

RESOLUTION NO. 30443

A RESOLUTION ACKNOWLEDGING THE ACCOMPLISHMENTS OF THE CHATTANOOGA POLICE DEPARTMENT IN CONDUCTING A COMPARISON OF ITS ADOPTED POLICIES WITH #8CANTWAIT PRINCIPLES AND THE RECENT AMENDMENTS BY THE CHIEF OF POLICE CONCERNING OFFICER DUTY TO INTERVENE, STOP AND REPORT OTHER MEMBERS OF THE DEPARTMENT IF THEY ARE OBSERVED TO COMMIT AN UNLAWFUL OR IMPROPER ACT IN THE COURSE OF THEIR DUTIES AS POLICE OFFICERS.

WHEREAS, the Chattanooga Police Department has recently conducted a review of its adopted use of force policies and has compared its existing use of force policies with #8cantwait principles; and

WHEREAS, regarding Chokeholds and Strangleholds – the Chattanooga Police Department has determined that chokeholds are essentially prohibited under Tennessee law, unless certain elements are included in the training and the Chattanooga Police Department does not train nor does it allow the use of chokeholds or neck restraints. Chokeholds are addressed in CPD Use of Force policy ADM-05; and

WHEREAS, Chattanooga Police Department policies regarding Deadly Force are defined in ADM-5 as any tactic or force which is likely to cause death or serious physical injury, such as the use of a firearm or impact weapon strikes to certain areas of the body. The use of chokeholds or other neck restraints shall be considered deadly force and only used in deadly force assaults, or deadly force incidents as defined; and

WHEREAS, Deadly Force Assaults are defined in ADM-5 as force, used against an officer and/or another person, which imposes an immediate threat of serious bodily injury or loss of life; and

WHEREAS, Deadly Force Incident is defined in ADM-5 as all instances in which an officer uses deadly force in the line of duty or when acting in a law enforcement capacity, whether or not the use of such force results in a fatality; and

WHEREAS, De-Escalation is addressed in ADM-05 Use of Force as follows:

In non-deadly force situations, the use of force shall generally begin with officer presence and may progress up the use of force continuum to the use of impact weapons. However, officers may immediately use any authorized option or level when necessary for officer safety or the safety of others, provided that only the minimal amount of force necessary shall be used. Officers shall deescalate the level of force employed as the suspect/violator renders compliance to the officer's directions or instructions; and

WHEREAS, current CPD policies address the requirement of Warning Before Shooting in ADM-05 as follows:

- a. The use of deadly force is authorized when an officer reasonably believes that its use is necessary in order to stop an imminent threat of serious bodily harm or death against the officer or another person.
- b. An officer's decision to use deadly force will be judged only on what information and observations were known to the officer at the point when deadly force was used.
- c. Use of firearms is prohibited in the following circumstances:
 - (1) Firing warning shots;
 - (2) Firing at fleeing felony suspects who do not represent an imminent threat to the life of the officer or another person;
 - (3) Firing at or into a moving vehicle which does not represent an imminent threat to the life of the officer or another person;
 - (4) Firing at a vehicle for the purpose of disabling it; and
 - (5) Firing from a moving vehicle.
- d. An officer, after giving verbal notice to the suspect of his or her identity as a police officer, may use or threaten to use force that is reasonably necessary to accomplish the arrest of an individual suspected of a criminal act who resists or flees from the arrest; an officer may use deadly force to effect an arrest only if all other reasonable means of apprehension have been exhausted or are unavailable, and where feasible, **the officer has given notice of such officer's identity as such and given a warning that deadly force may be used unless resistance or flight ceases**, and:
 - (1) The officer has probable cause to believe the individual to be arrested has committed a felony involving the infliction or threatened infliction of serious bodily injury; or

