

**TOWN OF GREENVILLE
ORDINANCE NO. 2009-M-014**

**ORDINANCE CONCERNING THE USE OF FORCE BY THE
GREENVILLE MARSHAL'S DEPARTMENT IN THE TOWN OF
GREENVILLE, INDIANA**

WHEREAS, the Marshal's Department for the Town of Greenville, Indiana, in the interest of public health, safety and welfare, has deemed it necessary that the Town adopt an Ordinance which defines the use of force by the Greenville Marshal's Department within the corporate limits of the Town of Greenville;

NOW, THEREFORE, BE IT ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GREENVILLE, INDIANA, THE USE OF FORCE POLICY AS FOLLOWS:

PURPOSE:

To provide Greenville Marshal Department Members of the Greenville Marshal's Department with guidelines in the use of force, in the reporting of force, and the post-incident support in trauma situations.

DEFINITIONS:

Active Aggressive Resistance: Active aggression includes physical actions or assaults taken by a subject against the Greenville Marshal Department Member or another person with less than deadly force {i.e. advancing in a physically threatening manner, punching, kicking, grabbing, wrestling, etc.}.

Bodily Injury: Physical pain, illness, or any impairment of physical or mental condition.

Critical Incident: Any traumatic or devastating situation or event involving Greenville Marshal Department Members, or the community.

Deadly Physical Force: Force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

Defensive Resistance: Any action by a subject that attempts to prevent a Greenville Marshal Department Member from gaining control of the subject. {i.e. pushing or pulling away, resistance to handcuffing, holding on to a steering wheel}.

Firearm: A pistol, revolver, shotgun, rifle, or other weapons of any description, loading or unloading, from which any shot or bullet can be discharged.

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Less Lethal Force: Any force, action, or weapon which produces a result that is necessary to control the actions of another and does not involve the use of deadly force.

Serious Bodily Injury: Bodily injury which involves a substantial risk of death, substantial risk of serious permanent disfigurement, or sustainable risk of protracted loss or impairment of the function of any part or organ of the body.

Electro-Muscular Disruption Device {EMD}: A weapon that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction of a subject.

Passive Resistance: Any type of resistance where the subject does not attempt to defeat the Greenville Marshal Department Member, attempt to touch or control, but will not voluntarily comply with verbal and physical attempts to control.

Probable Cause: Probable cause exists where the facts and circumstances within the Greenville Marshal Department Member knowledge, of which he or she has reasonable caution in the reasonable belief that an offense is about to be committed or has been committed.

Reasonable Suspicion: A Greenville Marshal Department Member has reasonable suspicion if he/she can point to specific facts and circumstances for the Greenville Marshal Department Member to reasonably conclude that criminal activity is afoot. The level of suspicion need not rise to that belief that is supported by probable cause. A reasonable suspicion is more than a hunch.

Verbal Non-Compliance: Any Verbal response indicating the subject's unwillingness to obey commands of detainment, arrest, or to stop unlawful or dangerous behaviour.

POLICY:

Greenville Marshal Department Members of the Greenville Marshal's Department are authorized to use the necessary physical force and deadly physical force only when justified and legally appropriate. When physical force is used, Greenville Marshal Department Members are required to report the use of such force. Post-Incident support shall be provided for Greenville Marshal Department Members by the Greenville Marshal's Department.

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PROCEDURE:

{A} Use of force:

{1} Use of force by Greenville Marshal Department Members in addition to statutory justification of the use of force extended citizens, Greenville Marshal Department Members may use “reasonable and appropriate physical force” to;

- a) Maintain order and discipline in a detention or correctional institution.
- b) To effect an arrest or prevent an escape of an arrested person, unless member knows;
- c) To defend the member or a third person from what is reasonably believed to be the use or imminent use of physical force while effecting or attempting to effect an arrest, or while preventing or attempting to prevent an escape.
- d) In taking a person into protective custody for mental health or intoxicated conditions.

