



# Florida Highway Patrol Policy Manual

<b>SUBJECT</b> RESPONSE TO RESISTANCE	<b>POLICY NUMBER</b> 10.01	<b>ISSUE DATE</b> 02/01/1996
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## **10.01.01 PURPOSE**

To establish policy, guidelines, and limitations concerning the response to resistance and the use of control, including deadly force, by members of the Florida Highway Patrol.

## **10.01.02 AUTHORITY**

The Florida Highway Patrol is granted authority to employ control techniques, including the utilization of force likely to cause death or great bodily harm, in the performance of its official duties in accordance with the provisions of Chapter 776, Florida Statutes.

Florida Highway Patrol Policy is more restrictive than Florida Statutes.
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## **10.01.03 POLICY**

It is the policy of the Florida Highway Patrol to comply with the provisions of law concerning the use of control in the lawful performance of duties. Members may resort to the use of control, including the use of force likely to cause death or great bodily harm, only when authorized by law. All use of control should be objective and reasonable in light of the totality of the situation. No member is authorized to use deadly force, including in preventing an escape or to capture a fleeing felon, unless the member has reasonable cause to believe that the subject poses an imminent threat of death or serious bodily harm to the member or another person and such other provisions of section 10.01.07(A)(9) of this policy have been met.

#### 10.01.04 DEFINITIONS

- A. **AGGRESSIVE RESISTANCE** – A subject's attacking movements that may cause injury but are not likely to cause death or great bodily harm to the member or others while effecting a lawful detention or arrest. Examples include but are not limited to: subject balls up their fist and approaches the member; subject forces the member back as the member tries to take subject into custody; subject grabs any part of the member's body.
- B. **ACTIVE RESISTANCE** – A subject's use of physically evasive movements to elude or evade lawful detention or arrest. Examples include but are not limited to: bracing, tensing, pushing, pulling, or fleeing to prevent the member from establishing control over the subject.
- C. **PASSIVE RESISTANCE** – A subject's verbal and/or physical refusal to comply with a lawful direction causing the member to use physical techniques to establish control. Examples include but are not limited to: the subject refuses to move at the member's direction; the subject peacefully protests at a political event in a public location; the subject refuses to take their hands out of their pockets or from behind their back.
- D. **CONTROL** – Physical measures employed by members to overcome resistance, aggressive behavior, or actual or attempted flight while effecting a lawful arrest, including any application of Aerosol Subject Restraint (ASR), expandable baton, Conducted Energy Weapon (CEW), the intentional discharge of a firearm, and measures likely to cause death or great bodily harm.
- E. **COUNTERMOVES** – Techniques that impede a subject's movement toward a member or others, such as blocking, striking, distracting, kicking, dodging, weaving, redirecting, or avoiding, followed by appropriate controlling techniques.
- F. **DEADLY FORCE** – Force which is likely to cause death or great bodily harm as provided in Section 776.06, Florida Statutes.
- G. **DE-ESCALATION** – Reducing the intensity of a situation through the combined use of communication, empathy, and officer safety skills.
- H. **EXCESSIVE FORCE** - Use of force that exceeds the degree of force permitted by law, policy, or the observing officer's employing agency.

- I. **FORCIBLE FELONY** – Treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.
- J. **GREAT BODILY HARM/SERIOUS PHYSICAL HARM** – Bodily injury that creates a substantial risk of death; causes serious, personal disfigurement; or results in long-term loss or impairment of the functioning of any bodily member.
- K. **IMPACT WEAPONS** – Any object used for striking. Impact weapons may disable or cause temporary motor dysfunction.
- L. **INCAPACITATION TECHNIQUES** – Control methods that are intended to render a subject temporarily disabled.
- M. **INTERMEDIATE DEVICES** – Devices designed to supplement weaponless control methods. The definition includes devices, such as the expandable baton, the ASR, and the CEW. Intermediate devices are not designed to replace firearms and may not provide sufficient control when resistance by means of deadly force is offered.
- N. **MECHANICAL COMPLIANCE** – A technique used to gain control over a subject by applying pressure or leverage on a joint by locking it up so that no movement of the joint is possible, causing the subject to comply with verbal direction.
- O. **OBJECTIVELY REASONABLE** – The determination that the necessity for using physical control and the level of physical control used is based upon the member's evaluation of the situation and is in light of the totality of the circumstances known to the member at the time. The physical control that is used is also what a reasonably prudent law enforcement officer would use under the same or similar situations.
- P. **PAIN COMPLIANCE** – A subject's response to a combination of pain and verbal commands to stop resisting.