- (2) The officer has probable cause to believe that the individual to be arrested poses a threat of serious bodily injury, either to the officer or to others unless immediately apprehended. (See Tennessee Code Annotated § 39-11-620.)
- e. Officers shall not unnecessarily place themselves in a position of exposure to the immediate threat of death or physical bodily injury when there are reasonable alternative actions, including but not limited to, the following:
- (1) Finding suitable cover;
 - (2) Containing the threat and securing the scene; and/or
 - (3) Waiting for available back-up officers necessary to deal with the situation without the necessity of the use of deadly force if possible.
- f. Immediately after any injury in the presence of an officer, including any injury resulting from the use of deadly force, the officer shall assess the resulting trauma or injury, render any necessary first aid and summon emergency medical assistance if necessary; and

WHEREAS, current CPD policies require Officers to Exhaust All Means Before Shooting, ADM-05 addresses identification of officers and warnings and exhausting all other means before the use of deadly force should occur as authorized by Tennessee law and Supreme Court precedent. See ADM-5 subsection (d) above; and

WHEREAS, regarding a Duty to Intervene, ADM-16 Code of Conduct has recently been approved by the Chief of Police which clearly requires that it is the individual responsibility of all Officers Duty to Intervene:

Each department member has the individual responsibility to intervene and stop any other member from committing an unlawful or improper act, including but not limited to, acts of brutality, abuses of process, abuses of authority, and any other criminal acts or major violations of department rules and procedures. Successful intervention does not negate a duty to report; and

WHEREAS, current CPD policies under ADM-05 Use of Force have previously Banned Shooting at Moving Vehicles, and have stated that shooting at moving vehicles is prohibited under specific circumstances by the following sentences which are specified as follows:

- (1) Firing at or into a moving vehicle which does not represent an imminent threat to the life of the officer or another person; and
- (2) Firing at a vehicle for the purpose of disabling it; and

WHEREAS, current CPD policies have previously adopted a Use of Force Continuum, and the Chattanooga Police Department has a detailed, written 12-page Use of Force policy. That written policy clearly requires that Officers of the Chattanooga Police Department shall use only the minimum level of force necessary to conduct lawful public safety activities and accomplish the mission of the department. The level of force used by a police officer in any given situation is dependent on the level of resistance presented by the person with whom the officer is dealing. All interactions where force is used by require Officers to document the use of non-deadly and/or deadly force by completing a Use of Force Report. Additionally, Mayor Andy Berke has previously signed the My Brother's Keeper Alliance to review CPD's Use of Force policy and make any reforms that may be needed to protect community members and officers; and

WHEREAS, the written use of force policy adopted by CPD requires a use of force continuum in ADM-5 which is stated as follows:

Use of Force Continuum from CPD Policy:

1. Whenever possible, police officers shall employ a progression of force commonly referred to as the "use of force continuum." The continuum is based on the concept of increasing the police officer's level of control in response to the level of resistance of the suspect or violator. If a suspect or violator increases his level of resistance or threat to the officer, the officer is justified in increasing his level of control. As the suspect's resistance decreases, the officer's use of force shall decrease proportionally until the suspect is safely secured, usually by handcuffing.
2. Due to the varying circumstances of different incidents, it is not always possible for an officer to start at the beginning of the use of force continuum and increase the level of force through each level of control.
3. Officers may be required and may be fully justified in using force that falls at any point on the continuum based on the circumstances. Allowances must be made for the fact that officers are often forced to make split-second decisions about the amount of force that is necessary in a particular situation or circumstances that are tense, uncertain and rapidly evolving. Circumstances impacting the officer's decision may include, but are not limited to, the following:
 - (a) The nature of the offense;
 - (b) The behavior of the subject against whom force is to be used (i.e. verbal dialogue, physical actions);
 - (c) Physical size and conditioning;
 - (d) The feasibility or availability of alternative actions;
 - (e) Location; and
 - (f) The availability of additional officers.

