

PENNS GROVE POLICE DEPARTMENT

Standard Operating Procedure

S.O.P. # 675.1

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SUBJECT: Use of Force Guide

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BY THE ORDER OF:

Patrick J. Riley Sr., Chief

SUPERSEDES ORDER #:

PURPOSE: To establish guidelines for officers regarding the use of force.

POLICY: Sworn law enforcement officers have been granted the extraordinary power to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility of every sworn law enforcement officer to comply with the laws of the State of New Jersey regarding the use of force and to comply with this policy. Equally important is law enforcement's obligation to prepare individual officers in the best way possible to exercise that authority. In situations where law enforcement officers are justified in using force, the utmost restraint should be exercised. The use of force should never be considered routine. In determining to use force, the law enforcement officer shall be guided by the principle that the degree of force employed in any situation should be only that reasonably necessary to accomplish lawful objectives.

This policy reinforces the responsibility of law enforcement officers to take those steps possible to prevent or stop the illegal or inappropriate use of force by other officers. Every law enforcement officer is expected and required to take appropriate action in any situation where that officer is clearly convinced that another officer is using force in violation of state law. Law enforcement officers are obligated to report all situations in which force is used illegally by anyone. This policy sends a clear message to law enforcement officers that they share an obligation beyond the requirements of the law. Officers are encouraged to do whatever they can to interrupt the flow of events before a fellow officer does something illegal and before any official action is necessary. Law enforcement officers can serve each other and the public by simply saying or doing the right thing to prevent a fellow officer from resorting to force illegally or inappropriately.

Deciding whether to use force when authorized in the conduct of official responsibilities is among the most critical decisions made by law enforcement officers. It is a decision that can be irrevocable. It is a decision that must be made quickly and under difficult, often unpredictable circumstances. Sound judgment and the appropriate exercise of discretion will always be the foundation of police officer decision making in the broad range of possible use of force situations. It is not possible to entirely replace judgment and discretion with detailed policy provisions. Nonetheless, this policy is intended to provide the best guidance and direction possible to police officers when called upon to confront and address the most difficult of situations. Law enforcement officers whose actions are consistent with state law and the provisions of this policy will be strongly supported by the law enforcement community in any subsequent review of their conduct regarding the use of force.

Bullet a: *A requirement that officers, and employees authorized to use weapons or force, will use reasonable force when force is used to accomplish lawful law enforcement objectives.*

Authorization

- A. Use of Force
1. A law enforcement officer, during the course of accomplishing law enforcement objectives, shall use the reasonable force necessary when the officer reasonably believes it is immediately needed:
 - To overcome resistance directed at the officer or others; or
 - To protect the officer, or a third party, from unlawful force; or
 - To protect property; or
 - To effect other lawful objectives, such as make an arrest.

Bullet b: *Definition of applicable terms:*

Definitions:

- A. Constructive Authority
1. Constructive authority does not involve actual physical contact with the subject, but involves the use of the law enforcement officer's authority to exert control over a subject.
 2. Examples include verbal commands, gestures, warnings and unholstering a weapon.
 3. Pointing a firearm at a subject is an element of constructive authority to be used only in appropriate situations.
- B. Physical Contact
1. Physical contact involves routine or procedural contact with a subject necessary to effectively accomplish a legitimate law enforcement objective.
 2. Examples include guiding a subject into a police vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.
- C. Physical Force
1. Physical force involves contact with a subject beyond that which is generally utilized to effect an arrest or other law enforcement objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of the law enforcement officer's authority, or to protect persons or property.
 2. Examples include wrestling a resisting subject to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand to hand confrontation.
- D. Mechanical Force
1. Mechanical force involves the use of some device or substance, other than a firearm, to overcome a subject's resistance to the exertion of a law enforcement officer's authority.
 2. Examples include the use of a baton or other object, canine physical contact with a subject, or chemical or natural agent spraying.
- E. Enhanced Mechanical Force:

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1. Enhanced Mechanical force involves the actual firing or discharge of a conducted energy device to overcome a subject's resistance to the exertion of a law enforcement officer's authority.
 2. Enhanced Mechanical force is an intermediate force option between mechanical force and deadly force requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than required for the use of deadly force.
- F. **Deadly Force**
1. Deadly force is force which a law enforcement officer uses with the purpose of causing, or which the officer knows to create a substantial risk of causing, death or serious bodily harm.
 2. Purposely firing a firearm in the direction of another person or at a vehicle, building or structure in which another person is believed to be constitutes deadly force.
 3. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the officer's purpose is limited to creating an apprehension that deadly force will be used if necessary does not constitute deadly force.
- G. **Reasonable Belief**
1. Reasonable belief is an objective assessment based upon an evaluation of how a reasonable law enforcement officer with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the law enforcement officer at the scene.
- H. **Imminent Danger**
1. Imminent danger describes threatened actions or outcomes that may occur during an encounter absent action by the law enforcement officer. The period of time involved is dependent on the circumstances and facts evident in each situation and is not the same in all situations.
 2. The threatened harm does not have to be instantaneous, for example, imminent danger may be present even if a subject is not at that instant pointing a weapon at the law enforcement officer, but is carrying a weapon and running for cover.
- I. **Substantial Risk**
1. Any discharge of a firearm entails some risk of an unintended outcome. A substantial risk exists when a law enforcement officer disregards a foreseeable likelihood that innocent persons will be endangered.
 2. For example, firing a weapon into a confined space (room, vehicle, etc) occupied by innocent persons exposes those persons to a substantial risk of harm.
- J. **Law Enforcement Officer**
1. Any person sworn to enforce the criminal laws of the State of New Jersey, who is certified by the Police Training Commission, or is currently employed by a public safety agency and is authorized to carry a firearm under N.J.S.A. 2C:39-6.
- K. **Serious Bodily Harm**
1. Any bodily harm that creates a substantial risk of death, or which is likely to cause serious permanent disfigurement or loss (or extended impairment of) the function of any bodily officer or organ.
- L. **Less-Lethal Ammunition**
1. Ammunition approved by the Attorney General that is designed to stun, temporarily incapacitate or cause temporary discomfort to a person without penetrating the person's body. N.J.S.A. 2C:3-11(f).

Bullet c: *Criteria for use of deadly force*

Use of Deadly Force

- A. A law enforcement officer may use **deadly force** only when the officer reasonably believes such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.
- B. A law enforcement officer may use deadly force to prevent the escape of a fleeing suspect.
 1. Whom the officer has probable cause to believe has committed an offense in which the suspect caused or attempted to cause death or serious bodily harm; **and**
 2. Who will pose an imminent danger of death or serious bodily harm should the escape succeed; **and**
 3. When the use of deadly force presents no substantial risk of injury to innocent persons.
 4. If feasible, a law enforcement officer should identify himself/herself and state their intention to shoot before using a firearm.
- C. Restrictions on the use of Deadly Force
 1. A law enforcement officer is under no obligation to retreat or desist when resistance is encountered or threatened. However, a law enforcement officer shall not resort to the use of deadly force if the officer reasonably believes that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm and achieve the law enforcement purpose at no increased risk to the officer or another person.
 2. A law enforcement officer shall not use deadly force to subdue persons whose actions are only destructive to property.
 3. Deadly force shall not be used against persons whose conduct is injurious only to themselves.
 4. Under current state statutes the discharge of any projectile from a firearm is considered to be deadly force, including less lethal means such as beanbag ammunition or rubber bullets. For that reason, these and similar less lethal means of deadly force can only be used when an officer reasonably believes such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.
 5. A law enforcement officer shall not discharge a weapon as a signal for help or as a warning shot.
 6. While any discharge of a firearm entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk of death or serious injury to innocent persons. The safety of innocent persons is jeopardized when a fleeing suspect is disabled and loses control of his or her vehicle. There is also a substantial risk of harm to occupants of the suspect vehicle who may not be involved or involved to a lesser extent, in the actions which necessitated the use of deadly force.
 - Due to this greater risk and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, officers shall not fire from a moving vehicle or at the driver or occupant of a moving vehicle unless the officer reasonably believes:
 - There exists an imminent danger of death or serious bodily harm to the officer or another person; and
 - No other means are available at the time to avert or eliminate the danger.
 - A law enforcement officer shall not fire a weapon solely to disable moving vehicles.