- Q. **PUBLIC SAFETY STATEMENT** – A brief verbal statement after a critical incident that is intended to establish the level of danger that may still exist, aid the initial operational response to locate suspects, and focus the initial stage of the investigation, to include the preservation of evidence.
- R. **REASONABLE SUSPICION** – The facts or circumstances that reasonably indicate that a person has committed, is committing, or is about to commit a violation of the law.
- S. **RESTRAINT DEVICES** – Tools designed to temporarily restrain a subject's movements, such as handcuffs.
- T. **TAKEDOWNS** – Techniques used to bring a resisting subject from a standing position to the ground, making it easier to control him or her.
- U. **TEMPORARY MOTOR DYSFUNCTION** – A type of incapacitation that causes temporary impairment of muscle control, such as a charley horse.
- V. **TRANSPORTERS** – Techniques used to move a subject from one point to another with pain compliance and/or mechanical compliance.

#### **10.01.05 OBJECTIVES**

- A. To protect all human life and promote physical safety.
- B. To ensure that members of the Florida Highway Patrol employ no more than the amount of control that is necessary and reasonable to prevent escape, overcome resistance, and effect arrests during the performance of their official duties.
- C. To ensure that sworn members receive training and demonstrate proficiency in the use of all weapons authorized by the Florida Highway Patrol before being allowed to carry or use them.
- D. To implement measures that will enhance the integrity of law enforcement operations and contribute to the safety and security of the sworn members of the Division.
- E. To ensure that members receive training on response to resistance options such as use of control methods, alternatives to use of control, including de-escalation techniques, and proportional use of force.

- F. To ensure that members receive training on and are aware of the duty to intervene in another law enforcement officer's excessive use of force when objectively reasonable.
- G. To ensure that members receive training and are aware of the duty to provide medical assistance to any person when it is evident that they require medical attention and it is safe to do so.

#### **10.01.06 RESPONSIBILITIES**

- A. The Florida Highway Patrol Training Academy shall:
  - 1. Exercise responsibility for the development of in-service use of control and response to resistance training programs. This training will be conducted annually and include, at a minimum, a review of applicable statutes, including Chapters 776 and 943, Florida Statutes, and this policy.
  - 2. Evaluate the content of such programs periodically in order to ensure compliance with current legislation, developments in case law, and tactical considerations related to officer safety.
  - 3. Develop training on the recognition of the symptoms and characteristics of an individual with a substance abuse disorder or a mental illness or disability and appropriate responses to an individual exhibiting such symptoms or characteristics.
  - 4. Develop annual training for managing investigations for incidents involving the use of force or other law enforcement action that involved the death or serious bodily injury of a person.
- B. Troop/bureau commanders are responsible for ensuring completion of use of control and response to resistance training within their troop each year.
- C. The Office of Professional Compliance Commander shall:
  - 1. Create and maintain a repository for all Use of Control Reports generated pursuant to the provisions of this directive.
  - 2. Provide a method for analyzing Use of Control incidents and for:
    - a. Identifying members who are involved in three or more Use of Control incidents during any twelve-month period.

