



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-55

Effective: 6/2/17 Review Due: 6/2/18 Replaces: 2/12/16

## 2-55 Use of Force Appendix

### 2-55-1 Purpose

This appendix is intended to supplement SOP 2-52 - Use of Force, SOP 2-53 - Electronic Control Weapon, and SOP 2-54 - Use of Force Reporting and Supervisory Force Investigation by clarifying and outlining all definitions related to the use of force policy suite. This appendix will also specify the minimum basic training requirements for various use of force options authorized by the Department. These requirements shall be reviewed and updated concurrently with changes made by the New Mexico Department of Public Safety (NMDPS).

### 2-55-2 Definitions

#### A. Active Resistance

A subject who is uncooperative and takes some level of physical action to resist and prevent an officer from placing the subject in custody is actively resisting.

Active resistance poses a threat of harm to the officer or others. Examples include the following: (1) when a subject attempts to attack an officer or does attack an officer; (2) when a subject exhibits combative behavior including but not limited to lunging toward the officer, or striking the officer with hands, fists, kicks, or any instrument that may be perceived as a weapon; (3) when a subject attempts to leave the scene, flee, hide from detection, or, in some instances, to stand up when the subject has been told to sit down or to pull away from the officer's grasp.

Verbal statements alone do not constitute active resistance. Bracing or tensing alone ordinarily do not constitute active resistance but may do so if they physically prevent officers from performing their lawful objectives in a manner that poses a threat of harm to the officer or others.

#### B. Constitutional Standard

*Graham v. Connor*, 490 U.S. 386 (1989)

*Tennessee v. Garner*, 471 U.S. 1 (1985)

The United States Supreme Court case *Graham v. Connor*, 490 U.S. 386 (1989) and other subsequent cases have established that an officer's right to make an arrest or investigatory stop necessarily carries with it the right to use physical coercion or threat thereof to effect it. An officer's use of force is considered a seizure under the Fourth Amendment and must therefore be objectively reasonable when analyzed under the "objective reasonableness" standard as defined below. In *Tennessee v. Garner*, 471 U.S. 1 (1985), the Supreme Court held that under the Fourth Amendment, a police officer may not use deadly force to prevent the escape of a fleeing suspect unless the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others.



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C. Critical Firearm Discharge

Critical discharges are discharges of a lethal firearm by an APD officer and include unintentional discharges and discharges where no person is struck. Range and training firings, destruction of animals, and off-duty hunting discharges where no person is struck are not considered critical firearm discharges.

D. Critical Incident Response Team (CIRT)

The Critical Incident Response Team (CIRT) is responsible for administrative investigations of all serious uses of force and critical incidents as they pertain to tactics, training, policy, supervision, performance, and other such concerns.

E. De Minimis Force

Physical interaction meant to separate, guide, and/or control a subject with techniques that are not intended nor reasonably likely to cause injury or pain including:

- 1) Use of hand or equipment to stop, push back, separate, or control.
- 2) Escorting a passively resistant subject to/from a location or securing the subject in a police vehicle without pain compliance techniques, strikes, or injury.

De Minimis Force is not considered a “use of force” as used in the context of this policy suite.

F. Distraction Technique

An empty-hand technique used by an officer utilizing a reduced level of power with the specific intent to separate the attacker’s mind from body and break their focus. When effective, this technique creates time for the officer to react and allow them to transition to another tool or technique in order to gain control or disengage and create distance. Examples include, but are not limited to, open-hand strikes, elbow strikes, knee strikes and kicks. **This technique is considered a use of force.**

G. Escort Techniques

The use of techniques which involve the application of a “C-clamp” to the wrist notch and triceps notch of the subject’s arm in order to maintain physical control to move the subject from one point to another. The use of escort techniques is not intended to cause pain to maintain control but may be utilized to transition to a pain compliance technique when reasonable and necessary (i.e. wrist-lock, twist-lock, arm bar take-down).



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H. Feasible

A feasible action is one that is capable of being done or carried out to successfully achieve the arrest or lawful objective without increasing risk to the officer or other persons.

I. Force

Force is any application of physical techniques or use of tools as listed in this policy, or any other means used to defend, restrain, overcome resistance from, or otherwise gain physical control of a person. Handcuffing, escorts, and holds of otherwise cooperative individuals do not constitute an application of force as defined in this section, if used according to training and policy. *De minimis* use of escort holds to prompt an initially non-compliant subject shall not be considered force as defined in this paragraph.

