

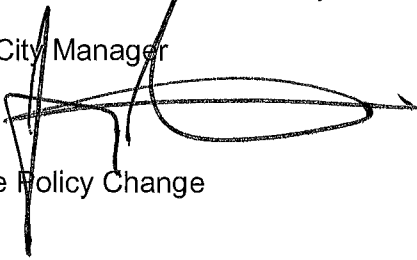
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LETTER TO COMMISSION
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TO: Mayor Philip Levine and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: October 13, 2014
SUBJECT: MBPD Use of Force Policy Change




This Letter to Commission is prepared to advise the Commission of a change in Police Department policy regarding Use of Force. Effective today, the Miami Beach Police Department has amended its General Order 14 to prohibit shooting at a moving vehicle unless an occupant of the vehicle is using or threatening the use of deadly force against a police officer or others by means other than the vehicle. The policy change is reflected in a Department directive that is attached.

This change is consistent with a recommendation made by the Police Executive Research Forum (PERF) in the audit of the Department that was released this past June. This policy also reflects what has been the leading thinking among police executives nationally on this topic for many years. The policy statement lists several of the very sound reasons for the policy. I am happy to discuss this issue further with Commission members should they have any questions.

Attachment

JLM/BJO/tr

POLICE

	GENERAL ORDER	GO-14-06
	USE OF FORCE	
CALEA Standard(s): 1.2.2; 1.3.1; 1.3.2; 1.3.6; 26.1.1		

PURPOSE: To establish guidelines for the use of deadly force.

SCOPE: This General Order (GO) shall be read in conjunction with **SOP #017 – Use of Force** and supersedes Section III.D.3.a-d. This GO applies to all sworn law enforcement officers and Detention Officers.

POLICY: It is the policy of the Department that the use of force, both deadly and non-deadly, is authorized when officers reasonably believe it to be necessary to respond to a subject's resistance while making an arrest or to defend themselves or another from bodily harm or death. A law enforcement officer need not retreat or desist from efforts to accomplish their lawful objectives. The decision to resort to force and the degree of force to be used shall be based on objective reasonableness and the totality of the circumstances. The use of force by Department employees shall be investigated and documented as appropriate.
 [1.2.2][1.3.1][1.3.2][1.3.6][26.1.1]

PROCEDURE:

* * *

III. Officer Response Options

* * *

D. Deadly Force

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3. Officers shall not use deadly force in the following situations:

- a. When circumstances do not provide a reasonable probability of striking the intended target or when there is substantial risk to the safety of innocent bystanders or officers;
- b. Against felons who are known to be unarmed and non-dangerous, whether fleeing or not;
- c. Against misdemeanor or traffic offenders, whether fleeing or not;
- d. By discharging a firearm at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by a means other than the vehicle;
 - 1) For the purposes of this GO, a moving vehicle alone shall not presumptively constitute a threat that justifies an officer's use of deadly force;
 - 2) Officers shall not move into or remain in the path of a moving vehicle. Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, shall not be justification for discharging a firearm at the vehicle or any of its occupants. An officer in the path of an approaching vehicle shall attempt to move

to a position of safety rather than discharging a firearm at the vehicle or any of the occupants of the vehicle.

- e. By discharging a firearm from a moving vehicle, except in exigent circumstances warranting the immediate defense of life.
4. The prohibitions regarding the discharge of a firearm at or from a moving vehicle exist for the following reasons:
- a. Bullets fired at a moving vehicle are extremely unlikely to disable or stop the vehicle;
 - b. Disabling the driver of a moving vehicle creates unpredictable circumstances that may cause the vehicle to crash and injure other officers or innocent citizens;
 - c. Shooting accurately from a moving vehicle is extremely difficult and therefore unlikely to successfully stop a threat to an officer or other person; and
 - d. Moving to cover to gain and maintain a superior tactical advantage maximizes officer and public safety while minimizing the need for deadly or potentially deadly force.

DEFINITIONS:

DEADLY FORCE – An application of force, with or without a weapon, that is likely to cause death or great bodily harm such as the use of a firearm, eye gouges, empty hand strikes to the throat and impact weapon strikes to the head, neck or groin.

FELON – A subject who the officer reasonably believes has committed or is committing a crime that is punishable under Florida Law and/or the Laws of the United States by death or imprisonment in excess of one year.

OBJECTIVE REASONABLENESS – The process used to evaluate the appropriateness of a law enforcement officer's response to a subject's resistance. Evaluation is based on the totality of the circumstances confronting the officer at the time, judged from the perspective of what actions would be taken by a reasonable officer faced with similar circumstances and facts, or what reasonably appear to be facts, at the time the action is taken.

TOTALITY OF CIRCUMSTANCES – A term the court uses to refer to all facts and circumstances reasonably perceived by the officer as the basis for a use of force decision.

DO/LH/JB/JE/WRG/JAB/EMG

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APPROVED BY:



Daniel J. Oates
Chief of Police