

**KEAN UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY/POLICE
POLICY MANUAL**

DIRECTIVE NUMBER:	EFFECTIVE DATE: 2/6/2015	CHAPTER: 1.3.1			
SUBJECT: Use of Force					
REFERENCE: SLEA 1.3.1, 1.3.2, 1.3.4, 1.3.5, 1.3.8, 1.3.9, New Jersey Attorney General’s Law Enforcement Guidelines “Use of Force” issued 6/2000, N.J.S.A. 2C:3-1 to 2C:3-10, 2C:11-3, and 2C:12-1 et. seq.		SPECIAL INSTRUCTIONS: This directive supersedes and replaces the previous version issued 2/2000. Revision Date: 2/11/2015			
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1. Introduction

The purpose of this directive is to establish policy regarding the use of force, including the use of deadly force, by sworn members of the Department of Public Safety/Police.

2. Policy

Sworn law enforcement officers have been granted the extraordinary authority 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 the provisions of 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. Law enforcement officers should exhaust all other reasonable means before resorting to the use of force. It is the policy of the State of New Jersey that law enforcement officers will use only that force which is objectively reasonable and necessary.

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 utilize force when authorized in the conduct of official responsibilities is among the most critical decisions made by law enforcement officers. It is a decision which can be irrevocable. It is a decision which must be made quickly and under difficult, often unpredictable and unique 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 throughout this state when called upon to confront and address the most difficult of situations. Law enforcement officers whose actions are consistent with the law and the provisions of this policy will be strongly supported by this Department and the law enforcement community in any subsequent review of their conduct regarding the use of force.

3. 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 affect 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 the 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

1. This 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.
2. Examples include the use of a Conductive Energy Device (CED), and/or less-lethal ammunition.
3. A threat to use enhanced mechanical force, by production or display of a CED, or otherwise, so long as the officer's purpose is limited to creating the apprehension that enhanced mechanical force will be used if necessary, does not constitute enhanced mechanical 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. Conducted Energy Device (CED)

1. This term means any device approved by the Attorney General that is capable of firing darts/electrodes that transmit an electrical charge intended to temporarily disable a person.

K. Less-Lethal Ammunition

1. This term encompasses any ammunition approved by the Attorney General which is designed to stun, temporarily incapacitate or cause temporary discomfort to a person without penetrating the person's body. The term will include ammunition approved by the Attorney General which is designed to gain access to a building or structure and is used for that purpose.

L. 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 et. seq.

4. Department Use of Force Rule

Force is employed to control unlawful resistance to an officer's authority to arrest, detain, or maintain order, and/or to protect an officer or another from physical harm. The amount of force is based on the amount of resistance. *An officer will use only the amount of force necessary and/or authorized by this directive to accomplish lawful objectives.*

5. Authorization and Limitations

A. Use of Force

1. An officer may use physical force or mechanical force when the officer reasonably believes it is immediately necessary at the time:
 - a. To overcome resistance directed at the officer or others; or
 - b. to protect the officer, or a third party, from unlawful force; or
 - c. to protect property; or
 - d. to effect other lawful objectives, such as to make an arrest.

B. Enhanced Mechanical Force

1. The Department does not currently authorize the use of Conducted Energy Devices or Less-Lethal Ammunition. In the event that level of force is to be authorized, this directive will be updated and/or additional directives promulgated to comply with the relative Attorney General directives.

C. Use of Deadly Force

1. A law enforcement officer may use deadly force 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.
2. A law enforcement officer may use deadly force to prevent the escape of a fleeing suspect:
 - a. 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
 - b. who will pose an imminent danger of death or serious bodily harm should the escape succeed; and
 - c. when the use of deadly force presents no substantial risk of injury to innocent persons.

3. If feasible, a law enforcement officer should identify himself/herself and state his/her intention to shoot before using a firearm.

D. 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, an officer will not resort to the use of deadly force if an 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. An officer will not use deadly force to subdue persons whose actions are only destructive to property.
3. Deadly force will not be used against persons whose conduct is injurious only to themselves.
4. An officer will not discharge a weapon as a signal for help or as a warning.
5. 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 people is jeopardized when a fleeing suspect is disabled and loses control of their 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 that necessitated the use of deadly force.
6. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, officers will not fire from a moving vehicle or at the driver or occupant of a moving vehicle unless the officer reasonably believes:
 - a. There exists an imminent danger of death or serious bodily harm to the officer or another person; and
 - b. No other means are available at that time to avert or eliminate the danger.
7. Officers will not fire a weapon solely to disable moving vehicles.