{2} The use of physical force includes;

- a) Use of chemical agents
- b) Use of an Electro-Muscular Disruption Device {EMD}
- c) Use of the baton
- d) The intentional or accident discharge of firearms, {except training and recreational shooting}.
- e) Use of canine, when that use results in an injury.
- f) Use of water hoses.
- g) Any force that results in bodily injury.
- h) Vehicle pursuits.
- i) Use of stop sticks.
- j) Pepper Ball Launcher.
- k) Special munitions.

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- {3} Use of deadly physical force in accordance with the statutory justifications, a member is justified in using deadly force in the following;
- a) To defend a member or a third person from what is reasonably believed to be the use or imminent use of deadly physical force.
 - b) To effect an arrest or to prevent the escape from custody of a person whom the member reasonably believes;
 - 1) Has committed or attempted to commit a felony involving the use of a deadly weapon, and is attempting to escape by the use of a deadly weapon, or;
 - 2) Otherwise indicates, except through a motor vehicle violation, that the suspect presents an imminent danger to human life or threat of serious bodily injury to another, unless apprehended without delay, or;
 - c) Greenville Marshal Department Members are strictly prohibited from discharging a firearm as a “warning shot”.
 - d) Greenville Marshal Department Members may use deadly physical force on any animal that presents an imminent danger to the Greenville Marshal Department Members or others
 - e) Greenville Marshal Department Members may use deadly physical force to destroy any animal that appears to be suffering from an apparent fatal wound or sickness. The following must apply:
 - 1) If the animal is domesticated, a reasonable attempt to locate the owner must be made prior to destroying the animal, or;
 - 2) If the animal is classified as wildlife, the animal may be destroyed at the Greenville Marshal Department Member’s discretion.
 - f) Greenville Marshal Department Members are strongly discouraged from ever surrendering their firearm to anyone who may be holding a hostage or is a suspect of a criminal activity. The ultimate decision must be made by each sworn member involved, based upon the circumstances that surround the incident.

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- {4} Use of less lethal force; The Greenville Marshal Department authorizes Greenville Marshal Department Members who are trained and certified in the use of Batons, Oleoresin Capsicum Spray, {OC} OC Pepper Balls and EMD devices to use such force. Whenever feasible, a less lethal weapon will only be used after a warning is given to the subject. Less lethal force may be used in the following situations;
- a) When a suspect exhibits violent or potentially violent behaviour that threatens the safety of others and attempts to subdue the subject by conventional means of persuasion, escort control, self-defence techniques and/or pain compliance measures have not been or reasonably appear unlikely to be effective.
 - b) When a subject is armed with a less lethal weapon and attacks or threatens to attack an Greenville Marshal Department Member; the Greenville Marshal Department Member may defend him/herself to avoid becoming incapacitated and risk the possibility that the subject could gain control of the Greenville Marshal Department Member's firearm.
 - c) When the subject is actively resisting or exhibiting active aggression and it is unsafe for an Greenville Marshal Department Member to approach and the suspect is within contact range, or;
 - d) When higher use of force options may be justified, but an opportunity exists for the use of a less lethal weapon before these other options are employed, or;
 - e) To defend one's self or another from aggressive and/or attacking animal, or;
 - f) A less lethal weapon may be used to disperse unruly or rioting crowds threatening unlawful property damage or physical force, or;
 - g) Inside the Detention Area, a less lethal weapon may be used after ample verbal warning if an subject refuses to comply with a lawful order, and the subject takes aggressive posture {i.e. clenched fists, fight stance, etc.} or makes aggressive movements towards Greenville Marshal Department Members, or;
 - h) When OC spray is used, the Greenville Marshal Department Member will attempt to spray the subject in the area of the forehead and eyes from a distance of at least {3} feet.
 - i) Although classified as a less lethal device, the potential exists for pepper ball projectiles to inflict injury when they strike the face, eyes, neck and groin. Therefore, personnel deploying the Pepper Ball system shall avoid intentionally striking those body areas unless a life-threatening situation exists.
 - j) Only qualified, trained personnel shall be allowed to deploy and use the Pepper Ball System.
 - k) OC Spray with alcohol base aerosol spray shall not be used in conjunction with an EMD device.