J. Force Array

Force array is a deployment tactic which utilizes a layer of force options. The layered response can range from officers' presence to lethal force. The force array is used as a team response where officers are working in concert with one another through various force options. This style of deployment allows the officers to fluidly escalate and deescalate their force response.

K. Force Investigation Team (FIT)

In all serious uses of force, the Force Investigation Team (FIT) will assume case responsibility for the criminal investigation into the underlying events that led to the call for service. In incidents where there appears to be criminal conduct by the officer, FIT will also assume case responsibility for the criminal investigation of the officer.

L. Imminent Threat

An imminent threat comprises a dangerous or threatening situation which is likely to occur at any moment, is about to occur or take place, and is perceived to be unfolding.

M. Intermediate Force

This is a level of force which is greater than low-level control tactics and less than deadly force. Use of intermediate force carries the potential for injury but is not intended to cause injury, nor is it likely to cause serious physical injury or death when used properly.

N. Involved Officer

Involved officers include any personnel who participated in the application of the use of force.



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O. Less-Lethal Force

Less-lethal force describes a force application not intended or expected to cause death or serious injury. It is commonly understood to have less potential for causing death or serious injury than conventional, more lethal police tactics. Use of less-lethal force can nonetheless result in serious physical injury or death. Less-lethal force is generally included within the category of intermediate force.

P. Less-Lethal Impact Munitions

These are munitions or tools that are specifically designed to incapacitate an individual but are less likely to cause death or serious physical injury than other conventional lethal options. Use of less-lethal impact munitions can nonetheless result in death or serious injury. Department-authorized less-lethal impact munitions include but are not limited to these components:

- Bean bag shotgun
- Foam projectiles
- Wooden baton rounds
- Rubber pellet rounds

Q. Lethal Force

Lethal force comprises any use of force likely to cause death or serious physical injury, including the use of a firearm, a neck hold, or a strike to the head, neck, or throat with a hard object.

R. Low-Level Control Tactics

This is a control tactic that is neither intended nor likely to cause injury.

S. Low Ready

The low ready is a position of preparedness. The muzzle of the firearm is not covering a subject. The trigger finger is outside the trigger guard and straight along the frame. The angle of the low ready is based on the distance from the subject. A weapon at low ready is not a show of force, as further action is required by the officer before he or she may immediately use the weapon.

T. Minimum Amount of Force Necessary

The lowest level of force necessary within the range of objectively reasonable force that is necessary to make an arrest or to achieve a lawful objective without increasing the risk to the officer or others.



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U. Neck Hold (Choke Hold)

This term refers to the following types of holds: a carotid restraint hold; a vascular neck restraint; a chokehold that inhibits breathing by compression of the airway in the neck; or a hold with a knee or other object to the back of a prone subject's neck. A neck hold is considered lethal force for purposes of the Department's use of force policy. Mere incidental contact, pressure point contact, touching, guiding, or controlling on the back of the neck do not constitute a neck hold. For more information on carotid restraint holds and vascular neck restraint, refer to the definition of Vascular Neck Restraint, below.

V. Objectively Reasonable

This term describes the test by which courts will evaluate force used to make an arrest or to protect the officer or other persons. This standard that courts will use to examine whether a use of force is constitutional and justifiable was first set forth in *Graham v. Connor*, 490 U.S. 386 (1989) and then expanded by subsequent court cases. The determination of "objectively reasonable" is based on the totality of the circumstances and the facts known to the officer at the time of the incident. The reasonableness of an officer's use of force will be judged from the perspective of a "reasonable officer" who is considered to be on-scene at the time of the action rather than from the perspective of 20/20 hindsight.

W. Passive Resistance

A subject who displays passive resistance is uncooperative and fails to follow an officer's lawful order or directions but who does not pose an imminent threat to the officer or the public. Examples of subjects who offer passive resistance include failing to follow lawful directions, crossing their arms and shaking their head "no" in response to lawful directions, verbally stating "no" to lawful directions, or verbally signaling an intention to avoid or prevent being taken into custody. Bracing, tensing, or linking arms without other action ordinarily constitute passive resistance, but may constitute active resistance if those actions physically prevent officers from performing their lawful objectives in a manner that poses a threat of harm to the officer or others

X. Primary Officer

This refers to the officer responding to a call who is assigned by dispatch to be in charge during that call. The primary officer has the responsibility to make contact, to make decisions with respect to the call, and to prepare the Uniform Incident Report.



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Y. Serious Physical Injury

A serious physical injury to a person creates a substantial risk of death, causes serious and protracted disfigurement, or results in permanent or protracted loss or impairment of the function of any member or organ of the body.

Z. Serious Use of Force

The following actions are considered serious uses of force.