- b. Completing an annual analysis of Use of Control incidents, policies, and practices which shall include but is not limited to:
      - 1) Date and time of incidents;
      - 2) Types of encounters resulting in use of control;
      - 3) Trends or patterns related to race, age, and gender of subjects involved;
      - 4) Trends or patterns resulting in injury to any person including all personnel; and
      - 5) Impact of findings on policies, practices, equipment, and training.
  - 3. Provide the annual analysis to the Director or designee and the Florida Highway Patrol Training Academy for review.
  - 4. Complete an annual review of all assaults on Florida Highway Patrol members which shall include but is not limited to:
    - a. Determining trends or patterns;
    - b. Recommendations to enhance officer safety;
    - c. Revising policy; and
    - d. Addressing training issues, if necessary.
  - 5. Shall be responsible for the preparation of the quarterly report to the Florida Department of Law Enforcement (FDLE) on the use of control by the Florida Highway Patrol, as required by Section 943.6872, Florida Statutes.
- D. The Bureau of Criminal Investigations and Intelligence, in consultation with the Office of Professional Compliance, shall oversee/command all "Use of Control" investigations initiated at the instruction of the Director, including:
- 1. Internal investigations concerning the use of control involving serious injury/death or the unauthorized discharge of a firearm by any Division member.

2. Allegations of excessive force raised against members of the Division.

Any investigation of an incident covered by the FHP/FDLE Memorandum of Understanding described in section 10.01.07(F) of this policy shall take precedence over any investigation of such incident conducted by the Bureau of Criminal Investigation and Intelligence. Investigations by the Bureau of Criminal Investigation and Intelligence shall be conducted in accordance with that FHP/FDLE Memorandum of Understanding.

#### **10.01.07 PROCEDURES**

Members of the Florida Highway Patrol shall in every instance seek to employ the minimum amount of control required to successfully overcome physical resistance, prevent escapes, and effect arrests. Members' actions must be objectively reasonable considering the circumstances confronting them, without regard to their underlying intent or motivation. Members need not wait for injury to occur to themselves or to another before taking appropriate action to prevent it. The decision to employ control must be based upon the totality of circumstances known or reasonably believed by the member at the time such control is used. When danger is reasonably perceived or when resistance is encountered, members should initiate action that is reasonable and necessary. Whenever safe and reasonable, members shall attempt to apply de-escalation techniques prior to the use of control to gain compliance.

##### **A. TYPES OF CONTROL/APPLICATIONS**

1. IDENTIFICATION - If circumstances permit and the member is not in uniform, members must make their identity as a law enforcement officer known.
2. WARNING - Whenever possible, members shall exercise persuasion, advice, and/or warning of the impending response to resistance. Warnings need not specify the type or amount of control to be applied and need only indicate that the appropriate response will be utilized if compliance is not obtained. However, members are not expected to place themselves or others in jeopardy in order to deliver such warnings, and if a warning is ineffective, the appropriate response to resistance should be used to effect the arrest.
3. DE-ESCALATION TECHNIQUES

- a. Members need not retreat from any situation. When the totality of circumstances permit, the member shall use de-escalation techniques and other alternatives during citizen encounters, thereby reducing the need for higher levels of physical control while not compromising the safety of the member(s) or the public.
- b. Whenever the totality of circumstances permit, the member shall allow a person reasonable time and opportunity to submit to verbal commands before higher levels of physical control are used, when such delay will not compromise the safety of the member or others, and will not result in the destruction of evidence, escape of a suspect, or commission of a crime.

#### 4. WEAPONLESS CONTROL METHODS

- a. Non-Impact Techniques - Firm grip and pain compliance techniques designed for subject control; transporters when verbalization proves ineffective. A firm grip and/or pain compliance control method may be all that is necessary to overcome a subject's resistance.
- b. Takedown Techniques - Techniques which may be employed when reasonably necessary to bring a resisting subject from a standing position to the ground, making it easier to control him or her.
- c. Impact Control Techniques - Upper and lower body strikes may be employed to stop active or aggressive resistance by the subject.

#### 5. INTERMEDIATE CONTROL METHODS

- a. Non-Impact Techniques – The expandable baton may be employed as a control instrument in conjunction with weaponless, non-impact control procedures to apply pressure to pressure-sensitive areas, thereby effecting control.