E. Exhibiting a Firearm

1. An officer will not unholster or exhibit a firearm except under any of the following circumstances:
 - a. For maintenance of the firearm;
 - b. To secure the firearm;
 - c. During training exercises, practice or qualification with the firearm;
 - d. When circumstances create a reasonable belief that it may be necessary for the officer to use the firearm;
 - e. When circumstances create a reasonable belief that display of a firearm as an element of constructive authority helps establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure officer safety.

6. Training Requirements

The Department will conduct and document semi-annual training for all officers on the lawful and appropriate use of force and deadly force. This training will be designed to reflect current standards established by statutory and case law, as well as state, county and departmental written directives and guidelines. The training program will include the use of force in general, the use of physical and mechanical force, the use of deadly force, decision making skills and the limitations that govern the use of force, deadly force

and reporting requirements. The use of force training will be conducted semi-annually during in-service training as defined in Chapter 33 of this policy manual.

7. Use of Force Reports

- A. In all instances when physical force, mechanical force, or deadly force is used, each member who has employed such force will complete and submit:
 - 1. Investigation or Supplementary Investigation Report, and/or any other report which is needed or in compliance with any other Department directive or procedure, and
 - 2. A Use of Force Report.
- B. A written report must be submitted whenever a member takes an action that results in, or is alleged to have resulted in, injury to or death of another person.
- C. The Operations Commander or his or her designee will review the Use of Force Report for accuracy and completeness, and will promptly address any issues as they may pertain to policy changes, training, weapons or equipment, or discipline. Recommendations will be forwarded through the chain of command.
- D. After the Operations Commander has reviewed the Use of Force Report, it is to be appropriately filed by the Records Bureau. A copy of the Use of Force Report will be forwarded to the Office of Professional Standards by the Records Supervisor, who will then forward a copy to the Union County Prosecutor's Office when required.
- E. The Office of Professional Standards will be responsible for ensuring the annual Use of Force Summary Report is promulgated and submitted by the Records Bureau to the Union County Prosecutor's office in the manner prescribed. A copy of this summary report is also to be provided to the Command Staff.

8. Use of Force Review

- A. All use of force incidents are subject to an administrative review by the Office of Professional Standards. The review may involve a review of all documents, available evidence and/or an interview of any available persons who may have information regarding the incident.
- B. The purpose of the administrative review is to determine if the actions taken during the use of force incident comply with statutory law, current criminal procedure, Attorney General's Guidelines, Prosecutor's Guidelines and this directive. Further purposes are to identify the need for an internal affairs investigation, training needs, and to determine if modifications to this directive are required or recommended. If the administrative review reveals that the officer's actions require an internal affairs investigation, the Director will be notified via the Chain of Command.
- C. Although there is no strict time limitation for the submission of the administrative review, the final report should be completed without undue delay.

9. Rendering Medical Aid

If the use of force results in an injury to any party, prompt medical attention will be offered and/or provided as soon as it is safe for officers to do so. Medical attention will include but is not limited to: increased visual observation by the officer to detect obvious changes in the subject's condition (including officers remaining alert to the possibility of positional asphyxiation or the possibility of the subject being under the influence of alcohol or drugs), flushing chemical agents from the eyes, applying first aid, or immediate attention by medical personnel. The attention by medical personnel may

consist of treatment / evaluation at the scene or at a medical facility. The extent of the injury and the treatment offered shall be documented in the body of the Investigation Report.

10. Notifications / After Action Procedure

- A. In the event an officer has used physical force, mechanical force, or deadly force, the officer must notify an on duty supervisor.
- B. The supervisor will ensure that the Director, the Operations Commander, the Office of Professional Standards and the Union County Prosecutor's Office are immediately notified when the use of physical force, mechanical force, or deadly force results in death or serious bodily injury, or when injury of any degree results from the use of a firearm by an officer.
- C. Members whose actions or use of force results in a death or serious injury to any other person will be removed from a line duty assignment and assigned to an administrative position by their Division Commander pending a full review of the facts and circumstances of the incident. The member will also be offered critical incident stress debriefing through the Employee Assistance Program and Critical Incident Stress Management.

Director, Department of Public Safety/Police