

AGENDA
CITY OF LARAMIE, WYOMING
CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, 406 IVINSON AVE
June 23, 2020, 6:00 pm

City Council Meetings are open to the public. Please keep participating in your city government using the following social distancing tools: watch live meetings on Facebook-Live Feed or Cable Channel 191; Public Comments can be made by Phone # 1(669)900-9128 Meeting ID #853814654 or emailing council@cityoflaramie.org. Participants on zoom will be muted until the Mayor asks for public comments. Please email: clerk@cityoflaramie.org to let us know that you would like to speak during a public comment period. Requests for accommodations from persons with disabilities must be made to the City Manager's Office 24 hours in advance of a meeting.

Please be advised no additional agenda item will be introduced at a Regular City Council meeting after the hour of 9:30 p.m., unless the majority of the City Council members present vote to extend the meeting.

Public Comment is limited to three (3) minutes per speaker. Written public comment shall be submitted to the City Clerk for dissemination and retention for official City records, or submitted to the City Council through electronic correspondence at council@cityoflaramie.org. Full text available in Code of Conduct 4.02 and Appendix B and C.

Written material relative to an agenda item shall be submitted six (6) days in advance of the meeting (sooner if there are holidays prior to the meeting) in order that copies may be included with the agenda and to give the council an opportunity to review the material in advance of the appearance.

1. WORK SESSION

2. Public Comments on Non-Agenda Items

(Members of the public may address the City Council on items not on the printed Agenda. Please observe the time limit of three (3) minutes.)

3. WORK SESSION: Laramie Police Department Use of Force Considerations

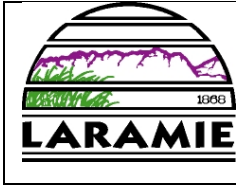
Documents:

[USE OF FORCE CONSIDERATIONS COVER SHEET.pdf](#)
[USE OF FORCE WORK SESSION 23 JUN 20.pdf](#)

4. City Council Updates/Council Comments

5. Public Comments

(Limited to three (3) minutes per speaker.)



Agenda Item: Discussion Item

Title: Laramie Police Department Use of Force Considerations

Background:

On 25 May 2020 police in Minneapolis encountered a subject after receiving a call of a fraud a local business. During the interaction it is alleged that an officer placed his knee on the neck of the subject while officers attempted to establish control of the person. After the arrest the subject was transported to a local hospital where he died. The incident was videotaped by a local person who subsequently released the video on social media. Since the incident, numerous protests and riots have occurred in cities across the US.

Police Departments almost always have policies in place that address what types of force are permitted as well as the parameters under which force may be used. Regardless of policy, police force (non-lethal force) is guided almost entirely by a 1989 US Supreme Court case – Graham v. Conner. Graham says that police force must be reasonable for the circumstances. Further, Graham allows for force under situations that are tense, uncertain, and rapidly evolving. Under Graham, the guiding principle is that police force must be viewed as reasonable by other officers in similar circumstances. Finally, Graham dictates that police force must be viewed as reasonable or unreasonable based on the facts known at the time force was used, and not by “20/20 hindsight.”

The immediate fallout from the George Floyd incident last week was that four officers were fired. In the next several days, one of those officers was arrested for manslaughter. While statutes vary from state to state, in Wyoming a charge of manslaughter indicates that a person was responsible for the death of another but there was no underlying intent, like there would be for a death in the 1st or 2nd Degree. There is still criminal culpability, but to a much lesser degree.

When police force is used, there are two questions that must be answered. First, was the force used within policy and according to training? If not, administrative outcomes (discipline, remedial training, policy adjustment) are possible. The other question that must be answered was whether the force was criminal. Always, when police force results in death, both questions are addressed. In the Floyd incident, administrative action was taken, and criminal charges were filed. Both the actions will be settled at a later.