NOTE: Unless deadly force is justified, control devices shall not be used to apply pressure to the head, neck, or throat.



- b. Impact Techniques - The expandable baton may be used as a defensive impact device in situations where the use of deadly force may not be justified or necessary and the sworn member reasonably believes that the use of weaponless control methods will be ineffective or will jeopardize the safety of the member or another. If in an emergency it becomes necessary to use a flashlight or other object as an impact weapon, it shall be employed in the same manner as an expandable baton.
  - c. Chemical Agents – Chemical agents are substances designed to temporarily render a subject incapable of continued resistance. Chemical agents shall only be directed at the person to be controlled for the amount of time necessary to establish such control.
  - d. CEW – The CEW may be used in accordance with FHP Policy 10.05 to temporarily render a subject incapable of continued resistance.
  - e. Canines - Use of control by means of canines will be governed by guidelines set forth in the Florida Highway Patrol Canine Training curriculum.
- 6. CHOKEHOLDS – Members are prohibited from using chokeholds, vascular neck restraints, or any other technique that is likely to restrict the subject's intake of air unless the use of deadly force is justified.
  - 7. USE OF VEHICLE - As it relates to use of control situations, members may employ the precision immobilization technique (PIT) or intentional contact in accordance with FHP Policy 17.05.
  - 8. CANINE DEPLOYMENT FOR CRIMINAL APPREHENSION – The use of control in the form of a canine deployment for criminal apprehension will be in accordance with FHP Policy 3.02.
  - 9. DISCHARGE OF FIREARMS - Members shall not discharge firearms or otherwise employ deadly force in the performance of their official duties, EXCEPT under the following circumstances (the discharge of a firearm constitutes deadly force):

- a. When the member reasonably believes that such action is necessary:
  - 1) To protect the member or another from an imminent threat of death or great bodily harm.
  - 2) To prevent the commission of a forcible felony involving the imminent threat of death or great bodily harm after other control methods have failed or been determined to be impracticable. However, ramming, bumping, or attempting to ram or bump a patrol vehicle by a violator will not be construed as constituting justification for the use of deadly force, unless the member reasonably believes that the violator's actions pose a threat of death or serious bodily harm to the member or others.
  - 3) To affect the arrest of felons fleeing from justice, but only after all the following criteria have been met:
    - a) Such force is needed to prevent an arrest from being defeated by such flight; and
    - b) Warnings have been given, when possible; and
    - c) The member reasonably believes the fleeing felon poses an imminent threat of death or serious physical harm to the member or others.
- b. To give alarm or summon assistance in an emergency when no other means can be used.
- c. During participation in firearms training, practice, or competition.
- d. In accordance with Section 828.05, Florida Statutes, to kill a domestic animal that has been severely injured but only after all of the following criteria have been met:
  - 1) The animal is on or near a public right-of-way; and

- 2) The animal appears to be suffering, cannot be cured or rendered fit for service, and seems to be in danger of death; and
  - 3) A reasonable effort has been made to locate the owner, the owner's agent, or a veterinarian.
- e. Additionally, members are authorized to use department issued firearms to kill dangerous animals/reptiles or to euthanize seriously injured wildlife when other dispositions are impractical. Each incident shall be evaluated to determine if:
- 1) The discharge of a firearm will not endanger persons or property or create a negative public image of the division.
  - 2) The animal appears to be suffering and survival of sustained injuries or rehabilitation at a wildlife rescue is unlikely.
  - 3) The availability and proximity to a wildlife rescue facility.
  - 4) The wildlife poses an imminent threat to the member or others.

If it becomes necessary for a member to kill or euthanize an animal, as described 10.01.07(A)(9)(d) or (e), by discharging their issued firearm, an incident report shall be completed and submitted to the appropriate supervisor prior to the member going off-duty. The on-duty Troop Watch Supervisor/District supervisor shall be notified as soon as the situation stabilizes.