1. All uses of lethal force by an APD officer.
2. All critical firearm discharges by an APD officer.
3. All uses of force by an APD officer resulting in serious physical injury or requiring hospitalization.
4. All head, neck, and throat strikes with an object and neck holds.
5. All uses of force by an APD officer resulting in a loss of consciousness.
6. All canine bites by an APD patrol service dog.
7. Three or more applications of an ECW on an individual during a single interaction, regardless of whether the applications are by the same or different APD officers; or applications that last longer than 15 seconds, whether continuous or consecutive, regardless of the mode of the application.
8. Any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject by an APD officer.
9. Four or more strikes with a baton by an APD officer.

AA. Show of Force

Show of force is defined as an officer drawing and displaying any tool or weapon system in potentially high risk or unknown risk situations. The specific intent is to decrease the officer's reaction time and, when used in conjunction with verbal commands, to encourage subjects to stop their actions and comply, thereby avoiding the necessity to escalate to a use of force.

Drawing a tool from a duty belt, retrieving a weapon from a department vehicle, or displaying a weapon at the low ready do *not* require a show of force data report.

BB. Subject

A subject is the person upon whom force is used.



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CC. Vascular Neck Restraint

The application of pressure to the carotid arteries and jugular veins at the sides of the neck, which results in diminished blood flow to the brain. When applied properly this diminished blood flow generally leads to unconsciousness. If applied improperly, the use of this technique could potentially result in death. This technique is also commonly referred to as the carotid neck restraint or Lateral Vascular Neck Restraint® (LVNR®).

**2-55-3 Use of Force Tools Certification Requirements**

The following standards are the NMDPS minimum basic training requirements for certification, authorizing the application of the use of force tools and techniques utilized by the Department.

A. Empty Hand Tactics Certification Requirements:

1. Entry-level training is provided at the Albuquerque Police Academy.
2. Training consists of a minimum of 62 hours of classroom and practical training.
3. Refresher training is conducted as determined by Department needs.

B. Baton and Impact Weapons Certification Requirements— including expandable, straight, and Bokken batons, as well as extended range less-lethal impact munition

1. Entry-level training is provided at the Albuquerque Police Academy.
2. Training consists of a minimum of four hours of classroom and practical training and is a component of the 62-hour Empty Hand Tactics training.
3. Refresher training is conducted as determined by Department needs.

C. Oleoresin Capsicum (OC) Spray Certification Requirements:

1. Entry-level training is provided at the Albuquerque Police Academy.
2. Training consists of a minimum of three hours of classroom and practical training and is a component of the 62-hour Empty Hand Tactics training.
3. Refresher training is conducted as determined by Department needs.

D. Electronic Control Weapon (ECW) Certification Requirements

1. Entry-level training is provided at the Albuquerque Police Academy.
2. Training consists of a minimum of six hours of classroom and practical training.



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3. Recertification will occur annually.

E. Less-Lethal Impact Munitions Certification Requirements:

1. Entry-level training is provided at the Albuquerque Police Academy and APD Firearms Range.
2. Training consists of a minimum of four hours of classroom and practical training.
3. Recertification occurs annually.

F. Use of Force with Firearms - Handgun, Shotgun (Less lethal, "00" Buck & Slug), and Rifle Certification Requirements

1. Entry-level training is provided at the Albuquerque Police Academy and APD Firearms Range.
2. Training consists of a minimum of 60 hours of classroom and practical training.
3. Qualifications will occur annually.

The minimum amount of required training is supplemented and reinforced through the use of scenario and reality-based training and interactive video scenario training throughout the basic training academy.

All training shall be conducted by instructors certified by the NMDPS or by an outside entity, which, as accredited agencies, are certified to develop and present instruction for the above types of training.

Use of Force Tool or Tactic	Minimum Entry Level Training Hours	Advanced Training Will Occur:	Training Location
Empty Hand Tactics	62 hours	As needed	Albuquerque Police Academy
Baton and Impact Weapons	*4 hours	As needed	Albuquerque Police Academy
Oleoresin Capsicum (OC) Spray	*3 hours	As needed	Albuquerque Police Academy
Electronic Control Weapons (ECW)	6 hours	Annual Certification	Albuquerque Police Academy
Less Lethal Impact Munitions	4 hours	Annual Qualifications	Albuquerque Police Academy and APD Firearms Range
Firearms	60 hours	Annual Qualifications	Albuquerque Police Academy and APD Firearms Range



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\*Baton and Impact Weapons and Oleoresin Capsicum (OC) Spray are components of the 62-hour Empty Hand Tactics training.