At the Laramie Police Department, we have an extensive use of force (UOF) policy. The policy synthesizes the legal parameters under which force may be used by peace officers and summarizes all acceptable uses of force that members of the PD may use. With the exception of the Thomas A. Swift Electronic Rifle (Taser), training is not discussed within the policy but rather, training is documented separately via outlines which are maintained by the PCS Division. Training for all force options is completed and updated yearly. The policy is also reviewed on an annual basis with any new case law, changes in training, or other developing issues included. In 2014, The Center for Public Safety Management (CPSM) reviewed our use OUF policy and determined it to be a “model” for UOF policies that they had reviewed nationally. I remain confident that we are training using the most recent and acceptable practices. I am also confident that our policy remains a model. The most recent and

significant additions to the policy (LEG:3) were made in 2017 when the International Association of Chiefs of Police (IACP) issued their Consensus Model Use of Force Policy, but revisions were made after the 2015 President's 21st Century Policing document and the 2015 Police Executive Research Forum (PERF) Reengineering Police Use of Force document were made public. We continue to look at case law and professional developments for all police uses of force.

In addition to our UOF training and policy, and included in a process outlined in LEG:3, we review every use of force above the level of handcuffing. In fact, even the proper application of handcuffing is documented and reviewed within the police report whenever handcuffs are applied. The PD uses an internal tracking system call IA Pro / Blue Team. Whenever an officer uses force, that officer explains the application of force in his/her report and then enters details of the incident into Blue Team. The UOF force is then reviewed by the officer's supervisor, the Person with the Most Knowledge (PMK), the lieutenant of the officer within the appropriate Unit, the Assistant Chief, and finally the Chief of Police. The PMK is an officer who has been trained in the application of force used (Custody & Control, Firearms, Taser, etc.). At any point of review, if the UOF is determined not to be within policy and according to training, remedial training, counseling, or discipline would also be noted within the Blue Team incident. The UOF incident is then archived in IA Pro. The PD not only looks at every UOF, but all pursuits, officer involved crashes, and citizen complaints are entered into Blue Team.

The PD believes that all of these steps are critical in the proper use of and review of force, but our philosophy is that good management of police UOF starts when we hire police officers. We do extensive background investigations to ensure that the people we are hiring meet our demanding standards as ethical, moral people. We use psychological exams by people who understand who should be in our profession. We then spend approximately 10 months training new officers to the standards we expect.

Certainly, despite the rigorous standards that we have, the potential for something to "go south" in our profession always exists. We spend countless hours at each level of command looking at the actions of our officers. We continually evaluate officer actions even when no complaints are made about officer actions. And we continue to hold officers to exacting standards on matters that don't involve force application. We feel that if we "sweat the small stuff" the likelihood of serious failures is even less likely.

We feel, and through outside evaluations such as the evaluation completed by PCSM five years ago, that we have a Department of highly trained, very professional, and very self-critical officers. By instilling that expectation and attitude, we are doing everything that we can to ensure our officers act, and react, in appropriate ways while doing one of the most difficult, unpredictable, jobs on the planet.

Responsible Staff:

Dale A. Stalder, Chief of Police

Attachments: Use of Force Considerations Power Point Presentation

LARAMIE POLICE DEPARTMENT

USE OF FORCE CONSIDERATIONS

HIRING PRACTICES

Before force considerations can be discussed, hiring and training practices must be explained briefly, since you can have the best policies and training and **they will be worthless without the best people**

- Hiring includes applicant screening – no primary disqualifiers and consideration OF secondary disqualifiers (all noted in policy) – we look for **moral character and integrity above all else** since we can train people to do the job
- Extensive background including polygraph and psychological exams
 - Psych done by police specialized psychologist

TRAINING

Training is extensive and takes approximately 10 months

- Wyoming Law Enforcement Academy – 14 weeks – covers the basics of academic and practical police concepts including constitutional law, use of force, investigations, ethics, officer wellness, firearms proficiency, and other topics
- In-house training – 5-6 weeks – we believe you get the basics at WLEA and then we expand on that training for how **we** do policing at LPD
- Field Training – 14 weeks – a trainer (FTO) is paired with the recruit and every action they do is rated on an objective scale. FTO protocol used since 1982.

