

**CITY OF KIRTLAND**

**RESOLUTION NUMBER 20-R-41**

**A RESOLUTION AUTHORIZING THE MAYOR AND CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH HOLDEN FORESTS & GARDENS FOR THE HOLDEN ARBORETUM POLICE DEPARTMENT TO PROVIDE CERTAIN POLICE SERVICES IN THE CITY OF KIRTLAND, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the administrations of the City of Kirtland and Holden Forests & Gardens (“Holden”), a 501(c)(3) not for profit organization in the State of Ohio, have negotiated an Agreement for the Holden Arboretum Police Department to provide certain police services within the City of Kirtland; and

**WHEREAS**, the City and Holden maintain separate police departments pursuant to Sections 3 and 7 of Article XVIII of the Ohio Constitution and Section 1702.80 of the Ohio Revised Code, respectively; and,

**WHEREAS**, in the interest of contributing to the greater efficiency and safety of Holden property and customers, Holden desires to exercise certain police powers in the City within areas around, adjoining, or near Holden property and routes but that are outside Holden Arboretum Police jurisdiction set forth in R.C. 1702.80; and,

**WHEREAS**, in the interest of mutual aid for the public good, the City desires to enter into an Agreement with Holden, said agreement is attached hereto as Exhibit A.

**WHEREAS**, due to the current state of emergency in Ohio and the governor’s current stay at home order stemming from the COVID-19 pandemic, the Kirtland Community Center has been closed to protect both the community and the staff from potential infection; and

**WHEREAS**, Kirtland Codified Ordinance 220.25 requires the posting of copies of enacted legislation for fifteen consecutive days in three places within the City, those being City Hall, the Kirtland Public Library, and the Kirtland Community Center; and

**WHEREAS**, Kirtland Codified Ordinance 220.25 grants City Council the authority to modify the posting requirement.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Kirtland, County of Lake and State of Ohio, that:

**SECTION 1:** The Mayor and Chief of Police are hereby authorized to enter into an agreement with Holden Forests & Gardens for the Holden Arboretum Police Department to provide certain police services within the City of Kirtland, said Agreement being attached hereto and specifically made a part hereof.

**SECTION 2:** The City Council, pursuant to its authority in Kirtland Codified Ordinance, Section 220.25 and due to the COVID-19 pandemic, hereby modifies the requirement to post this enacted legislation in three places and requires the following:

1. The Clerk of Council is hereby directed to post the enacted legislation in City Hall and the Kirtland Public Library for fifteen (15) consecutive days after the effective date of this legislation; and
2. Due to the closure of the Kirtland Community Center, the Clerk of Council is not required to post said enacted legislation in that location; and
3. The Clerk of Council is hereby directed to post the enacted legislation on the City of Kirtland’s website for fifteen (15) consecutive days after the effective date of this legislation.

**SECTION 3:** It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION 4:** This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that it is necessary to provide for the needs of the municipality and continue ensuring the safety by providing police services in and around the Holden Arboretum area; wherefor, this Resolution shall be in full force and effect immediately upon its passage by the affirmative vote of five (5) members of Council and approval by the Mayor, otherwise this Resolution shall be in effect from and after its adoption at the earliest period allowed by law.

First Reading: \_\_\_\_\_  
 Second Reading: \_\_\_\_\_  
 Third Reading: \_\_\_\_\_

DATE PASSED: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Submitted to the Mayor for his  
Approval on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2020.

ATTEST:

Approved by the Mayor on this \_\_\_\_\_  
day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Clerk of Council  
Holden PD Agreement

\_\_\_\_\_  
Mayor Kevin F. Potter

**AGREEMENT BETWEEN THE CITY OF KIRTLAND AND  
HOLDEN FORESTS & GARDENS FOR HOLDEN ARBORETUM  
POLICE OFFICERS TO PROVIDE CERTAIN POLICE SERVICES  
IN SPECIFIED AREAS IN THE CITY OF KIRTLAND**

This Agreement is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Kirtland ("City"), a municipal corporation of the State of Ohio, and Holden Forests & Gardens ("Holden"), a 501(c)(3) not for profit organization of the State of Ohio, organized and operated under Chapter 1702 of the Ohio Revised Code, through its undersigned duly authorized representative pursuant to the authority of Holden Forests & Gardens Board of Directors.

**RECITALS**

WHEREAS, the City and Holden maintain separate police departments pursuant to Sections 3 and 7 of Article XVIII of the Ohio Constitution and Section 1702.80 of the Ohio Revised Code, respectively; and,

WHEREAS, in the interest of contributing to the greater efficiency and safety of Holden property and customers, Holden desires to exercise certain police powers in the City within areas around, adjoining, or near Holden property and routes but that are outside Holden Arboretum Police jurisdiction set forth in R.C. 1702.80; and,

WHEREAS, Holden is authorized to enter into an agreement with the City under Section 1702.80 of the Ohio Revised Code authorizing Holden Arboretum Police Officers to exercise full arrest powers outside their jurisdiction while within the boundaries of the City; and,

WHEREAS, in the interest of mutual aid for the public good, the City desires to enter into this Agreement with Holden.

NOW, THEREFORE, in consideration of the mutual promises and obligations which are hereinafter set forth, the parties hereto agree as follows:

**ARTICLE I. EXERCISE OF POLICE POWERS**

A. In accordance with the terms and limitations specified in this Agreement, the police officers of the Holden Arboretum Police Department ("Holden PD") shall have full law enforcement authority commensurate with the authority held by Kirtland Division of Police ("KPD") Officers as provided for and limited by Ohio law, all KPD policies and procedures, the attached Protocols, and the provisions in this Agreement, in the following areas and/or for the stated purposes:

1. The areas described in Appendices 1 (Kirtland-Chardon Road), 2 (Booth Road), 3 (Martin Road), 4 (Billings Road) and 5 (Sperry Road), attached hereto as Exhibit A and expressly incorporated herein.

2. When paragraph 1 of Article I applies, Holden PD Officers shall have authority to issue parking infraction notices and moving violation citations for infractions occurring within the areas described in Appendices 1 through 5 in Exhibit A.

3. Holden PD Officers shall have authority to issue parking infraction notices and moving violation citations at and in the Immediate Vicinity of all Holden property in the City of Kirtland. "Immediate vicinity" as used in this Article shall mean the curb lane from a point 60 feet away from Holden property.

4. Holden PD Officers shall have authority to issue parking infraction notices and moving violation citations for infractions occurring on Kirtland-Chardon Road, Booth Road, Martin Road, Billings Road, and Sperry Road as outlined in Appendices 1 through 5 in Exhibit A, attached hereto and expressly incorporated herein.

B. Holden PD Officers, while within the jurisdiction of the KPD, when acting under the provisions of this Agreement shall be acting within the scope of their employment for Holden. Any authority granted by this Agreement to Holden PD Officers is limited to and shall only apply during periods when such Officers are on active pay status. Such powers shall not apply when such Officers are off-duty.

C. Attached hereto and expressly incorporated herein as Exhibit B are the names, ranks, and badge numbers of Holden PD Officers that are appointed and authorized to carry out powers and duties of police officers under the Agreement. During the term of the Agreement, Holden PD shall update this list as applicable by giving written notice to the City's Chief of Police with a copy to the City's Prosecutor.

