ordinance was published by posting same at the following locations: Midfield City Hall, Midfield Community Center and the City's website.

Certified and acknowledge on this \_\_\_\_ day of \_\_\_\_ 2020.

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Carolyn Wilson, Acting City Clerk