TRAINING

Once an officer is released from training, training becomes a career long requirement

- Yearly in-house training on custody & Control (4 times per year), firearms proficiency and scenario training (8 times per year), Taser updates (yearly), Active Shooter (yearly), officer wellness (yearly), Interviewing (required upon release from FTO), and other specialized trainings brought in (trauma informed interviewing, Critical Incident Team (CIT) training, tactical communications, etc.)
- Outside training – all officers are required to consider career path options – child crimes, accident reconstruction, Taser Master instructor, homicide investigation, etc.
- All officers are required by POST to attend a minimum of 40 hours of training every two years to remain qualified to work as a peace officer – our officers receive many more than 40 hours per year

CRITICAL INCIDENT TEAM

- The PD has trained officers as CIT responders since 2008.
- Based on the nationally recognized Memphis Model, CIT is a 40 hour training that teaches officers to recognize various mental health disorders, de-escalate contacts with people with mental illness or those in crisis, and how to reach out to mental health professionals to solve crisis's v. using criminal laws to address issues
- Approximately 20% of Patrol force is trained in CIT
- Officers not CIT trained are **required** to be ASSIST (applied suicide intervention skills training) or QPR (question – persuade – refer) trained
- We have in-house trainers for all of these disciplines

POLICE USE OF FORCE

- Police are **statutorily authorized** to use force in the course of their work when it is justified
- Policy outlines the types of force that may be used as well as the circumstances under which force may be used
 - Policy will vary from agency to agency

GRAHAM V. CONNER

1989 US Supreme Court ruling that provides a “reasonableness” examination of all police uses of force

- Force must be reasonable based on the situation
- Force must be reasonable as evaluated by an officer in similar situations
- Force must be reasonable based on what is known to the officer at the time force was used
- Recognizes that officers work in situations that are “tense, uncertain, and rapidly evolving”
- Recognizes that the use of force must be evaluated based on what was known at the time force was used and not with the luxury of 20-20 hindsight.
- Graham provides for a civil review of force which doesn’t equal intent for a criminal consideration

LEG: 3 - USE OF FORCE, RESPONSE TO RESISTANCE, AND FIREARMS

This is the PDs “use of force” policy

It is updated yearly or when emerging case law or guidance dictates additional review

Last major update was in 1017 after the IACP Consensus Use of Force Model Policy was released – defined de-escalation

IN 2014 WAS CONSIDERED A MODEL POLICY BY THE CENTER FOR PUBLIC SAFETY MANAGEMENT

DE-ESCALATION

De-escalation is defined “as taking action or communicating verbally or nonverbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.”

These concepts are **trained for all force options** as well as during tactical communication training.

THIS IS WHAT WE DO ALL THE TIME AND HAVE DONE FOR MY ENTIRE CAREER

FORCE OPTIONS AT LPD

All force options that are trained are addressed in LEG:3

1. Baton
2. **Non-traditional weapons and techniques**
3. Custody & control techniques
4. Chemical / inflammatory agents
5. Conducted Electrical Weapons
6. RIPP Hobble
7. Firearms
8. Less Lethal

NON-TRADITIONAL WEAPONS AND TECHNIQUES

“This General Order shall not preclude members from using non-traditional weapons and techniques in **exigent** circumstances.”

Chokeholds and strangleholds are not taught at LPD

I cannot say that an officer would never use these techniques because the potential exists that an officer could, **in order to save his or her life**, resort to using every means available to stop a lethal attack. As mentioned in answer to a Councilor’s question about his topic, a rock or table leg could become the “non-traditional weapon” in a certain situation.

USE OF FORCE REVIEW

The PD reviews **EVERY** use of force, including routine handcuffing.