Bullet d: Restrictions of use of deadly force

Restrictions on the Use of Deadly Force

- A. A law enforcement officer is under no obligation to retreat or desist when resistance is encountered or threatened. However, a law enforcement officer shall not resort to the use of deadly force if the officer reasonably believes that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm and achieve the law enforcement purpose at no increased risk to the officer or another person.
- B. A law enforcement officer shall not use deadly force to subdue persons whose actions are only destructive to property.
- C. Deadly force shall not be used against persons whose conduct is injurious only to themselves.
- D. Under current state statutes the discharge of any projectile from a firearm is considered to be deadly force, including less lethal means such as beanbag ammunition or rubber bullets. For that reason, these and similar less lethal means of deadly force can only be used when an officer reasonably believes such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.
- E. A law enforcement officer shall not discharge a weapon as a signal for help or as a warning shot.
- F. While any discharge of a firearm entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk of death or serious injury to innocent persons. The safety of innocent persons is jeopardized when a fleeing suspect is disabled and loses control of his or her vehicle. There is also a substantial risk of harm to occupants of the suspect vehicle who may not be involved or involved to a lesser extent, in the actions which necessitated the use of deadly force.
 - 1. Due to this greater risk and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, officers shall not fire from a moving vehicle or at the driver or occupant of a moving vehicle unless the officer reasonably believes:
 - There exists an imminent danger of death or serious bodily harm to the officer or another person; and
 - No other means are available at the time to avert or eliminate the danger.
 - A law enforcement officer shall not fire a weapon solely to disable moving vehicles.

Bullet e: Criteria for use of mechanical force

Use Criteria for OC Spray

- A. OC spray is considered a use of force and shall only be applied in a manner consistent with the provisions of the written directive governing use of force considerations.
- B. OC spray may be used when:
 1. Verbal commands have failed to bring about the subject's compliance, AND
 2. The subject has signaled his intention to actively resist the member's efforts to make the arrest.
- C. Whenever practical and reasonable members shall issue a verbal warning prior to using OC spray against a subject.
- D. A member may resort to deadly force to protect himself from the threatened use of OC spray when the member reasonably believes that deadly force will be used against him if he becomes incapacitated as a result of the OC spray.

Use Criteria for Baton

- A. Members are required by law (N.J.S. 2C:3-7) to use only that amount of force that is justified for the incident encountered. Whenever a member finds it necessary to use physical force to gain and maintain control of a subject, consideration must be given to minimizing the injury to that person.
 1. Members are reminded that no law enforcement tool or technique can be expected to be effective in every situation. Numerous variables can impact upon the effectiveness of a technique. Alcohol, drugs, adrenaline and mental state can render a particular technique ineffective. Continued use of a tool or technique that is obviously ineffective increases the risk of injury to an arrestee. Members must resort to another appropriate force option to reach their lawful objective.
 2. Members shall not use the baton to batter a passive resister into submission. Members may use a baton control technique (Armlocks, etc.) in such situations provided it does not place the member at increased risk of injury.
- B. Members confronted with an incident where the application of mechanical force by means of the baton is appropriate and necessary shall be required to adhere to all of the provisions of this written directive as well as Attorney General Guidelines for use of force.

Use Criteria for Police K9

- A. The use of specially trained police canines in affecting an arrest constitutes a real or implied use of force. In this as in other cases, officers may only use that degree of force that reasonably appears necessary to apprehend or secure a suspect as governed by written directive NJ Attorney General – Use of Force.
 1. In deciding whether to authorize the use of canines in apprehension situations supervisors must consider the following:
 - The severity of the crime;
 - Whether the suspect poses an immediate threat to the safety of the officer or others; and
 - Whether the suspect is actively resisting arrest or attempting to evade arrest at the time.

B. Apprehensions

1. Officers may request the assistance of a canine unit for the purpose of locating and apprehending a person suspected of committing an offense under the following conditions:
 - The request is routed through and approved by a supervisory officer.
 - The person is suspected of committing an indictable offense or operating a vehicle under the influence of intoxicating liquor or drugs (DWI).
 - The deployment of a canine team is a reasonable use of force considering the circumstances known to the officer at the time of the request.
2. Supervisors fielding requests for canine assistance in apprehension situations are required to gather sufficient background information concerning the underlying offense and any potential circumstances that would mitigate the need for the canine.
 - Supervisors shall only approve requests for canine deployment in situations where probable cause exists to believe that the suspect has committed an indictable offense or is suspected of DWI, AND
 - The deployment of a canine team poses no unreasonable risk of injury to third persons or damage to property when weighed against the need for immediate apprehension.
3. If a handler determines it is necessary to release a dog off lead to apprehend a fleeing/hiding suspect, exceptional care and prudent judgment must be applied to prevent injury to innocent persons.
 - No canine will be released off lead until proper announcement has been given, such as "I have a police K-9, come out and surrender or the dog will be released". This shall serve notice to innocent persons to leave the area and afford the suspect an opportunity to surrender.
 - Under no circumstance shall a canine be released off lead for apprehension purposes in crowded areas or when other persons and/or police officers are in or near the path of the fleeing/hiding suspect.
 - Any time a canine is released off lead, the handler shall remain attentive for potential injury to the canine from vehicular traffic on surrounding roadways.
 - Handlers will use, and/or permit their canine to use only that amount of force necessary to apprehend and control a fleeing, hiding, or combative suspect who fails to heed the warnings of "stop" or "surrender".
 - Prior to releasing a canine off lead, handlers will make an announcement over police radio advising all personnel operating at the scene of the planned action.
4. If a suspect is apprehended, the canine shall be instructed to disengage as soon as control or compliance is achieved.