#### B. PROHIBITED ACTS - FIREARMS

1. Warning shots are prohibited, and no member of the Division may discharge a firearm for the purpose of inducing a fleeing suspect to stop.

2. No member shall display or unholster a firearm in the presence of others unless such display is reasonably necessary as part of the member's official duties. There shall be no horseplay with firearms, loaded or unloaded, or with any other weapons. It shall be the duty of every member of the Division to use sound, responsible judgment in the handling of firearms and other weapons or devices in order to prevent accidental discharge that may result in injury, death, or damage to property.

C. DUTY TO RENDER AID AND MEDICAL ASSISTANCE

Whenever a member employs any physical means to overcome resistance; including the use of weaponless control techniques, intermediate control methods, or deadly force; such member shall, unless physically incapacitated:

1. Ensure that the subject has been properly restrained or no longer poses an immediate threat to the safety of officers or others.
  - a. Restrained subjects shall be placed in an upright or seated position.
  - b. Specifically, heavyside persons, if handcuffed, shall not be required to remain in a prone position (lying on chest).
2. Determine the physical condition of the person(s) subjected to physical control.
3. As soon as reasonably possible, members are to render first aid in accordance with training to treat any injuries and activate the emergency medical system via dispatch if obvious severe injuries have occurred, medical distress is apparent, the individual is unconscious, or other medical assistance is needed.
4. Provide assistance to persons subjected to the effects of ASR, including:
  - a. Reassuring the subject that the effects of the substance are temporary and that the care being provided will assist with recovery.
  - b. Monitor the subject for physical conditions that would indicate the possible onset of a medical emergency, including:

- 1) Profuse sweating.
  - 2) Chest/neck pain.
  - 3) Shallow or restricted breathing.
  - 4) Loss of consciousness.
  - 5) Manifestations of paranoia/panic.
  - 6) Sudden tranquility after an outburst of bizarre or aggressive behavior.
- c. If one or more of the medical conditions cited in "b" above are detected, the member shall immediately summon EMS. Once EMS has arrived on scene, the subject shall be evaluated before being transported.
5. Provide assistance to persons subjected to the effects of the CEW in accordance with FHP Policy 10.05.

All members have a duty to follow their training and render medical assistance when it is evident to the member that a person who is detained or in custody requires medical attention. Members are to provide first aid or seek medical assistance when such action is reasonable based on the totality of the circumstances and the officer may do so without jeopardizing their own health or safety.

#### D. DUTY TO REPORT

Whenever a member employs any use of control as outlined in sections F and G below, such member shall:

1. Provide immediate notification and a public safety statement to their chain of command via their immediate supervisor or designated on-duty supervisor.
  - a. Such notification shall occur as soon as the situation at the scene has been stabilized and shall include at a minimum:
    - 1) The location of the injured parties;
    - 2) A description and identity, if known, of the suspects;
    - 3) The nature of the crime(s) committed;

- 4) A description of the incident scene;
    - 5) The location of evidence and/or weapons; and
    - 6) Any other pertinent information that can assist in the apprehension of any suspects to ensure officer and public safety.
  - b. The supervisor shall only ask questions specific to the facts necessary to secure the scene, identify suspects and witnesses, and identify any injured person(s) and their location(s).
  - c. Responding supervisors should be aware that the member has been involved in a critical incident which may result in confusion and/or disorientation.
  - d. The public safety statement provided by the member shall not be viewed as a formal interview.
  - e. The member shall not be requested to provide the public safety statement to personnel who are investigating the incident.
  - f. Information provided by the member as part of the public safety statement or in response to questions by the supervisor receiving the public safety statement will not be used against the member in any criminal or administrative investigation.
2. Prepare and submit an arrest and/or incident report.
- a. The report will outline:
    - 1) The details of the incident;
    - 2) The identity and address of subjects/witnesses; and
    - 3) The type of resistance encountered, and control method used.
  - b. Members shall submit all reports to their immediate supervisor or designated on-duty supervisor prior to going off-duty.