- IA Pro / Blue Team - Utilized since 2014
- The PD tracks use of force incidents, citizen complaints, internal investigations, pursuits, and crashes.
- Review process defined in LEG: 3

USE OF FORCE REVIEW PROCESS

1. Force is used
2. Blue Team completed prior to end of shift
3. Blue Team routed to officer's supervisor for initial review (policy calls for supervisor to proceed to scene of force use if possible, which provides an additional step of review)
4. Supervisor routes Blue Team to Unit Lieutenant (most often Patrol Unit)
5. Lieutenant routes Blue Team to Training Sergeant, who assigns review to Person with the Most Knowledge (PMK) – this may be a custody & control instructor, a Taser Master Instructor, or a RIPP instructor
6. PMK routes Blue Team to Lieutenant for 2nd Review
7. Lieutenant routes Blue Team to Assistant Chief
8. Assistant Chief routes Blue Team to Chief
9. Chief routes Blue Team to IA Pro (archived with final disposition of “within policy and according to training” or “out of policy” or “with notes.”)

USE OF FORCE STATISTICS

	2020		2019		2018		2017		2016		2015		2014	
Disposition	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF	Cit. Comp	UOF
Exonerated	0		1		2		2		3		4		2	
Resolved	0		0		0		0		0		1		0	
Substantiated	0		1		2		1		3		1		3	
Unfounded	0		0		4		2		0		2		11	
Unfounded w/notes	0		0		0		0		0		0		1	
Unsubstantiated	0		1		4		0		0		1		1	
No Entry	0	15	0	1	0	0	0	0	0		2	11	0	1
Within Policy		6		67		1		60		96		91		125
Within Policy w/notes		1		2		60		7		15		2		12
Out of Policy		0				4		1		0		0		0
Total	0	22	3	70	12	65	5	68	6	111	11	104	18	138
Discipline/All Entries														
Demotion	0		0		0		0		0		0		0	
Payment	0		0		0		0		0		0		0	
Suspension	1		0		0		1		1		1		2	
Termination	1		0		0		1		1		0		1	
Verbal Counseling	3		4		13		2		4		9		6	
Written Reprimand	0		0		5		1		2		4		2	

ATTEMPT TO LOCATE (ATL) WELFARE CHECKS

- ATL welfare checks have increased dramatically over the past several years.
- Proposals exist for agencies other than the police to handle these calls. In Laramie, we don't have the capacity outside of the PD to respond to these calls.
- These calls have the potential to be very dangerous, so it is appropriate that police have some involvement.
- PD shifted their response 2 years ago to not force contact but instead leave resource packets if subjects refuse to engage in consensual contact.
 - Graham doesn't apply to non-criminal contacts

CONCEPT OF NOT USING DEADLY FORCE FOR “NON-CAPITAL” CRIMES

- Police do not make a decision to use force based on the severity or criminality of the call
- Force is used (reasonably) based on what the officer is faced with in totality
- Officers are continually trained in force decision-making scenarios in an attempt to “right size” uses of force in the field
 - This training includes simulator and live consolidated decision-making training (providing scenarios that present variables in which an officer considers **all** force options)

8 CAN'T WAIT

Recently, attention has been given to this concept. The 8 are:

1. Ban chokeholds and stranglehold
2. Require de-escalation
3. Require warning shots before shooting
4. Requires exhausting all alternatives before shooting
5. Duty to intervene
6. Ban shooting at moving vehicles
7. Require Use of Force Continuum
8. Require comprehensive reporting

LET'S TAKE A LOOK AT THESE...

CHOKEHOLDS AND STRANGLEHOLDS

We have already discussed this – these techniques are not taught at the Laramie Police Department and would not be acceptable unless there were **articulable exigent circumstances**

REQUIRE DE-ESCALATION

We have discussed this – de-escalation is a piece of **everything** that the PD trains to and it is defined and included in our use of force policy

REQUIRE WARNING SHOTS

Tennessee v. Garner (1985) was a US Supreme Court ruling that discussed the use of deadly force

- Deadly force must be **objectively reasonable** based on the totality of circumstances surrounding its use
- Suspect poses an immediate threat of serious bodily harm or death to the officer or some other person **OR**
- Officer has probable cause to believe suspect has committed a violent felony involving the infliction or threatened infliction of serious bodily harm or death **AND**
- By his escape he poses an eminent danger to the community at large **AND**
- **Warnings should be given when possible**