Bullet f: *Criteria for use of enhanced mechanical force, if applicable;*

Authorization To Use Conducted Energy Devices

- A. An officer who is authorized to use a conducted energy device pursuant to this policy and that of The NJ Attorney General may fire and/or discharge the device, as a component of enhanced mechanical force, during an operation only when:
 - 1. The officer believes such force is reasonably necessary to prevent the person against whom the device is targeted from causing death or serious bodily injury to himself, an officer or any other person, or
 - 2. The officer believes such force is reasonably necessary to prevent the immediate flight of an individual whom the officer has probable cause to believe has committed the offense in which the suspect caused or attempted to cause death or serious bodily injury, and
 - 3. The individual will not voluntarily submit to custody after having been given a reasonable opportunity to do so, considering the exigency of the situation and the immediacy of the need to employ law enforcement force to prevent the individual from causing death or serious bodily injury to himself or any other person.

Bullet g: *Criteria for use of less lethal ammunition, if applicable;*

Use of Less-Lethal Ammunition

- A. Less-lethal ammunition may be directed against a person only when such force is reasonably necessary to prevent the person from causing death or serious bodily injury to him/herself, an officer, or another person.
- B. A law enforcement officer shall not be required to exhaust the option of using less-lethal ammunition before using lethal ammunition in any circumstance where deadly force would be justified and authorized pursuant to the Attorney General's Use of Force Policy.
- C. A threat to use less-lethal ammunition, by the production of a firearm dedicated to the use of less-lethal ammunition or otherwise, so long as the officer's purpose is limited to creating an apprehension that less-lethal ammunition will be used if necessary, does not constitute the use of less-lethal ammunition.

Examples of Authorized Use of Less-Lethal Ammunition:

- 1. A person is armed, or appears to be armed, with a potentially deadly weapon and refuses to comply with an officer's order to disarm, but the danger to the officer is not yet imminent.
- 2. A person is threatening or actively engaged in suicidal or other self-destructive behavior, and the use of less-lethal ammunition is necessary to prevent the person from causing death or serious injury to him/herself.

Examples Where Less-Lethal Ammunition is Not Authorized:

- 1. Less-lethal ammunition shall not be used to prevent the escape of a fleeing suspect except in circumstances where such force is reasonably necessary to prevent the person from causing death or serious bodily injury to an officer or other person should the escape succeed.
- 2. Less-lethal ammunition shall not be used in a crowd control situation except in circumstances where such force is reasonably necessary to prevent a person against whom

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- the less-lethal ammunition is directed from causing death or serious bodily injury to an officer or other person.
3. Less-lethal ammunition shall not be used to prevent a person from committing property damage.

Bullet h: Criteria for exhibition or display of enhanced mechanical force, if applicable

Displaying of enhanced mechanical force

- A. An officer is authorized to unholster and display a conductive energy device, as part of an exhibition of constructive authority, and to activate the device's spark display function when:
 1. The purpose of such display is to create an apprehension that the device will be fired/discharged if necessary, so as to induce compliance with police commands.
 2. The person to whom the conductive energy device is exhibited is refusing to comply with police commands; and
 3. The use of some form of actual force against the person (whether physical, mechanical, enhanced mechanical, or deadly) may potentially be needed if the exercise of constructive authority is not successful in inducing the person to comply with the officer's commands.

Bullet i: A requirement to provide appropriate medical aid when someone is injured or complains of pain resulting from law enforcement force.

Post Use of Force Procedures

- A. When the use of force, to any degree, has been utilized against a suspect, officers shall be responsible to assess the suspect's condition and provide or summon medical assistance as required. This assessment shall take place as soon as practical taking into consideration the overall operation and the number and extent of injuries present.

Bullet j: An annual summary of use of force incidents.

Annual Use of Force Summary Report

- A. An **Annual Use of Force Summary Report** shall be prepared by the operations officer documenting all use of physical, mechanical, deadly force or any other action that results in the injury or death of another person by officers of this department. A copy of the report shall be forwarded to the chief of police, and made available to the County Prosecutor at least annually, in a manner established by the Prosecutor.