D. No charges shall be made by either the City or Holden for services rendered by one to the other under the provisions of this Agreement. Each party shall assume the expense of loss or damage to its own equipment that may occur while in the other party's territorial limits or while rendering assistance to the other party.

## **ARTICLE II. PROTOCOLS AND POLICIES**

A. Holden PD has adopted a pursuit policy which is expressly incorporated herein as Exhibit C-1. If this policy is amended, Holden PD agrees to provide KPD a copy of the revised policy within thirty (30) days.

B. Within thirty (30) days of the Effective Date of this Agreement, the Holden PD shall adopt and implement the use of force policy that is expressly incorporated herein

as Exhibit C-2. If this policy is amended, Holden agrees to provide KPD a copy of the revised policy within thirty (30) days of the amendment.

### **ARTICLE III. HOLDEN PD OFFICER TRAINING**

A. Holden PD agrees that, at minimum, it will provide to its officers and their supervisors, the same or comparable training related to use of force, pursuit, crisis intervention, bias-free policing, community policing, investigatory stops, and searches and arrests, as required by the Ohio Attorney General's Office through the Ohio Peace Officer Training Academy ("OPOTA").

1. Within sixty (60) days of the Effective Date of this Agreement, KPD shall provide Holden PD a list of applicable KPD training that is scheduled or will be scheduled in 2020 by KPD and such other information as may assist Holden PD in providing the same or comparable training to its personnel. The KPD training list for 2020 will be updated by KPD when necessary.

2. Upon request by KPD's Chief, Holden PD will provide KPD with information about the type of training provided by Holden and confirmation of completion of training by applicable Holden personnel.

B. Subject to scheduling and resource demands, Holden PD officers shall, at the invitation of KPD, participate in annual joint training and other joint initiatives. Holden PD will make every effort to participate.

C. Each party is solely responsible for its own training-related costs and expenses for its personnel. Upon request by Holden PD, KPD may allow Holden PD personnel to attend applicable training provided by KPD for its own personnel, but Holden shall be solely responsible for any applicable costs or expenses, if any, associated with having Holden PD personnel attend.

### **ARTICLE IV. COMPLAINT PROCESS**

A. Within one (1) year of the Effective Date of this Agreement, Holden shall establish a transparent process accessible to the public for public complaints to be submitted to Holden PD. Holden PD will provide KPD a written description of the complaint process.

B. Upon request of the City's Chief of Police, Holden PD shall promptly provide any information the Chief may reasonably ask for in order to review the complaint process.

## **ARTICLE V. HOLDEN PD PRISONERS**

A. Holden PD shall take an active and on-going role in expediting and/or reducing the incarceration time of Holden PD prisoners the City accepts.

F. For Holden PD prisoners taken into custody by Holden PD pursuant to warrants issued by the City, and who require hospitalization or other healthcare prior to acceptance for detention:

1. Holden PD shall provide the initial transport to the hospital/health care providers and continue to guard such prisoners for up to one (1) hour of the initial duration of treatment or care given the prisoner.

2. Holden understands that situations may arise that preclude KPD from relieving the Holden PD officer within one (1) hour. If Holden PD's prisoner treatment or care shall exceed one (1) hour duration, Holden PD shall contact KPD to arrange for them to take over the guard duties for the remaining duration of the prisoner's treatment or care. Holden PD shall continue to guard such prisoners until relieved of duty by KPD and shall endeavor to ensure a smooth transition of guard duties to KPD.

3. Except as is otherwise expressly provided in this Amendment, City shall not be responsible for any costs for Holden PD prisoners, including, but not limited to, any costs for medical care and/or hospitalization of Holden PD prisoners prior to acceptance into a local detention facility.

## **ARTICLE VI. CHARGING AND PROSECUTION BY HOLDEN PD**

A. Holden PD shall consult with the Kirtland Prosecuting Attorney for any and all criminal charges sought within the City of Kirtland.

B. Holden PD shall adhere to the same procedures as followed by the KPD with respects to consulting the Prosecutor or filing any criminal charges.

## **ARTICLE VII. KIRTLAND PD COVERAGE**

A. Understanding that Holden PD hours of operation typically cover between the hours of 0700 (7am) and 2300 (11pm), Kirtland PD, when able, will provide perimeter checks of the Holden properties on Sperry Road. Specifically, those properties on Sperry Road are the Cooper Administration Building (9500 Sperry), the Cooper Annex Building (9534 Sperry), and the Corning Visitor Center and parking lot (9550 Sperry). Said checks would be conducted between the hours of 2300 (11pm) and 0700 (7am).

## **ARTICLE VIII. INDEMNITY**

Neither party will indemnify or hold harmless the other for any damages awarded in any civil action arising from any action or omission of either party's police officers acting pursuant to this Agreement.

## **ARTICLE IX. TERM OF AGREEMENT**

A. This Agreement shall commence on the Effective Date first above written and expire on December 1, 2025. However, either party may terminate Agreement No. 2020, with or without cause, at any time by giving the other party written notice of such termination at least sixty (60) days prior to such termination.

B. No later than sixty (60) days prior to the expiration of the term, Holden shall notify the City's Chief of Police in writing that Holden requests an extension to the term of the Agreement. If the parties are unable to renew the Agreement through written amendment or through a new written agreement prior to the expiration date of the Term, Holden PD shall immediately cease and desist exercising any police authority derived from this Agreement.

## **ARTICLE X. EXHIBITS**

The following documents are attached to this Agreement and are expressly incorporated herein:

Exhibit A: Areas of Jurisdiction - Descriptions

Exhibit B: Holden PD Officer Identifications

Exhibit C: Protocols and Policies

Exhibit C-1: Holden PD Pursuit Policy

Exhibit C-2: Holden PD Use of Force Policy



**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their authorized representatives.

**CITY OF KIRTLAND**

By: \_\_\_\_\_  
Kevin F. Potter  
Mayor, Safety Director  
City of Kirtland

By: \_\_\_\_\_  
Lance R. Nosse, Chief  
Kirtland Police Department

**HOLDEN FORESTS & GARDENS**

By: \_\_\_\_\_  
Jill Koski, CEO  
Holden Forests & Gardens

By: \_\_\_\_\_  
Sean O'Neil, Chief  
Holden Arboretum Police Department

The legal form and correctness  
of this instrument is approved.  
CITY OF KIRTLAND

By: \_\_\_\_\_  
Matthew A. Lallo, Director of Law  
Date: \_\_\_\_\_

**HOLDEN FORESTS & GARDENS**

By: \_\_\_\_\_  
Kathleen Heflin, CFO & Treasurer  
Date: \_\_\_\_\_

## **EXHIBIT A**

### APPENDICIES

The area within the City of Kirtland referred to in Section I(A)(1) of the Mutual Aid Agreement by and between the City of Kirtland and Holden Forests & Gardens comprises:

#### 1 – KIRTLAND-CHARDON ROAD

The roadway designated as Kirtland-Chardon Road running northwest to southeast between Booth Road and 9595 Kirtland-Chardon Road in the City of Kirtland. The area shall also extend to the front surface, but not onto, any private or other properties not belonging to Holden Forests & Gardens. In addition, the area shall also include the area where Kirtland-Chardon intersects with Booth and Sperry Roads.