REQUIRES EXHAUSTION OF ALL ALTERNATIVES BEFORE SHOOTING

I am going to add #7 here, “require use of force continuum” because they are related

As we have discussed, officers use reasonable force to stop the force used against them or to effect a lawful arrest

The UOF continuum has been an **outdated concept since the late 1980s**, largely in response to the Graham case

The continuum essentially theorized that officers in all situations had to consider the least amount of force and then “walk up a ladder” of options and then articulate that they did so. You can see how this is impractical and more important, very dangerous, since the evaluation caused delays in acting.

DUTY TO INTERVENE

The duty to intervene is present in departments that have a healthy culture, solid training, administrative oversight and policies that mandate intervention

By requiring supervisory response to force incidents and reinforcing that UOF incidents are tracked, intervention will occur

LPD officers are trained that if any of their team members are acting outside of training and policy **they have a duty to intervene**

BAN SHOOTING AT MOVING VEHICLES

The US Supreme Court case that most narrowly addresses this topic is
Plumhoff v. Rickard (2014)

An officer's use of deadly force to prevent the continuation of a dangerous high-speed chase and reckless pursuit did not violate the 4th Amendment

There are other Supreme Court rulings regarding this issue – Scott v. Harris (2007), Brosseau v. Haugen (2004), Mullenix v. Luna (2015)

It would be unwise to establish a policy that would limit an officer's ability to intervene to end a very dangerous situation

REQUIRE COMPREHENSIVE REPORTING

We have discussed this. The PD believes that our UOF review process is as comprehensive as it can be.

- There is progress being made toward a national system of reporting all incidents in which result in “serious bodily injury” or death
 - In place since 2018 and reporting is voluntary at this time
 - Confusion over the definition of serious bodily injury

OFFICER INVOLVED SHOOTING PROCESSES

There is widespread confusion about the processes that take place after an officer involved shooting (OIS) incident

In **ALL** instances, there should be a side-by-side criminal and administrative investigation of the OIS (prefer that outside agency completes criminal investigation but that doesn't happen in all agencies (does here))

Both processes take time that should be afforded to ensure fair outcomes with consideration of due process for officers involved

Our OIS processes are included in LEG: 3 and we have checklist in place to ensure best practices are followed after an OIS

BODY CAMERAS

- The LPD has been fully deployed with body cameras since 2013 (18 months prior to the Ferguson incident)
- Body cameras are incredibly useful tools but they are not the “end all - cure all” for documenting police activity in the field
 - Two dimensional
 - Don't look where an officers eye looks all the time
 - Can fail or be knocked off
 - Expensive

CITIZEN COMPLAINTS

The question was posed how citizens can make complaints

- We accept complaints via phone, email, and in person
- All complaints are documented in Blue Team unless a supervisor determines that the “complaint” is a misunderstanding of policy or process and the complainant is satisfied with the explanation provided by the supervisor

OFFICER WELLNESS

- The work police do is extremely difficult and unpredictable. Suicide and PTSD are prevalent and pressing issues in the profession – more documented police suicides in 2019 than line of duty deaths.
- The LPD has an extensive employee assistance plan that includes:
 - Up to 6 free counseling visits each year
 - Yearly wellness training on various topics
 - Yearly “check-in” visits
 - Funding for critical incident debriefs

RECOMMENDED READING

- Use of Unauthorized Force by Law Enforcement Personnel (FBI - 1991)
- Developing Constitutional & Effective Policies (Daigle Law Group)
- National Consensus Policy on the Use of Force (IACP – 2017)
- Re-Engineering Training on Police Use of Force (PERF – 2015)
- President's 21st Century Policing Taskforce (White House – 2015)

This is not by any means an extensive list of reading options, but it captures much of what has occurred since the Ferguson incident in August 2014

QUESTIONS