## 2-53 Use of Force Definitions

### 2-53-1 Purpose

To define terminology used in the Albuquerque Police Department Use of Force policies.

### 2-53-2 Definitions

#### A. Critical Firearm Discharge

Discharges of a lethal firearm by an officer, including accidental discharges and discharges where no person is struck. Range and training firings, destruction of animals, and off-duty hunting discharges where no person is struck are not critical firearm discharges.

#### B. Deadly Force

Deadly Force is any use of Force that is likely to cause death or Serious Physical Injury, including the use of a firearm, a Neck Hold, or an intentional strike to the head, neck, or throat with a Hard Object.

#### C. De-escalate

An officer's actions to attempt to calm a situation or to prevent a situation from escalating into a physical confrontation or injury, by using verbal and non-verbal techniques, including active listening skills, tone of voice, announcement of actions, body posture, personal space, eye contact, and empathy and compassion to promote officer and individual safety. [\(See also APD SOP 2-19 Response to Behavioral Health for the definition\).](#)

#### D. Distraction Technique

An empty-hand technique used by an officer utilizing a reduced level of power with the specific intent to separate the individual's mind from body and break their focus. When effective, this technique creates time for the officer to react and allow them to transition to another tool or technique in order to gain control or disengage and create distance. Examples include, but are not limited to, open-hand strikes, elbow strikes, knee strikes and kicks.

#### E. Electronic Control Weapon (ECW) Application

The contact and delivery of an electrical impulse to an individual with an ECW.

#### F. Escort Techniques



The use of techniques, which involves the application of a “C-clamp” to the wrist notch and tricep notch of the individual’s arm in order to maintain physical control to move a compliant individual to meet the officer’s objective. Escort Techniques used with compliant individuals will generally not constitute a use of Force.

G. Feasible

An action is Feasible when it can be done or carried out reasonably to achieve an arrest or lawful objective without increasing risk to the officer or other persons.

H. Force

Any application of empty hand techniques, use of intermediate weapons as listed in this policy, or any other physical means used to defend the officer or others, restrain, overcome resistance, or otherwise gain physical control of a person.

I. Force Array

Force Array is a team tactic, which utilizes a layer of Force options. Officers work in concert with one another by deploying varying Force options. Force Array provides officers with a range of Force options and allows officers to quickly escalate or de-escalate their Force response when necessary.

J. Hard Object

Any object used to forcefully strike an individual, which has the potential to cause Serious Physical Injury or death through blunt Force trauma. A Hard Object can include impact weapons (e.g., baton, beanbag rounds and 40mm impact munitions) and improvised impact weapons.

K. Immediate Threat

An Immediate Threat to an officer or other individual is one that can be delivered, without delay, and requires an instant response by an officer to stop the threat or control the situation.

L. Imminent Threat

A situation that may escalate to a direct threat.

M. Levels of Force



1. **Level 1 Use of Force:** Force that is likely to cause only transitory pain, disorientation and/or discomfort during its application as a means of gaining compliance.
  - a. This includes techniques, which are not reasonably expected to cause injury, do not result in an actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing).
  - b. Pointing a firearm, beanbag shotgun or 40 millimeter launcher at an individual, or using an ECW to “paint” an individual with the laser sight, as a show of Force are reportable as a Level 1 Use of Force.
  - c. Level 1 Use of Force does not include interaction meant to guide, assist or control an individual that is offering minimal resistance.
2. **Level 2 Use of Force:** Force that causes an injury, could reasonably be expected to cause injury, or results in a complaint of an injury.

Level 2 Use of Force includes:

- a. Use of an ECW, including where an ECW is fired at an individual but misses;
  - b. Use of a beanbag shotgun or 40 millimeter launcher, including where it is fired at an individual but misses;
  - c. OC Spray application;
  - d. Empty Hand Techniques (e.g. strikes, kicks, takedowns, distraction techniques, or leg sweeps); and
  - e. Strikes with impact weapons, except for strikes to the head, neck, or throat, which would be considered a Level 3 use of Force.
3. **Level 3 Use of Force:** Force that results in, or could reasonably result in, serious physical injury, hospitalization, or death.

Level 3 Use of Force includes:

- a. Use of Lethal Force;
- b. Critical Firearm Discharges;
- c. Use of Force resulting in death or serious physical Injury;
- d. Use of Force resulting in hospitalization;
- e. All strikes to the head, neck, or throat with a hard object;
- f. Use of Force resulting in a loss of consciousness;



- g. Canine bites;
- h. Three or more applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers;
- i. ECW application on an individual during a single interaction for longer than 15 seconds, whether continuous or consecutive, regardless of the mode of application;
- j. Neck holds;
- k. Four or more strikes with a baton; and
- l. Any Level 2 use of Force against a handcuffed individual.