#### 2 – BOOTH ROAD

The roadway designated as Booth Road running south to north between Kirtland-Chardon and the Village of Kirtland Hills border. The area shall also extend to the front surface, but not onto, any private or other properties not belonging to Holden Forests & Gardens. In addition, the area shall also include the area where Booth Road intersects with Kirtland-Chardon and Martin Roads.

#### 3 – MARTIN ROAD

The roadway designated as Martin Road running west to east from Booth Road to end in the City of Kirtland. The area shall also extend to the front surface, but not onto, any private or other properties not belonging to Holden Forests & Gardens. In addition, the area shall also include the area where Martin Road intersects with Booth Road.

#### 4 – BILLINGS ROAD

The roadway designated as Billings Road running east to west from Sperry Road to 9111 Billings Road in the City of Kirtland. The area shall also extend to the front surface, but not onto, any private or other properties not belonging to Holden Forests & Gardens. In addition, the area shall also include the area where Billings Road intersects with Sperry Road.

#### 5 – SPERRY ROAD

The roadway designated as Sperry Road running south to north from Billings Road to the Village of Kirtland Hills border in the City of Kirtland.

A map outlining the aforesaid areas is attached and incorporated herein.

The areas included in these descriptions does not include any area outside the municipal boundaries of the City of Kirtland.

## **EXHIBIT B**

### List of Holden PD Officers

Sean O'Neil #2601  
Chief of Police

Tony Piotrowski #2606  
Full-time Officer

Peter Greene #2602  
Full-time Officer

Jeff Miloro #2604  
Part-time officer

Kevin Goodman #2605  
Part-time officer

## **EXHIBIT C**

### **Protocols and Policies**

**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
**Holden Arboretum Police Department**  
**Policies and Procedures**

<b>PATROL</b>	General Order 9.06 Effective: 26 June 2020
<b>Vehicle Pursuits</b>	Approval: Chief Sean O'Neil

**I. PURPOSE**

To establish guidelines for pursuit driving as required by the Ohio Revised Code, Section 2935.031. This policy is not all inclusive, but is designed to provide direction and clarity.

Ohio Revised Code, Section 4511.041 establishes certain exceptions for public safety vehicles but, "does not relieve the driver...from the duty to drive with due regard for the safety of all persons and property upon the highway."

**II. REFERENCES**

- A. Replaces policy 3-9 (titled "Emergency Driving/Pursuit"), dated 19 May 2005
- B. Ohio Revised Code (ORC) 2935.031, 2921.331, 4511.01(d), 4511.03, 4511.041, 4511.24, 4511.45, and 4513.21.
- C. General Order 9.05, Emergency Vehicle Operations, issued 27 June 2020.

**III. POLICY**

The Holden Arboretum Police Department shall regulate the conduct of vehicle pursuits while balancing the need to carry out its law enforcement mission against the duty to protect the general public at large. The department acknowledges the danger of high-speed driving and vehicle pursuits.

Though officers operating a patrol vehicle with operating emergency lights and siren are exempted from traffic rules and laws during emergency vehicle operation it "*does not relieve the driver...from the duty to drive with due regard for the safety of all persons and property upon the highway.*"

Officers shall err on the side of caution and interpret this policy in the more restrictive manner if, for any reason, this policy does not offer clear guidance for a particular set of circumstances not addressed herein.

**IV. DEFINITIONS**

- A. Authorized Emergency Vehicle – A vehicle meeting the minimal standards for safety and which is equipped with working emergency notification equipment (i.e. strobing

**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
**Holden Arboretum Police Department**  
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red/blue emergency lights and audible warning sirens).

- B. Vehicular Pursuit – When there is an active attempt by an officer(s) in an authorized emergency vehicle to apprehend a suspect who is attempting to elude the police.
- C. Controlling Supervisor – The police supervisor that assumes all the responsibilities associated with the management of a pursuit (including the pursuit initiation, continuation, and termination).
- D. Parallel Pursuit – A tactic of a police vehicle operator to mirror, on adjacent streets, the direction and speed of vehicles actively involved in an authorized pursuit.
- E. Pursuit Perimeter – The patrol area in which the pursuit is occurring. The pursuit perimeter is fluid and changes as the pursuit moves.
- F. Scene Supervisor – The supervisor on scene for where the pursuit ends (can be the Controlling Supervisor). The Scene Supervisor shall be the Incident Commander of the scene unless a higher-ranking supervisor arrives on scene.
- G. Self-Dispatch – When officers take it upon themselves to respond to a scene or incident without being requested to do so.
- H. Vehicular Pursuit Termination – When the pursuing vehicle advises Radio Dispatch, they are discontinuing the pursuit or when ordered to do so by a supervisor.
- I. Violent Felony – A known or suspected crime in which the force attempted or used against a person was deadly or likely to cause serious physical harm as defined by the ORC. Includes murder, manslaughter, aggravated robbery, rape, arson, kidnapping, aggravated burglary, felonious assault with a deadly weapon, and felonious assault resulting in serious physical harm.

An officer having to move from the path of a fleeing vehicle or incidental contact between the fleeing vehicle and a police vehicle does not constitute a violent felony for the purposes of this policy.

Given the totality of circumstances, the Controlling Supervisor shall determine if the pursued vehicle committed a violent felony for the purposes of this order.

- J. Primary Unit – The unit initiating the pursuit.
- K. Secondary Unit – Any other police vehicle involved in the pursuit with the Primary Unit.
- L. Investigative Packet – The follow-up review and/or investigation of the vehicle pursuit and all accompanying reports, documentation, evidence.

**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
**Holden Arboretum Police Department**  
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**V. PROCEDURE**

- A. Officers shall comply with the following sections of the ORC:
- i. 4511.03 – Emergency vehicles at red signal or stop sign.
  - ii. 4511.041 – Exceptions to traffic rules for emergency or public safety vehicle responding to emergency call.
  - iii. 4511.24 – Speed limits not applicable to emergency or public safety vehicles.
  - iv. 4511.45 – Right-of-way of public safety or coroner's vehicles.
  - v. 4513.21 – Horns, sirens, and warning devices.
- B. Officers may initiate a vehicle pursuit when **ALL** of the following criteria are met.
- i. The suspect operating the vehicle refuses to stop at the officer's direction and flees apprehension for an alleged violent felony offense for which a full custody arrest is authorized; **and**
  - ii. The suspect, if allowed to flee, presents a danger to human life (*the act of fleeing, in of itself, shall not be used as justification that the suspect presents a danger to human life*); **and**
  - iii. The immediate danger of the pursuit is less than the immediate or potential danger to the public if the suspect remains at large; **and**
  - iv. The officer is in an authorized emergency vehicle.
- C. The act of fleeing in of itself shall not be sufficient cause to engage or continue to engage the fleeing vehicle in a pursuit.
- D. Prior to engaging in a pursuit, the officer shall activate all emergency vehicle equipment (lights and sirens) and headlights.
- E. When initiating and/or continuing a pursuit, officers shall take into consideration other factors such as weather, time of day, volume of vehicular and pedestrian traffic, road conditions, capability of the pursuit vehicle, population density, geographic location, officer familiarity with the area and proximity to certain areas (i.e. schools, parks, playgrounds, and venues associated with crowds) during those time when pedestrians are reasonably perceived to be active.
- F. The pursuing officer(s) shall immediately notify Geauga County Sheriff Dispatch (2800) that a pursuit is underway, and provide the reason for the pursuit, direction of travel, description of the vehicle, license plate number, number of occupants, and the speeds involved.