4. The chart below is based on the concept of increasing and decreasing the police officer's level of control in response to the level of resistance offered by the suspect or violator and depicts the escalation / de-escalation of an officer's responses to the suspect's or violator's compliance or non-compliance to the officer's presence, directions or actions:

Individual's Actions Officer's Responses
Psychological Intimidation Officer Presence
Verbal Non-Compliance Verbal Direction
Passive Resistance Soft Empty Hand Control
Defensive Resistance Hard Empty Hand Control & CEW
Active Aggression Intermediate Weapons (Includes Canine)
Deadly Force Assaults Deadly Force

5. As used above, "Active Aggression" is defined as an action, which an officer reasonably believes, constitutes an imminent threat of serious bodily harm or death against the officer or another person. The use of deadly force is dealt with more fully in a separate section.
6. This policy will recognize that there may be occasions when an officer must choose to jump levels of the continuum due to a suspect's actions. Factors that may lead to such a decision will include, but are not limited to the officer's and the suspect's relative age, sex, size, skill level and strength. Other factors which may be considered in a deviation from the use of force continuum may include the officer's and the suspect's proximity to weapons, the officer's and the suspect's relative physical states including any injuries or degree of exhaustion, as well as the officer's distance from the subject and the officer's special knowledge of the subject. The officer must be able to articulate why the deviation from the use of force continuum was necessary when reporting the use of force; and

WHEREAS, regarding Comprehensive Reporting, current CPD policies in ADM-05 Use of Force have addressed reporting as follows:

- A department report of the specific actions of a suspect which resulted in the use of force by the officer or officers; the report will include an accurate documentation of the officer's actions used to overcome the resistance of the suspect, to affect the arrest and/or to protect life or prevent injury.
- PAGE 3 at Section 6. Officers shall document the use of non-deadly force by completing a Use of Force Report. Officers are not required to complete a Use of Force Report for instances where verbal control or officer presence are the only levels of force used. Incidents of the use of verbal control or officer presence shall be detailed in the incident or miscellaneous report. An exception to this rule would be by orders from a supervisor. Officers may be permitted to review any available Body Worn Camera or In Car video prior to completion of the Use of Force Report.

- PAGE 11 The supervisor to whom any firearm discharge is reported shall notify the Office of Internal Affairs and ensure a Use of Force Report of the incident is completed by each officer involved in the incident and forwarded through established channels to the Chief of Police. Multiple officers involved in a single incident need only document their own actions during the incident and not those of others. Included shall be the names of the officer(s) involved, suspect, other concerned persons, the circumstances under which the firearm was used, the nature of the injury inflicted, if any, and the care given afterwards to the injured person(s). In the event that a firearm discharge results in serious bodily injury to any person, the Use of Force report may be submitted by a member of the investigation team in order to protect the due process rights of the involved officer. Officers may be permitted to review any available Body Worn Camera or In Car video prior to completion of the Use of Force Report.
- An incident report shall be completed whenever an officer takes an action that results in, or is alleged to have resulted in the injury or death of another person. If injury or death results from the police use of deadly force, the Major Investigations Division and Internal Affairs shall be notified and conduct an investigation. Each employee is responsible for knowing the content of each order and for complying with each order. The authority to issue, modify or approve written directives of the department rests with the Chief of Police, or the Chief's designee only. All department policy shall be reviewed annually by the Policy Review Committee.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHATTANOOGA, That it hereby acknowledges the accomplishments of the Chattanooga Police Department in conducting a comparison of its adopted policies with the #cantwait principles and the recent amendments by the Chief of Police concerning Officer Duty of Intervene, Stop, and Report other members of the Department if they are observed to commit an unlawful or improper act in the course of their duties as police officers. It is appreciated that the Chattanooga Police Department has been accredited by reviewing agencies such as the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) which was created through the joint efforts of law enforcement agencies such as International Association of Chiefs of Police (IACP), National Organization of Black Law Enforcement Executives (NOBLE), National Sheriff's Association (NSA) and Police Executive Research Forum (PERF) to consider police standards which are

acceptable based on current law and conduct of officers meant to maintain public safety excellence.

All of the adopted standards are continually reviewed and can be considered by the public in connection with these #8cantwait principles.

ADOPTED: August 11, 2020

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