- c. Members are exempt from submitting an incident report if the member is:
  - 1) Physically incapacitated (the member will complete the report when capable); or
  - 2) Involved in any incident covered by the FHP/FDLE Memorandum of Understanding as outlined in Section F.
  - 3) Involved in any use of control incident, as outlined in Section G, that results in serious bodily injury to another person.
- d. In such instances where the member is exempt from completing the incident report, their immediate supervisor or designated on-duty supervisor will complete an incident report documenting the public safety concerns and other information provided by the member in accordance with Section 1 above.
- 3. The simple use of handcuffs or application of wrist/joint locks (if the use of such have little or no chance of producing injuries when gaining control over or subduing non-compliant or resisting persons) does not require notification or a written report as outlined in this policy. If such use results in injury or the complaint of injury, members shall write such reports and notify supervisors as outlined.

#### E. DUTY TO INTERVENE

- 1. All members have the duty to intervene in another law enforcement officer's excessive use of force, where an on-duty member observes another law enforcement officer engaging or attempting to engage in excessive use of force. The member should intervene to end the excessive use of force or attempted excessive use of force when such intervention is reasonable based on the totality of the circumstances and the member may intervene without jeopardizing their own health or safety.

2. All members have the duty to intervene when another law enforcement officer violates state or federal laws or, in the case of another member, department policy. The member should intervene immediately if the other law enforcement officer's actions could result in death, injury, or violations of constitutional rights. In all other instances, the member's duty to intervene immediately should be based upon whether such intervention is reasonable and warranted based on the totality of the circumstances and training.
3. The member shall report the incident in person or via phone or radio, as soon as is practicable, to any on-duty supervisor.
4. The reporting member will submit an incident report documenting the incident and actions the member took prior to the end of their shift.
5. The supervisor receiving the report shall immediately notify the member's supervisor and the troop commander, via the chain of command, of the incident so that the appropriate investigative steps into the reported excessive use of force can be taken. Each notification shall be made in person or via the phone or radio.
6. In the event that the alleged excessive or illegal force was committed by a law enforcement officer not employed by the Florida Highway Patrol, the supervisor will notify the district commander. A district commander or higher-ranking member shall immediately make contact with the agency that employs the officer and report the incident to an appropriate level supervisor within that agency. The district commander will document in the CAD the name of the supervisor notified as well as the date, time, and method of notification of the incident.
7. Members are prohibited from retaliating against any member or law enforcement officer who takes action to intervene or alleges unreasonable, excessive, or illegal use of force; reports the misconduct or violations of law or policy; or cooperates in an investigation regarding the use of force.

F. INCIDENTS COVERED BY THE FHP/FDLE MEMORANDUM OF UNDERSTANDING



1. The Florida Highway Patrol and the Florida Department of Law Enforcement have entered into a Memorandum of Understanding regarding the investigation of the following types of incidents:
  - a. The shooting of a person by a member acting in the line of duty;
  - b. The shooting of a member in the line of duty;
  - c. The use of control by a member which results in the death of any person;
  - d. The infliction of serious bodily harm upon a member acting in the line of duty (other than in a traffic crash or other accidental circumstance);
  - e. The intentional discharge of a firearm by a member that results in injury or death; OR
  - f. The death of an arrestee while in the care, custody, or control of a member; the death of an arrestee shortly after being in the care, custody, or control of a member; or the death of an intended arrestee during an arrest attempted by a member.
2. FDLE will assume overall direction and responsibility for all criminal investigations involving the above listed types of incidents.
3. FDLE will promptly coordinate the dispatch of the critical incident team, appropriate crime laboratory personnel, medical examiner personnel, state attorney personnel and additional law enforcement personnel as required.
4. The Office of Inspector General will be responsible for any internal or administrative investigations involving the above listed types of incidents.
5. Duties of the ranking FHP member on the scene.
  - a. Ensure that the Troop Watch Supervisor is notified.