**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
**Holden Arboretum Police Department**  
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- G. The pursuing officer should ensure that notifications are made to the local police agency where the pursuit is taking place.
- H. The agency from where the pursuit began will have control and be responsible for the pursuit.
- I. When a pursuit is terminated, the pursuing unit(s) shall, in this order:
  - slow down to normal vehicle operation.
  - turn off all emergency lights and sirens.
  - confirm that the pursuit has been terminated by making radio contact with 2800 Dispatch and the Controlling Supervisor.
  - change direction away from the offender's last known direction.
- J. An Investigative Packet shall be started for all vehicle pursuits any Holden Arboretum Police Department (HAPD) unit is involved in.
- K. If, as a result of the pursuit, there is a motor vehicle accident then the Chief of Police and the law enforcement agency for the local jurisdiction shall be notified.
- L. The Chief of Police shall contact and speak with the responding supervisor from the local law enforcement agency.
  - i. For accidents involving property and/or private vehicles only, the local jurisdiction shall determine who will handle the accident investigation.
  - ii. For accidents involving a HAPD vehicle, the local jurisdiction shall handle the accident investigation and assume investigative authority. The Chief of Police shall make every effort to respond to the scene of any such accident.
- M. Copies of any outside agency's report(s) pertaining to a HAPD pursuit shall be obtained and included with the department's internal Investigative Packet.

**VI. RESPONSIBILITIES**

- A. Pursuing Officers
  - i. Ensure that all the criteria laid out in section (V)(B) have been met prior to starting a pursuit.
  - ii. Ensure that the 2800 and supervision from the corresponding local police agency are notified immediately that a pursuit is underway, giving the reason for the pursuit, direction of travel, description of the vehicle, license plate number, number of occupants, and the speeds involved.
  - iii. Ensure that supervisory permission to continue the pursuit has been clearly communicated.



**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
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- iv. Always ensure that they drive in a manner exercising reasonable care for the safety of all persons/property within the pursuit area, and of themselves.
- v. Immediately terminate a pursuit if and of the following apply.
  - a. the level of danger to life and property outweighs the need for immediate apprehension.
  - b. permission to continue is not given or is ordered to terminate the pursuit by a supervisor; officers shall not follow a suspect vehicle after a pursuit has been terminated.
  - c. contact with 2800 or other units involved in the pursuit is lost, unless ..... discontinuing the pursuit has a strong likelihood of resulting in the loss of human life.
  - d. the distance between the pursuing vehicle and the pursued vehicle is so great that continuing the pursuit is futile.
  - e. the pursued driver shows disregard for their own life and/or the lives of others; examples include, but are not limited to...
    - not attempting to slow down for red lights or stop signs;
    - driving left of center into oncoming traffic;
    - excessive speed relative to road and traffic conditions.
  - f. the suspect(s) is not an immediate threat to the public and there is enough identifying information and reasonable probability of arresting the fleeing suspect later.
- vi. Continually assess whether the seriousness of the offense committed justifies continuing the pursuit.
- vii. Notify 2800 Dispatch when a pursuit appears to be or is entering another city.

**B. Chief of Police**

- i. Conduct an after-pursuit debriefing and review with all the officers involved as soon as possible after the pursuit. The purpose of the debrief shall:
  - a. enforce positive actions taken by the officers during the pursuit.
  - b. evaluate the involved officers' compliance with this policy.
  - c. correct any violations that do not rise to the level of formal discipline through coaching.
- ii. Ensure notifications are made to all members of the Leadership Team for any vehicular pursuit. If the pursuit results in damage to property or injuries to persons, then the Holden Forests & Gardens (Holden) CEO shall be notified via telephone.
- iii. Consult and coordinate with the local police agency(ies) from where the pursuit took place.

**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
**Holden Arboretum Police Department**  
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- iv. Ensure that the investigation includes a review of the dispatch recordings, any vehicle GPS data, and video/audio recordings of the pursuit prior to finalizing and submitting any findings.
- v. Produce an investigation package that includes the following:
  - a. synopsis of the event.
  - b. whether actions taken by the officers were appropriate and in compliance with all departmental policies and procedures.
  - c. The Vehicle Pursuit Report, any officer injury reports, any video/audio recordings of the pursuit.
  - d. a copy of any local police agency report pertaining to said pursuit.
- vi. Forward the investigative package to the CEO for review.

**VII. VIDEO RECORDING OF PURSUITS**

- A. The existence of any video and/or audio recordings of the pursuit is considered evidence and shall be referred to in the Vehicle Pursuit Report.
- B. The Chief of Police shall be responsible for ensuring that copies of any and all available video recordings are obtained.
- C. If an immediate copy of a video cannot be obtained, then the Chief of Police shall ensure steps are taken to do so as soon as possible.
- D. The Chief of Police shall ensure a copy of all obtained video is copied to a portable digital storage medium (i.e. DVD, thumb drive) and entered into evidence following the current departmental evidence policy.

**VIII. ASSISTING OTHER AGENCY PURSUITS**

- A. Assistance to other agency vehicle pursuits shall be limited in scope and nature. At a minimum, the following must be established:
  - i. Regardless of what any other agency's pursuit policy may be, the criteria from section (V)(B) shall still apply.
  - ii. Radio communication interoperability between the initiating agency and HAPD must be available.
- B. HAPD shall not join in or assist with any outside agency pursuits without:
  - i. A request for assistance from the initiating agency.
  - ii. The pursuit meeting all requirements from section (V)(B).

**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
**Holden Arboretum Police Department**  
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iii. Approval from a supervisor of said agency.

**IX. RESTRICTIONS**

**A. Officers shall not:**

- i. Join a pursuit in progress without permission from a supervisor. Acknowledgement from 2800 of an officer's intent to join a pursuit shall not constitute permission.
- ii. Self-dispatch.
- iii. Engage in a pursuit with a HAPD vehicle that contains suspects, victims, witnesses, complainants, ride-along, or other non-police personnel.
- iv. Pass the primary pursuing unit if acting as the secondary pursuit unit, unless the tactical advantage has clearly moved to the secondary unit due to a lapse in pursuit by the primary unit.
- v. Attempt to employ any procedure that involves physical contact between the pursuing and pursued vehicles.
- vi. Initiate or join a pursuit when their Authorized Emergency Vehicle's lights or sirens are not working.
- vii. Engage in a parallel pursuit without permission from the Controlling Supervisor as this is considered an active pursuit engagement.
- viii. Initiate or join a pursuit in an unmarked unit unless equipped with emergency blue/red lights and a siren.
- ix. Create roadblocks unless the suspect(s), if allowed to flee, presents an immediate danger to human life.
- x. Utilize occupied or private vehicles as a barricade or roadblock.
- xi. Officers shall not join a pursuit initiated by another law enforcement agency unless:
  - a. requested to do so by initiating agency; and
  - b. officers have supervisory approval; and
  - c. the criteria enumerated in Section (V)(B) are met.