#### N. Levels of Resistance

##### 1. Active Resistance

Refers to an individual's resistance that poses a threat of harm to the officer or others, such as when an individual attempts to attack or does attack an officer; exhibits combative behavior (e.g., lunging toward the officer, striking the officer with hands, fists, kicks, or any instrument that may be perceived as a weapon such as a knife or stick); or attempts to leave the scene, flee, hide from detection, or pull away from the officer's grasp. Verbal statements alone do not constitute Active Resistance. Bracing or tensing alone ordinarily do not constitute Active Resistance, but may if they pose a threat of harm to the officer or others.

##### 2. Passive Resistance

Refers to an individual's non-compliance with officer commands that is non-violent and does not pose an Immediate Threat to the officer or the public. Bracing, tensing, linking arms, or verbally signaling an intention to avoid or prevent being taken into custody constitute Passive Resistance.

#### O. Low-Level Control Tactics

Physical interactions meant to guide and/or control an individual that does not constitute a Reportable Use of Force. Low-level control tactics include, but are not limited to:

- 1. Escort Techniques, touching, use of control holds, or handcuffing an individual with no or minimal resistance (e.g. tensing of arm muscles or turning or pulling away that does not escalate to a Reportable Use of Force) which does not cause pain and is not reasonably likely to cause pain or injury; and



2. using hands or equipment to stop, push back, separate, or escort a person in a manner that does not cause pain, and is not reasonably likely to cause any pain or injury.

P. Low Ready

Low Ready is a position of preparedness with a firearm or ECW where the muzzle of the weapon is not covering an individual and the trigger finger is outside the trigger guard and straight along the frame. The angle of the low ready is based on the distance from the individual. A weapon at low ready is not a reportable show of Force, as either the firearm or ECW are not pointed at the individual.

Q. Minimum Amount of Force Necessary

The lowest level of Force within the range of objectively reasonable Force that is necessary to make an arrest or to achieve a lawful objective without increasing the risk to the officer or others.

R. Necessary Force

Refers to Force which is used on an individual when no reasonable alternative to the use of Force exists. When Force is necessary, officers shall use the minimum amount of Force required and shall avoid unnecessary risk of injury to the officer or any individual.

S. Neck Hold (Choke Hold)

This term refers to the following types of holds: a carotid restraint hold; a Vascular Neck Restraint; a chokehold that inhibits breathing by compression of the airway in the neck; or a hold with a knee or other object to the individual's neck. A Neck Hold is considered Deadly Force.

Incidental contact, pressure point contact, touching, guiding, or controlling on the back of the neck do not constitute a Neck Hold. For more information on carotid restraint holds and Vascular Lateral Neck Restraint, refer to the definition of Vascular Neck Restraint, below.

T. Proportional Force

Refers to Force which reflects the totality of circumstances surrounding the situation, including the presence of imminent danger to the officer or others.

The use of Proportional Force by an officer does not require the use of the same type or amount of Force as that used by the individual.



The more immediate the threat and more likely that the threat will result in death or Serious Physical Injury, the greater the level of Force that is reasonable and necessary to counter it.

U. Reasonable Force

Refers to Force which is objectively reasonable under the circumstances and the minimum amount of Force Necessary to effect an arrest or protect the officer or other person.

V. Reportable Use of Force

Refers to Force that officers must document and report in the manner outlined by the Use of Force Reporting Policy. The Department uses of Force are classified into three levels. The three levels are for reporting, subsequent injury, and review of use of Force incidents. Each level corresponds to the level of Force used and/or the outcome of the Force incident.

W. Serious Physical Injury

Refers to physical injury that creates a substantial risk of death; or that causes death or serious and protracted disfigurement; or impairment of the function of any bodily organ or limb.

X. Show of Force

Pointing a firearm, beanbag shotgun, or 40 millimeter launcher at an individual, or using an ECW to "paint" an individual with the laser and shall be reported to the appropriate first-line supervisor and reviewed as a Level 1 use of Force.

Y. Vascular Neck Restraint

The application of pressure to the carotid arteries and jugular veins at the sides of the neck, which results in diminished blood flow to the brain. When applied properly this diminished blood flow generally leads to unconsciousness. If applied improperly, the use of this technique could potentially result in death.

This technique is also commonly referred to as the carotid neck restraint or Lateral Vascular Neck Restraint<sup>®</sup> (LVNR<sup>®</sup>).