- b. Secure the scene. No one is to be allowed into the scene except emergency medical personnel, crime scene technicians, medical examiner personnel, state attorney personnel, investigating FDLE members, and other non-FHP law enforcement investigators assisting FDLE.
  - c. Ensure that all physical evidence at the scene is protected and preserved pending the arrival of FDLE.
  - d. Identify and separate all law enforcement and citizen witnesses pending the arrival of FDLE.
  - e. Coordinate crowd/traffic control with local law enforcement agencies.
  - f. Cooperate with FDLE investigative personnel.
6. Duties of the Troop Watch Supervisor
- a. Ensure that an FHP supervisor and emergency medical personnel have been dispatched to the scene.
  - b. Notify the FHP chain of command and the FHP Peer Support Team Leader, if available.
  - c. Notify the appropriate FDLE regional operations center to request that an FDLE Critical Incident Team be dispatched to the scene.
  - d. Notify the troop Public Affairs Officer, the local Sheriff's Office, and if the incident occurred within an incorporated municipality with a police department, the Chief of Police.
7. Duties of the Troop Commander
- a. Notify the Professional Compliance Commander and the Bureau Commander of the Bureau of Criminal Investigations and Intelligence.
  - b. Ensure appropriate supervisory or investigative personnel are assigned to conduct an independent administrative investigation and complete the Supervisory Use of Control Report (HSMV 60215), if appropriate.

- c. If the member was killed or injured, include the incident on the Law Enforcement Officer Killed or Assaulted Report Supplement (HSMV 62050) and forward to the Office of Professional Compliance.
- 8. Duties of the Bureau of Criminal Investigations and Intelligence
  - a. Assign an investigator(s) to serve as a liaison with FDLE with any criminal investigation.
  - b. While assisting FDLE, Bureau of Criminal Investigations and Intelligence personnel will coordinate and provide assistance as requested by FDLE but will not take part in the investigation.
- 9. After consultation with FDLE, FHP may release an initial press statement acknowledging an incident, reporting the status of the member(s) involved in the incident, and making reference to the investigative process. FDLE is responsible for all subsequent press statements related to the investigation. All media inquiries concerning the investigation will be referred to FDLE.
- 10. FDLE is responsible for producing an independent report upon the completion of its independent review. FDLE will report the material factual findings of the investigation but will offer no recommendations or reach legal conclusions concerning whether the force used, if any, was justified. The independent report must be submitted to the state attorney of the judicial circuit in which the use of force occurred.
- 11. The foregoing notwithstanding, the appropriate Office of the State Attorney or another law enforcement agency may assert primary jurisdiction and responsibility for investigations and reports, such as are contemplated in this section and required by Section 943.1740, Florida Statutes. In such instances, FDLE and FHP will refrain from participation in the investigation of the incident, unless the Office of the State Attorney requests the FDLE and FHP to proceed with the investigation of the incident pursuant to the FHP/FDLE Memorandum of Understanding. However, FDLE will provide forensic assistance as requested by the Office of State Attorney.

G. USE OF CONTROL INCIDENTS NOT COVERED BY THE FHP/FDLE  
MEMORANDUM OF UNDERSTANDING

4. All use of control incidents that do not result in the death of a person involving the application of:
  - a. The CEW;
  - b. The ASR;
  - c. The expandable baton;
  - d. The vehicular PIT;
  - e. Vehicular intentional contact;
  - f. The discharge of a firearm that does not result in an injury to any person; or
  - g. A control method that results in injury to any participant that is not covered by the FHP/FDLE Memorandum of Understanding will be investigated by FHP personnel and recorded on the Supervisory Use of Control Report (HSMV 60215).
2. Duties of the Bureau of Criminal Investigations and Intelligence
  - a. In the case of a firearms discharge, except when used on animals, the Bureau Commander of the Bureau of Criminal Investigations and Intelligence shall be notified immediately and shall assign an investigator.
  - b. Bureau of Criminal Investigations and Intelligence will investigate in consultation with the Office of Professional Compliance.
3. Duties of the On-Duty/On-Call Supervisor
  - a. Arrange for protection/processing of the crime scene (if appropriate).
  - b. Arrange to have witnesses identified/detained (if applicable).
  - c. Notify the Troop Watch Supervisor of the incident.
  - d. Respond to the scene/hospital/jail to review the situation.