**EXHIBIT C-1: HOLDEN PD PURSUIT POLICY**  
**Holden Arboretum Police Department**  
**Policies and Procedures**

**X. INVESTIGATION AND ADMINISTRATIVE REVIEW OF PURSUITS**

- A. All pursuits require the completion of a report (titled "Pursuit) in the HAPD Records Management System. The officer shall obtain the report number from 2800 and complete it prior to the end of their shift.
- B. The completed report shall be reviewed for approval the Chief of Police or their designee. If the Chief of Police was engaged in the actual pursuit, then they shall request the local police agency to review the Pursuit Report.
- C. The reviewing Chief of Police shall ensure the completed and approved report is forwarded to the local police agencies in which the pursuit took place.
- D. The Chief of Police shall obtain a copy of any report(s) completed by local police agencies pertaining to the pursuit.
- E. The Chief of Police shall review and assess the actions taken by all HAPD members and determine if said actions were appropriate and in compliance with departmental policy and procedure. The Chief of Police will report their findings to the Holden CEO within seven (7) working days.
- F. If there is a deviation from the seven (7) day requirement, then the Chief of Police shall provide a written report to the CEO and/or their designee explaining the reason for the delay and request for an extension.
- G. The Chief of Police shall forward their completed investigative packet to the Holden CEO for their review.
- H. Upon review by the CEO, or their designee, the entire packet shall be returned to the Chief of Police for proper filing.

**XI. POST PURSUIT REVIEW**

Upon completion of the investigation and administrative review of a vehicular pursuit that results in a serious injury or death, officers involved in said pursuit shall attend a block of instruction about vehicle pursuits. Attendance at this training shall serve as an additional debriefing of events to give vehicle instructors additional background information on the subject matter.



\_\_\_\_\_  
Chief Sean O'Neil  
Holden Arboretum Police

26 June 2020

\_\_\_\_\_  
Date

**EXHIBIT C-2: HOLDEN PD USE OF FORCE POLICY**  
**Holden Arboretum Police Department**  
**Policies and Procedures**

<b><i>USE OF FORCE</i></b>	General Order 8.01 Effective: 06 February 2020
<b>Use of Force</b>	Approval: Chief Sean O'Neil

**I. PURPOSE**

This policy establishes guidelines and procedures for members of the Holden Arboretum Police Department ("Holden PD") relative to the lawful authority to use force. To provide direction and clarity in those instances when a person's actions require an appropriate use of force response.

Respect for human life is paramount in guiding members of Holden PD in using the appropriate level of force to bring a situation under control. The use of force is not a subjective determination made by the individual officer, but rather a decision necessitated by the actions of a resistant/combative subject, departmental policy, and the training, experience, and abilities of the individual officer.

Any use of force that is not necessary, proportional, and objectively reasonable, and does not reflect reasonable de-escalation efforts, when safe and feasible to do so, is prohibited and inconsistent with departmental policy. **The use of excessive force is strictly prohibited.**

**II. REFERENCES**

- A. Replaces policy 3-6 (titled "Use of Force"), dated 19 May 2005.
- B. Graham v. Connor (1989) U.S. Supreme Court Case.
- C. Ohio Revised Code (ORC) 2901.01.
- D. General Order 8.02 (titled "Intermediate Weapons & O.C. Spray").

**III. DEFINITIONS**

- A. Force is defined by ORC 2901.01(A)(1) as any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.
- B. Deadly force is defined by ORC 2901.01(A)(2) as any force that carries a substantial risk that it will proximately result in the death of any person. Such force includes firing a deadly weapon at or in the direction of a person, head strikes with any hard object, and any action that would cause a reasonable person to believe that death is a likely outcome.

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- C. Less lethal force is any force used that does not carry a substantial risk that it will result in the death of another person.
- D. Objectively reasonable (as delineated in *Graham v. Connor*) means that the use of force is judged from the perspective of a reasonable officer in the same situation, considering the necessity of their duties sometimes requiring split second decisions in tense, uncertain, and rapidly evolving circumstances.
- E. Intermediate weapons are the authorized instruments and devices approved and/or issued by Holden PD to be used when the situation dictates a level of force beyond verbal and physical, but deadly force is not authorized. Such weapons include, but are not limited to, O.C. Spray, and ASP, fixed baton, or PR 24.
- F. Physical harm to persons as defined by ORC 2901.01 is any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- G. Serious physical harm to persons as defined by ORC 2901.01 means any of the following:
  - i. Any physical harm that carries a substantial risk of death.
  - ii. Any physical harm which involves some permanent incapacity, whether partial or total, or which involves some temporary substantial incapacity.
  - iii. Any physical harm which involves some permanent disfigurement, or which involves some temporary serious disfigurement.
  - iv. Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.
- H. Reasonable belief is defined as a situation when the facts and circumstances known at the time would cause an ordinary and prudent person to act or think in a similar manner under similar circumstances.

**IV. POLICY**

- A. Holden PD officers may use only the amount of force which is necessary and reasonable to affect lawful objectives. When reasonable, officers should make clear their intentions to arrest and allow the person the opportunity to submit to arrest before force is used. However, it is understood that in some situations, the element of surprise may be used to subvert the potential of injury to the person being arrested or bystanders, officers may use deception, diversion, or distraction to affect that arrest peacefully and reasonably.
- B. When force becomes necessary, officers should base the decision to use force upon the totality of the circumstances to assess the amount of resistance being encountered and/or the immediate threat the subject poses to any person.

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- C. Officers shall use the appropriate response to the resistance or threat, taking care to employ only the amount of force which is necessary and reasonable to bring the situation/subject under control.
- D. Any officer who has probable cause to believe that a person has committed a crime or public offense may use reasonable force to affect the arrest, to prevent escape or to overcome resistance. An officer who makes or attempts to make an arrest, need not retreat or desist from their efforts by reason of resistance or threat of resistance by the person being arrested. Neither shall an officer be deemed the aggressor or lose their right to self-defense by use of reasonable force to affect the arrest, prevent escape or to overcome resistance.
- E. The use of force will cease once a situation is brought under an officer's control. Force shall not be used against handcuffed or otherwise restrained individuals unless it is objectively reasonable and necessary to prevent escape, stop an assault, etc.
- F. The preferred response to resistance and/or aggression is a trained technique. However, during a situation involving the infliction or threatened infliction of serious physical harm, the use of an untrained response or a non-traditional weapon or object, while not normally authorized, may be reasonable to end the threat and survive the encounter. This application of force must remain within departmental policies.
  - i. An officer's duty knife is a tool and, while its primary function is not that of a weapon, it may be used in self-defense to counter a perceived, life threatening assault.
  - ii. When utilized as a weapon against a person, the duty knife will be considered as deadly force.
- G. Levels of resistance
  - i. Psychological intimidation: non-verbal cues indicating subject's attitude, appearance and physical readiness;
  - ii. Verbal non-compliance: verbal responses indicating unwillingness to cooperate or threats;
  - iii. Passive resistance: physical actions of a non-violent, non-cooperative nature that hinder, but do not prevent, an officer's control;
  - iv. Defensive resistance: physical actions which attempt to prevent an officer's control, but do not overtly attempt to harm the officer;
  - v. Active aggression: physical actions of assault; and

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- vi. Aggravated active aggression: situations where deadly force would be authorized.
- H. Officers should use the "Action-Response Continuum<sup>®</sup>" as a guide when considering force options. The guide will appear on the last page of the policy.
  - i. This guide is to assist officers in making appropriate decisions when considering use of force options.
  - ii. This guide will neither take the place of good judgment nor shall it in any way mean that an officer must follow each step up the continuum verbatim. The force used by officers will be predicated by the actions of the suspect.
- I. Officers on scene for a use of force are reminded of their duty to intervene if a use of force becomes excessive, report the force to their immediate supervisor, and document the incident.
- J. Holden PD officers will receive a copy of this General Order and be instructed on its contents annually. In addition to annual training, each year all officers will be tested on this Use of Force Policy.