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ELECTRO-MUSCULAR DISRUPTION DEVICE {EMD}

- 1) The EMD is an additional police tool and is not intended to replace verbal problem solving skills, self-defense techniques, or firearms. The EMD shall be deployed only in circumstances where it is deemed reasonably necessary to control a dangerous or violent subject.
- 2) Prior to the use of an EMD a warning should be given prior to activating, unless to do so would place any other person at risk.
- 3) EMDs equipped with probes, should be the primary use, with “drive stun mode” generally used as a secondary option.
- 4) Only one Greenville Marshal Department Member should activate an EMD against a person at a time.
- 5) When intending to use an EMD, the Greenville Marshal Department Member should point the EMD at the subject; and the laser sight should be activated as a deterrent prior to shooting at the subject.
- 6) Target areas for the EMD should be center mass of the subject and from the rear when possible. Greenville Marshal Department Members shall not intentionally aim for the head, neck or genital areas.
- 7) Greenville Marshal Department Members should be aware there is a potential for higher risk of sudden death on people under the influence of drugs and/ or symptoms associated with excited delirium.
- 8) The EMD may be used in the following situations;
 - a) Against aggressive animals such as dogs, recognizing the effect may not be as debilitating as on a human.
 - b) Prior to an arrest in an effort to break aggressive resistance, where probable cause exist to make an arrest.
 - c) To stop a physical fight.
 - d) To prevent active aggressive resistance on the part of the suspect during an arrest process.
 - e) To prevent imminent bodily injury to an Greenville Marshal Department Member or a civilian.

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- f) To prevent self-inflicted injury or attempted suicide.
 - g) To apprehend fleeing subjects when the Greenville Marshal Department Member reasonably believes the subject, if not immediately apprehended, creates a serious threat of bodily injury to the Greenville Marshal Department Member, the subject{s} and/or third party.
- 9) The device shall not be used in the following situations;
- a) To threaten or attempt to gain information from a suspect.
 - b) To wake up an unconscious or suspect intoxicated individual.
 - c) As a “prod”.
 - d) On any individual in a passive resistant.
 - e) On fleeing suspects, unless there is reasonable suspicion to believe the suspect{s} committed or is committing a violent crime.
 - f) On individuals who fail to comply with an Greenville Marshal Department Members order when the Greenville Marshal Department Member attempts to stop the individual{s} on mere suspicion {not based on reasonable suspicion or probable cause}.
 - g) No Greenville Marshal Department Member shall playfully, maliciously or punitively use the unit against another individual. Unnecessary or displays of power, playful use, thrusting motions and or carelessness are strictly forbidden. Violation{s} of any of the above will result in disciplinary action.
 - h) To control a restrained subject unless the subject is actively resisting and other levels of force are not appropriate or have failed.
 - i) When the Greenville Marshal Department Member knows a subject has come in contact with flammable liquids or is in a flammable environment.
 - j) After an unknown type or alcohol based OC has been deployed onto the intended subject.
 - k) On subjects who are visibly pregnant or elderly persons, young children and visibly frail persons unless exigent circumstances exist.
 - l) The use of EMDs shall not be used on any subject who has been known to have seizures, has had a seizure or is currently having a seizure.

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- 10} An EMD should not be used in the following circumstances {unless there are compelling reasons to do so which can be clearly articulated}:
a} On a handcuffed person unless they are actively resisting or exhibiting active aggression.
b} When a subject is in a location where a fall may cause substantial injury or death.
c} When the subject is operating a motor vehicle, bicycle or scooter; or riding a horse.
d} When the subject is holding a firearm.
e} In a situation where deadly force is clearly justified unless another Greenville Marshal Department Member is present and capable of providing deadly force to protect the Greenville Marshal Department Members and or civilians as necessary.
- 11} The length of each application is not to exceed the preset cycle. If compliance is attained and, when possible, the Greenville Marshal Department Member will interrupt the charge cycle. If subsequent cycles are necessary, they shall be limited to 3 charge cycle. If subsequent cycles are necessary, they shall be limited to 3 cycles of preset duration. After 3 cycles, another type of force may need to be used.
- 12} When the device is used in bodily contact, a detailed description to be included in the report indicating what precipitated the use of the device, the extent it was used and what results were derived from the use.
- 13} A member shall report verbally to the member's immediate supervisor, any incident involving an on-or off-duty Greenville Marshal Department Member intentionally pointing or aiming an EMD at another person. This includes the activation the laser aiming device, or displaying the device in a "test arc" and the other person or a third person {citizen} is aware of it.
- {5} Any lost lethal or less lethal equipment will be reported to an on duty supervisor immediately. The Greenville Marshal Department Member who lost the equipment shall generate a report of the events surrounding the loss and contact the Marshal immediately.
- {6} Following the use of less lethal force, Greenville Marshal Department Members should use a restraint technique that does not impair respiration.