- e. Conduct a preliminary investigation, document findings on the Supervisory Use of Control Report (HSMV 60215) and submit such report, including statements from witnesses, to the troop supervisory staff prior to concluding their tour of duty.
- 4. Duties of the Troop Commander
  - a. Arrange for the investigation to be conducted by the duty supervisor or other personnel assigned to the troop.
  - b. Arrange for a review of the incident by members of the troop supervisory staff and for appropriate follow-up action.
  - c. If the member was injured, include the incident on the Law Enforcement Officer Killed or Assaulted Report Supplement (HSMV 62050) and forward to the appropriate Chief.
  - d. Subsequent to review at the troop level, the troop commander will forward all reports required by this policy to the Bureau of Criminal Investigations and Intelligence.

H. SHOOTING INCIDENTS RESULTING IN INJURY OR DEATH:

- 1. In the event of a shooting incident resulting in injury or death where a member discharged the weapon, the member shall be immediately placed on administrative leave by the Director in concurrence with the Chief of Personnel Services, which is reflected as work time for a minimum period of three days in order to remove the member from the associated trauma.
- 2. Prior to returning to regular duty, the member will be medically evaluated by an agency-authorized mental health professional in order to determine fitness for duty.
- 3. Under no circumstances will the leave be construed as a disciplinary action.
- 4. In addition, a member of the troop's Peer Support Team shall make every effort to reduce the effects of post-shooting trauma on the member, including but not limited to referral to an agency-authorized mental health professional or other available crisis intervention assistance.

5. An FHP supervisor on the scene shall promptly relieve the member of the weapon used in the shooting for investigation purposes and shall at that time give the member a substitute weapon.
  6. Further actions will be taken, if needed, after determination of the facts are made.
  7. In cases where a member is involved in a deadly force situation and discharges their firearm not resulting in injury or death, the member may be placed on administrative duty and required to be medically cleared by an agency-authorized mental health professional prior to returning to full duty status.
- I. **USE OF CONTROL REVIEW SYSTEM:** This system is designed to supplement existing departmental programs created to identify and assist members with job stress and/or performance problems. The review of the Supervisory Use of Control Report should be used by supervisors as another resource in determining if job stress or performance problems exist. It is intended to serve as a resource for evaluating and providing guidance to the member.
  - J. **DIVISION STANDARD:** This directive is intended for Division use only. Violations shall serve as a basis for administrative sanctions only. Violations of law shall form the basis for any civil or criminal actions brought in the appropriate judicial setting.

#### **10.01.08 REGULATIONS**

- A. All members of the Florida Highway Patrol shall maintain the required Division approved intermediate control device(s) on their person while in uniform and outside the confines of an official vehicle or Division installation. This regulation shall be binding upon all personnel in uniform, whether on-duty or off-duty, in accordance with FHP Policies 6.01 and 10.02.
- B. The ASR is the primary intermediate weapon issued by the Florida Highway Patrol, owing to the capability of this substance to incapacitate without inflicting serious, lasting injury/discomfort to an assailant. Members who by virtue of a pre-existing medical condition are unable to complete ASR training will be required to maintain certification with and carry the expandable baton on their duty belt as an alternative in accordance with the provision of "A" above.

- C. Members who have been assigned a CEW **must** also carry the Division issued ASR, unless the preceding paragraph applies to the member.
- D. Members seeking to be excluded from ASR training shall be required to submit a statement from a physician, outlining the medical condition/reason that precludes the member's participation. The Division may, at its option, also require such personnel to submit to an examination by a physician under contract to the Division in order to ensure that the medical condition/reason claimed by the member does not diminish their capacity to serve as a law enforcement officer.