**V. DE-ESCALATION TACTICS AND TECHNIQUES**

Officers have the ability to impact the direction and outcome of the situation with their decision making and employed tactics. Policing, at times, requires that an officer may need to exercise control of a violent or resisting subject, or a subject experiencing a mental or behavioral crisis. At other times, policing may require an officer to serve as a mediator between parties or defuse a tense situation. Officers shall use de-escalation tactics and strategies when safe under the totality of the circumstances and as time and circumstances permit.

- A. De-escalation tactics and techniques are proactive actions and approaches used by officers, when feasible, to gain the voluntary compliance of subject(s) and reduce or eliminate the need to use force.
- B. Officers shall avoid taking unnecessary actions that may escalate the need to use force (e.g. aggressive body language, proximity, harsh level of voice and tone, officer's own stress level or excitement).
- C. When safe and feasible to do so, and before using force and/or to reduce the need for force, officers shall attempt to slow down the situation so that more time, options and resources are available for the incident to be resolved.
- D. Officers shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comprehend and/or comply based on, but not limited to, the following:



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- i. The influence of drugs and/or alcohol;
  - ii. Known or reasonably apparent mental illness, developmental disability or crisis incident;
  - iii. Known or reasonably apparent physical disability or other medical or physical condition, including visual or hearing impairment;
  - iv. Limited English proficiency or other language barrier; and
  - v. Perceived age of a child.
- E. When deciding which tactical options are the most appropriate to bring the situation to a safe resolution, the officer's awareness of the above factors shall be weighed considering the facts of the incident and the totality of the circumstances facing the officer.
- F. De-escalation Techniques include:
- i. Proactive use of distance, cover, concealment and time.
    - a. Separating oneself from the threat and create a safe distance to speak with the subject(s). This separation allows officers to assess the situation and their options, bring additional resources to the scene, and develop a plan for resolving the incident without use of force;
    - b. Placing barriers between officers and an uncooperative subject;
    - c. Moving from a position that exposes officers to potential threats to a safer position;
    - d. Avoiding physical confrontation, unless immediately necessary (for example, to protect someone or to stop behavior that creates an imminent threat);
    - e. Slowing down the pace of the incident, from the time officers receive the radio broadcast and utilizing department trained anxiety and stress management techniques when necessary;
    - f. Allowing time and/or opportunity for a subject(s) to regain self-control or cease struggling or resisting, when their actions do not immediately threaten the safety of officers or others; and
    - g. Requesting additional personnel and wait, when safe and feasible to do so, for the arrival of additional personnel.
  - ii. Hearing and Listening – Demonstrate officers are listening by interacting in conversation; people have a desire to be heard and understood.
  - iii. Strategic communication or voice commands to de-escalate the situation:

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- a. Verbalize to the subject(s), in a calm manner and normal tone of voice, all the options available to them, which officers can help with, and which would be best to end the subject's crisis;
  - b. Ask questions rather than issue orders;
  - c. Advise the subject(s) of the actions that officers will take to end their crisis in the best way possible; and
  - d. As a last resort, inform the subject that not following orders may result in the need to use force. When possible and appropriate, give subjects the opportunity comply with directives.
- iv. Increase officer presence, if necessary, to increase strategic options available for bringing a subject under control and/or reduce the severity of the threat.
- a. Request additional personnel respond to the scene/subject.
  - b. Request a supervisor.

**VI. DEADLY FORCE**

- A. Deadly force may be used by officers when they have a reasonable, articulable belief that an imminent threat of death or serious bodily harm exists for themselves or others.
- B. This includes the threat posed by an escaping violent felon whom an officer has **probable cause** to believe will pose an imminent threat of death or serious bodily harm to the officer or others. In situations where an officer intends to do so and where feasible, officers shall, prior to the discharge of a firearm, identify themselves and state their intent to shoot.
- C. The following guidelines shall be observed by Holden PD officers when deploying their firearm:
  - i. Officers will deploy their firearms to stop a threat and incapacitate an assailant to prohibit them from completing a potentially deadly act. Unless an extreme situation dictates otherwise, officers will target "center body mass" to maximize effectiveness and minimize danger to innocent bystanders.
  - ii. Warning shots are strictly prohibited.
  - iii. Officers shall not discharge a firearm at non-verifiable and/or non-visible threat.
  - iv. Officers discharging firearms will be cognizant of their field of fire and will not unnecessarily create a substantial risk of harm to innocent persons. This does not prohibit an officer from defending themselves or others from an immediate threat that may possibly lead to death or injury.

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- v. Firearms will not be discharged at moving vehicles unless a person in the vehicle poses an immediate threat to the officer or others, by means of deadly force other than the vehicle. The vehicle itself does not presumptively constitute a threat that justifies the use of deadly force. An officer being threatened by an oncoming vehicle shall use all reasonable means to move out of its path instead of discharging a firearm at it or any of its occupants.
  - vi. Firearms will not be discharged from moving vehicles.
- D. Deadly force shall not be used solely to protect the property or solely to effect an arrest.
- E. The drawing and holding of a firearm during an incident will be reported to the Chief of Police, but is not in of itself Deadly Force nor will it require a Use of Force report. It does become a use of force when the firearm is pointed at a person.

**VII. USE OF FORCE: WHEN PROHIBITED**

- A. Consistent with the principle of necessity, proportionality, objective reasonableness, and de-escalation, **Officers shall not:**
- i. Use force to subdue a subject(s) who is not suspected of any criminal conduct, other than to protect an officer's or another person's safety.
  - ii. Use retaliatory force (which includes, but is not limited to, force in excess of what is objectively reasonable to prevent an escape, force to punish individuals for fleeing or otherwise resisting arrest, force used to punish an individual for disrespecting officers, and other such circumstances).
  - iii. Use force against subject(s) who only verbally confront officers and are not involved in criminal conduct.
  - iv. Use force against subjects(s) who are handcuffed or otherwise restrained, unless it is objectively reasonable and necessary under the circumstances to stop an assault, escape, or as necessary to fulfill other law enforcement objectives.
  - v. Un-holster and display or un-holster and point a firearm unless the circumstances surrounding the incident create an objectively reasonable belief that the situation may escalate to the point at which deadly force would be authorized.
  - vi. Use force to overcome passive resistance, except where it is necessary, proportional, and objectively reasonable to achieve a legitimate law enforcement objective. Intermediate weapons shall not be used against those offering passive resistance.
  - vii. Use force against those who are only exercising the First Amendment rights. Physically moving a subject is permitted when it is necessary and objectively reasonable for the safety of that individual or the public. It shall be done with

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enough personnel so as not to endanger the subject or the officers and will not be considered a reportable use of force unless it meets the criteria of for such.