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{7} Any Greenville Marshal Department Member whose actions or use of force results in death or serious bodily injury shall be placed on administrative leave with pay, pending a review of the incident.

{B} Rendering Medical Aid :

Greenville Marshal Department Members will render appropriate medical aid after the use of lethal or less-than-lethal force.

- 1) When force has been used and medical attention is required, the Greenville Marshal Department Member shall;
 - a) Secure the scene.
 - b) Summon medical assistance.
 - c) Render first aid and maintain close observation of the subject.
- 2) Only fire/rescue, medical care, or hospital emergency room personnel should remove the projectile probes from sensitive areas.
- 3) Even after medical care, all persons who have been exposed to EMD activation should be monitored regularly during their initial custody.

{C} Reporting the use of force, death, injuries, or force used on another person that is other than non-resistant hand cuffing or use of body belts for transporting of subjects;

- 1) Greenville Marshal Department Members will immediately generate a report which includes all circumstances involving the use of force as defined in this section. The written report shall be submitted to the report system and the Marshal no later than the conclusion of the Greenville Marshal Department Member's tour of duty.
- 2) Greenville Marshal Department Members will immediately report to the Greenville Marshal, the Greenville Town Council President or his Designee, both verbally and later in writing, any discharge of a weapon for other than training, testing or recreational shooting.
- 3) Greenville Marshal Department Members will immediately report the Greenville Marshal, the Greenville Town Council President or his Designee, both verbally and later in writing, any use of force that results in death or serious bodily injury, or force used on another person that is other than non-combative handcuffing or use of body belts for transporting of a subject.

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- 4) Any Greenville Marshal Department Member who in the pursuance of law enforcement duties, witnesses another Greenville Marshal Department Member in the pursuance of law enforcement duties, use physical force which exceeds the degree of physical force necessary to effect an arrest, must immediately report this use of force to the Greenville Marshal, the Greenville Town Council President and his Designee. This report shall be accomplished by inter-office memorandum and shall include any and all copies of other relevant reports. Failure to report such use of force by another Greenville Marshal Department Member may result in subsequent criminal or administrative charges. Any Greenville Marshal Department Member who knowingly makes a materially false statement, which the Greenville Marshal Department Member believes not to be true in reporting the use of physical force, may be subjected to criminal charges as well as administrative charges.
- 5) In the event a Greenville Marshal Department Member discharges a firearm accidentally or in the line of duty, the Greenville Marshal shall obtain the firearm from the Greenville Marshal Department Member for testing or evaluation purposes. Unless suspended, the Greenville Marshal Department Member shall have a replacement firearm until the Greenville Marshal Department Member's firearm is returned.
- 6) Any incident, with the appropriateness of the use of a firearm {not discharged} is questioned, shall be reported to the Marshal, Greenville Town Council President Designee and the Town Council President.
- 7) Any incidents shall immediately be reported when use of force involves death and/or injuries to the Marshal, Town Board President Designee, and the Town Board President.
- 8) Excessive physical force shall be presumed when a Greenville Marshal Department Member continues to apply physical force, in excess of the force permitted to affect arrest, to a person who has been rendered incapable of resisting arrest. The use of such excessive physical force shall be reported.
- 9) All reported incidents involving the use of force involving death and or injuries, or force used on another person that is other than non-combative handcuffing, or use of body belts for transporting a subject, or allegations of excessive force, will be reviewed by the Marshal, Town Board President Designee, and the Town Board President. Any incident involving the discharge of a firearm shall also be subject to review.
- 10) All reported incidents involving EMD's shall include:
 - a) Completion of a report, including a description of the events leading to and after the use of the EMD.