- viii. Carry weapons that are not authorized by Holden PD.
- ix. Use a firearm as an impact weapon, unless it is a clear "life or death" situation where the officer does not have any other deadly force option available to them.
- x. Use head strikes with hard objects, unless it is a clear "life or death" situation where the officer does not have any other deadly force option available to them.
- xi. Use neck holds, unless it is a clear "life or death" situation where the officer does not have any other deadly force option available to them.
- xii. Use deadly force to solely protect the property or solely to effect and arrest.
- xiii. Reach into or place themselves in the path of a vehicle. Officers shall move out of the path any moving vehicle.

**VIII. NON-DEADLY FORCE**

- A. Depending on the level of resistance encountered, officers have a variety of techniques available to influence behavior and bring a situation under control when deadly force is not authorized.
  - i. These techniques include those designated to eliciting pain, using balance displacement, using body mechanic or control techniques, or employing "Intermediate Weapons."
  - ii. Variables such as age, gender, body size, skill level, number of persons, number of officers, and/or relative strength may affect an officer's decision in escalating or de-escalating the level of force.
  - iii. Other special circumstances such as, but not limited to, the proximity of a weapon, injury or exhaustion, position (i.e. being on the ground), distance from the person, special knowledge of the person or circumstances (prior dealings with a particular person or area) may also affect an officer's decision in escalating or de-escalating the level of force.
- B. Officers who successfully complete the required and/or mandated training and meet Holden PD's proficiency standards shall be issued and permitted to carry intermediate weapons while on duty. Officers issued said weapons shall always carry them on their person while on duty and in uniform.
- C. Officers shall carry and utilize those intermediate weapon holsters/carriers furnished or approved by the Chief of Police or their designee.

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- D. Officers may draw, display, point or threaten to use intermediate weapons against a person if they fear for their safety or the safety of others, or to gain compliance from a combative, resistant or violent person. Such use shall not constitute a use of force incident and shall not require any Use of Force Review/Report.

The drawing and holding of an intermediate weapon during an incident will be reported to the Chief of Police or their designee via email, but is not in and of itself a use of force requiring a use of force report.

- E. Officers who are authorized to use O.C. Spray shall comply with Holden PD's current policy pertaining to O.C. Spray; General Order 8.02.

F. Use of Impact Weapons.

- i. Holden PD's approved impact weapons are tools that provide a means by which officers can defend themselves or others from injury.
- ii. Holden PD's approved impact weapons are as follows:
  - a. PR-24 type, side-handle police baton.
  - b. PR-24 type, expandable side-handle police baton.
  - c. Straight police baton, fixed or expandable, 26" or less, including the ASP tactical baton.
  - d. Thirty-six-inch (36") batons (aka "Riot Batons") may be used under special circumstances.
- iii. The impact weapon shall be carried in the appropriate holder or in a low-profile position when not in use.
- iv. At no time shall an officer brandish or use the impact weapon as an intimidation device. This restriction shall not prevent the use of proper techniques to open, close, or draw a baton.
- v. As the level of aggression toward the officer escalates, the target areas for impact weapons are as follows:
  - a. Primary Target - Areas of major muscle mass such as the thighs, forearms, or calves.
  - b. Secondary Target - Areas of joints and bones below the neck.
  - c. Final Target - Areas including the head, neck, throat, spine, kidney, groin, tailbone, and solar plexus. These areas should be avoided unless the use of deadly force is warranted.
- vi. A flashlight may be used in exigent circumstances in a manner consistent with impact weapons training. This utilization should occur only when reaction time to aggression does not permit the officer to exchange the flashlight for an impact

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device.

**IX. MEDICAL FOLLOW-UP**

- A. When a person is injured or alleges an injury as the result of any police action, it is the policy of this department that the officer involved promptly notifies the Geauga County Sheriff's Dispatcher (Dispatch) with the appropriate information.
- B. Dispatch will then contact EMS (if needed), back-up units, and the shift supervisor.
- C. Persons claiming injury from a use of force will be evaluated and/or treated by qualified medical personnel. EMS will be notified any time a suspect is struck by an intermediate weapon, loses consciousness, is struck about the neck or throat, or when an officer deems it necessary.
- D. Preservation of life being our first priority, medical needs shall be attended to prior to the processing and/or interrogation of persons under our care.
- E. Officers using either lethal or less-lethal weapons of force will attempt to render first aid/medical attention, when practical.
- F. Any refusal of treatment shall be documented and verified by the officer and any medical personnel present and reported to Dispatch.
- G. If the death, serious physical harm, or physical harm was not immediately known but is later reported to Holden PD, the on-duty Holden PD Officer shall be assigned to respond, investigate, and report on the incident.
- H. The Holden PD officer will advise the police department from where the original incident occurred and advise, as well as contacting the Chief of Police or their designee.
- I. Upon their arrival on scene the Holden PD officer shall inspect and observe subject(s) for any injury or complaints of pain resulting directly or indirectly from the use of force.
- J. Whenever EMS is requested, officers shall be sure that the scene is tactically safe, or when tactically unsafe for EMS response, as soon as practical, but without unnecessary delay, the subject shall be transported to a safe location for treatment.
- K. Officers shall closely monitor subjects who are taken into custody if the subject is injured, exhibits physical distress, complains of pain, or has been rendered unconscious.

**X. REPORTING**

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- A. The Chief of Police or their designee shall be notified via phone as soon as possible when departmental personnel utilize force to control a person/affect an arrest.
  - B. Absent exigent circumstances, an OIC from the local police agency shall be requested to respond to the scene when there is a Use of Force incident.
  - C. When the OIC arrives on scene, the officer will give a verbal account of the circumstances that led up to the use of force.
- XI.** When force is used, officers will, as soon as able and prior to the end of their shift, report in writing the use of force on a Use of Force Report (form 8.01) and clearly articulate their use of force in the corresponding incident report.
- A. Involved officers should be thorough in documenting and reporting uses of force. Failing to report incidents or purposefully omitting information will result in discipline up to and including termination.
  - B. Once contacted, the Chief of Police or their designee shall see that the reporting officer completed the following prior to the end of their shift.
    - i. Completed Use of Force Report by the involved officer(s).
    - ii. Completed incident report.
    - iii. Send an email notification to the Holden CEO or their designee providing a clear and concise synopsis of the incident. Though it will not serve as their final use of force report and findings, the email will provide a preliminary determination as to the appropriateness of the amount of force used.
  - C. The drawing and holding of a firearm during an incident will be verbally reported to the OIC but is not in and of itself a use of force requiring a Use of Force Report. It does not become a use of force until the firearm is pointed at a person.

**XII. INVESTIGATIVE PROCEDURE**

- A. The Chief of Police or their designee shall review the facts, investigate the use of force, and ensure the accuracy and completeness of both the Use of Force form and corresponding incident report. The Chief of Police or their designee shall then approve the report.
  - i. If the Chief of Police is involved in a use of force, whether directly or indirectly, they shall not be involved in any aspect of the investigation. They shall request that an OIC from the corresponding local police agency review said use of force.
  - ii. The Chief of Police or their designee is responsible for gathering facts and evidence and notifying the local jurisdiction of the incident if necessary.

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- B. Once the Chief of Police or their designee completes their investigation, they shall forward their Use of Force Report to the Holden CEO. It will include a finding on whether the use of force was within departmental policy guideline
  - i. When investigating a Use of Force Report, the Chief of Police or their designee is responsible for ensuring an adequate investigation and that there are no omissions or misrepresentations.
  - ii. If at any point the report requires clarification, all notations and commentary become part of and remain with the packet.
- C. The CEO will meet with the Chief of Police or their designee to review the Use of Force Report.
- D. Once they have completed their review, the completed Use of Force packet will be returned to the Chief of Police for filing or additional investigation.
- E. The Chief of Police or their designee shall have 72 business hours from the time of receipt to review and present a report to the Holden CEO.
  - i. Requests to extend beyond the 72 business hours shall be made via email to the Holden CEO or their designee.
  - ii. If at any time, additional relevant evidence is discovered, further investigation shall be ordered.
- F. The Chief of Police will ensure that corrective action is taken for violations of departmental policy and that any policy, training, tactical, or equipment concerns are addressed in a timely manner.
- G. If the findings are not supported by a preponderance of the evidence, documentation supporting this shall be added to the Use of Force packet.
- H. The Chief of Police shall assume ultimate responsibility for the actions of the officers under their command.
- I. If at any point potential criminal conduct is found, the review shall be suspended, and the Chief of Police will immediately contact the local jurisdiction's Chief of Police/Sheriff. A determination will then be made as to who will continue any further criminal and administrative investigation.

**XIII. INCIDENTS OF SERIOUS PHYSICAL HARM (GO 08.04)**

- A. The Chief of Police will be immediately notified by any and all means when an officer's response to resistance causes serious physical harm to another or death.



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- B. The Chief of Police will then immediately notify the Holden CEO by any and all means.
- C. The Chief of Police will be notified, respond to, and assume control of the investigations for the following incidents:
  - i. All police involved shootings, whether on or off-duty, where a weapon was discharged at another person.
  - ii. Any instance where someone was struck in the head by a firearm, baton, impact weapon, or other hard object.
  - iii. Any incident that causes death or serious physical harm to another person, whether intentional or accidental.
  - iv. Other investigations as determined by the Chief of Police.
- D. The initial on scene investigation will be secured and preserved, waiting for the arrival of the Chief of Police and a third-party independent investigating agency. The Chief of Police will be responsible for the internal investigation.
- E. Suspect will be secured, whether alive or deceased. The weapon should be left where it lays, if possible, and the scene secured. All potential evidence shall be secured, including cruiser, body cameras. Department supervisors will ensure all evidence is downloaded and kept secured.
- F. In the event a firearm is involved, the officer shall submit it and all ammunition, including expended shells and live cartridges in their immediate possession, to the Chief of Police or their designee. As soon as able, the Chief of Police shall issue another handgun and ammunition to the officer, unless the officer involved appears impaired.
- G. The officer(s) involved in the incident will be examined for injuries and offered an opportunity to give a verbal summary to the Chief of Police and other department's responding OIC. In-depth questioning will be permitted at a minimum of 72 hours after the incident. The officer will be referred to crisis de-escalation services.
- H. The officer will be required to submit to a drug test prior to concluding that shift. The Chief of Police will be required to take the officer to the appropriate testing facility.
- I. The officer will be afforded the right to bring retain legal representation prior to questioning.
- J. The officer shall be on administrative leave and re-instated to full active duty once all investigations have been concluded and the department has determined that all policies were followed.

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- K. Should the department determine that the policy was not followed, or a crime was committed, the department will send notification, in writing, to the officer, advising its intent to move to the disciplinary phase. The officer will be offered a pre-disciplinary conference before any action is taken against the officer.

**XIV. ADMINISTRATIVE LEAVE**

- A. Any officer that is directly involved in any use of force that is classified as a use of deadly force or results in death or serious injury shall be removed from their assigned duties and be placed on Administrative Leave (not suspension) for a minimum of three (3) days.
  - i. This administrative leave shall be without loss of pay or benefits pending outcome of the investigation and determination of disposition.
  - ii. This assignment of administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly.
  - iii. While on administrative leave the officer shall always remain available for official interviews and statements regarding the incident and shall be available to report in person at any time.
- B. Any officer directly involved in a shooting incident shall be required to attend session(s) with a psychologist, psychiatrist and/or other medical professional before returning to full duty status.
  - i. After the initial three-day administrative leave, an officer may be assigned to other duties for a period as deemed necessary by the Chief of Police.
  - ii. Any and all information given by an officer to a psychologist, psychiatrist and/or other medical professional is confidential and protected under doctor/patient confidentiality. The department will receive only a recommendation from the medical professional concerning the officer's ability to return to duty.

**XV. ANNUAL ANALYSIS AND POLICY REVIEW**

- A. Annually, an analysis of all use of force incidents will be conducted as directed by the Chief of Police. The analysis will identify any training needs, required equipment upgrades, and/or policy modifications.
- B. The Use of Force General Orders and Use of Force Reporting Forms will be reviewed annually as directed by the Chief of Police.
- C. The review and analysis will be conducted by the Chief of Police or their designee.

  
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Chief Sean O'Neil  
Holden Arboretum Police

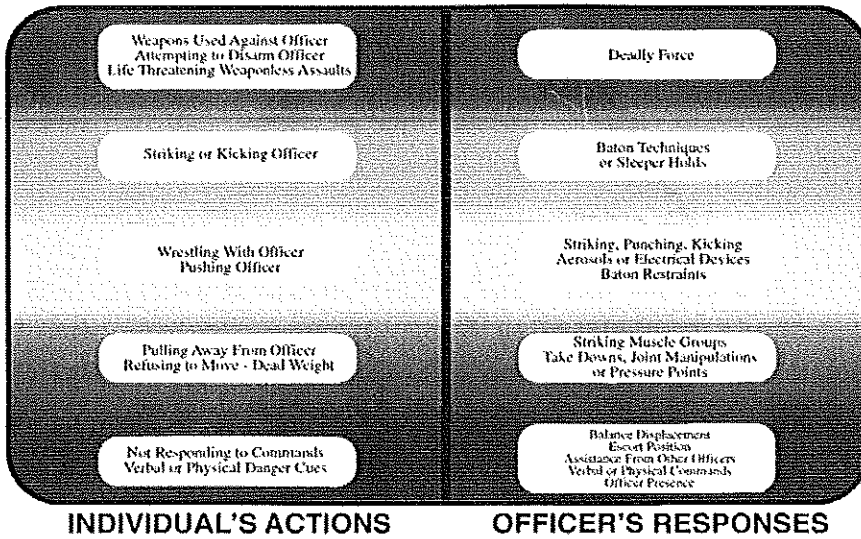
06 February 2020  
Date

# EXHIBIT C-2: HOLDEN PD USE OF FORCE POLICY

## Holden Arboretum Police Department Policies and Procedures

### ACTION - RESPONSE CONTINUUM

**IMPORTANT** - The list of officer responses is *not* intended to be in any specific order, but reflects on the amount of resistance encountered. The officer will choose the necessary response to gain control of the situation based on departmental policy, his physical capabilities, perception, training and experience.



**OFFICER - SUBJECT FACTORS**

1. Age
2. Sex
3. Size
4. Skill Level
5. Multiple Subjects/Officers
6. Relative Strength

**SPECIAL CIRCUMSTANCES**

1. Closeness of a Weapon
2. Injury or Exhaustion
3. Being on the Ground
4. Distance From the Subject
5. Special Knowledge
6. Availability of Other Options
7. Environmental Conditions
8. Subject Handcuffed

**Continuum of Arrest:** Control – Handcuff – Search – Evaluate – Transport

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