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- b} Photographs of the subject and Greenville Marshal Department Member injuries to include application points.
- c} Collection of the cartridges and confetti tags.
- d} Proper biohazard disposal of the probes.
- e} Copies of the device data download.
- f} Copies of the device video download, where it applies.

{D} Critical Incident Support;

Greenville Marshal Department Members may become involved in critical incidents that are traumatic to the Greenville Marshal Department Member. The following should apply;

- 1} Greenville Marshal Department Members, who respond to a critical incident scene, should express genuine concern for the Greenville Marshal Department Member's emotional and physical well being. They should avoid discussing the specific incident with the Greenville Marshal Department Member and should not verbalize their opinions concerning justifications of actions, nor discuss the incident with any unauthorized person.
- 2} The Greenville Marshal Department Member{s} involved shall be removed from the scene to the Marshal Office as soon as possible by another Greenville Marshal Department Member and or personal friend. The companion should remain with the Greenville Marshal Department Member unless the Greenville Marshal Department Member desires to be left alone. The Greenville Marshal Department Member shall not be subjected to questioning during this time, except as absolutely necessary to the on-scene investigation.
- 3} The involved Greenville Marshal Department Member should not be offered stimulants such as coffee, cigarettes, because stimulants may further stress an already stressed person.
- 4} An involved Greenville Marshal Department Member shall be kept informed of the status of the investigation by the immediate supervisor or the assigned investigator.
- 5} If a Greenville Marshal Department Member has a handgun taken for investigative reasons, it shall be replaced by a similar or like weapon as soon as possible, unless the Greenville Marshal Department Member is extremely stressed, injured or has been suspended.
- 6} A reasonable recovery time {normally 1 hour} will be allowed a Greenville Marshal Department Member before questioning, when possible.
- 7} The Marshal, Greenville Town Council President or his Designee shall appoint a Member to assist the Greenville Marshal Department Member and his/her family through the crisis period.

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- 8) The agency representative will coordinate with the Greenville Marshal Department Member, to contact the Greenville Marshal Department Member's family, to advise them of the incident and of the procedures that will follow. The Member will establish an open line of communication with the family to answer questions, dispel rumors and see to the immediate needs of the family. If the Greenville Marshal Department Member is hospitalized, arrangements shall be made to transport the family to the hospital.
- 9) After initial recovery time, the Greenville Marshal Department Member may be formally interviewed, unless the Greenville Marshal Department Member is suspected of criminal wrongdoing, the Miranda warning should not be given.
- 10) The Marshal, Greenville Town Council President or his designee, shall arrange for a debriefing involving all members with a mental health specialist within 48 hours of the incident.
- 11) The mental health specialist will provide critical incident support for only those Greenville Marshal Department Members involved in the incident.
- 12) Administrative leave of absence with pay may be appropriate in matters of incident trauma, at the discretion of the Marshal, Greenville Town Council President or his designee a temporary duty assignment may be authorized.
- 13) Each critical incident shall be debriefed as soon as practical. The debriefing shall include:
 - a) A review of Greenville Marshal Department Members and community actions during the incidents.
 - b) A review of the incident's impact on Greenville Marshal Department Members and the community.
 - c) A review of corrective actions taken and other actions that may still be needed.
 - d) Plans for improvement to avoid another incident.

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ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON
THE 4th DAY OF MAY, 2009.

PRESIDENT OF THE TOWN
COUNCIL OF GREENVILLE,
INDIANA



TALBOTTE RICHARDSON



JACK TRAVILLIAN,
CLERK/TREASURER

PREPARED BY:
GREENVILLE MARSHAL DEPARTMENT
AND RANDAL JOHNES