

ALBUQUERQUE POLICE DEPARTMENT
* PROCEDURAL ORDERS *

Effective: 04/20/2009; Replaces: 12/15/2008
09-POR-7/16/09

2-52 USE OF FORCE (DEADLY FORCE, NON DEADLY FORCE, LESS LETHAL FORCE)

POLICY:

It is the policy of this Department that officers shall use only that force which is reasonably necessary to protect the sanctity of human life, preserve and protect individual liberties, and to effect lawful objectives. All officers will act in good faith in the exercise of force. The officers' options can range from a continuum of verbal persuasion to deadly force.

2-52-1 DEFINITIONS: N/A

A. NON DEADLY FORCE

Any use of force other than which is considered deadly force.

B. DEADLY FORCE

Any use of force that is likely to cause death or serious physical injury.

C. REASONABLE BELIEF

The facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

D. SERIOUS PHYSICAL INJURY

A bodily injury that creates a substantial risk of death; causes serious permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

E. POLICE ACTION

Any offensive or non passive defensive action by an officer, or some intentional action under his/her immediate control.

F. POLICE ACTION INJURY

Any injury to a suspect that results from offensive or non passive defensive action by an officer, or some intentional action under his/her immediate control.

G. LESS LETHAL FORCE

Force that is intended to cause or which is likely to cause bodily harm and in certain circumstances may result in death or great bodily injury.

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H. LESS LETHAL MUNITIONS

Munitions designed to incapacitate hostile individuals without causing death or great bodily harm, but that possibility always exists even though the munitions are deployed properly. Department approved less lethal munitions are:

1. Electronic Restraint Device (taser),
2. Bean Bag Rounds,
3. Rubber Pellet Rounds,
4. Foam Projectile Rounds, and
5. Wooden Baton Rounds

I. BODILY HARM

Any physical impairment of the condition of another's body which causes pain or illness.

RULES AND PROCEDURES:

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- A. Where force is warranted, officers should assess the incident in order to determine which technique or weapon will reasonably de-escalate the incident and bring it under control safely. Officers shall use only that force which is reasonably necessary to effect lawful objectives.
- B. Officers are permitted to use those defensive tactics and non deadly weapons with which they are trained, qualified, and certified with, as determined by Department training procedures, for the resolution of incidents.
- C. Every officer is expected to consider the use of Departmental approved options, ranging from verbal techniques, hand control procedures, and non-lethal equipment, which includes, but not limited to chemical agents and the baton.
- D. When a confrontation escalates suddenly, an officer may use any means or device at hand to defend him/herself, as long as the force is reasonable, given the existing circumstances.
- E. **House Mounted Unit Only: Officers assigned to the Horse Mounted Unit will carry the 40 inch wooden bokken baton while mounted. Under the guidelines of the Reactive Control Model Force Continuum, the bokken baton will be considered equal to the expandable baton. Refer to 4-02-12.**

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USE OF DEADLY FORCE

A. The authorized weapons that are available to an officer are intended to be used as defensive instruments to prevent an assailant from completing a potentially deadly act.

1. A firearm is discharged with the primary intent to stop or incapacitate and not to kill or injure.
2. To ensure maximum stopping effectiveness and minimal danger to non-participants, the officer should shoot at "center body mass" when discharging a firearm.

B. Officers are authorized to use deadly force, by any means, in order to:

1. Protect the officer or others from what is reasonably believed to be an immediate threat of death or serious physical injury;
2. Prevent the escape of one reasonably believed to have committed a felony, but only when:

➤ *There is probable cause to believe the suspect poses a
immediate threat of death or serious physical injury to
the officer or others.*

3. Disable the tires on vehicle that is being pursued if the elements in 1 & 2 above are met. If the situation permits an opportunity, officers should obtain supervisor approval prior to disabling the tires.

- a. Officers will use only their shotgun or authorized rifle for this purpose. Sidearms will not be used.
- b. The only target will be the vehicle tires.

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C. Warning shots are prohibited.

[N/A]

D. When feasible, some warning should be given prior to engaging in the use of deadly force.

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E. When the ONLY means of an assault on an officer is by motor vehicle, officers:

1. **Should not fire upon the vehicle but most place themselves in the most tactically safe possible.**
2. **Officers shall not knowingly place themselves into the path of a moving vehicle or into the likely path of a moving vehicle that is currently stopped but under the immediate control of the driver.**
3. **When feasible, officers shall attempt to move out of the path of any moving vehicle to a position of cover.**

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4. **Will not purposely place themselves in the path of fleeing/
aggressively driven vehicle to justify the use of deadly force**

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OTHER INSTANCES WHEN DISCHARGE OF A FIREARM IS AUTHORIZED

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- A. To safely destroy an animal when:

1. The animal represents a threat to public safety;
2. As a humanitarian measure when the animal is seriously injured,
3. Other alternatives have been exhausted, or
4. Requested by animal control.

[N/A]

- B. During range practice or competitive sporting events.

- C. EOD personnel may utilize a firearm to disrupt an improvised (explosive) device.

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FIREARMS SAFETY

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All weapons, lethal and less lethal, will be carried in a safe and secure manner. Horseplay, flippant handling, and careless behavior is strictly prohibited.

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REPORTING USES OF FORCE

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- A. In instances where police actions are used which result in death or great bodily harm, the reporting and investigation process will be followed as outlined in section 3-41 of the Administrative Orders.

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- B. In all other instances where police actions are used which result in an injury, officers shall document the injury or alleged injury in the report of the incident. All officers who witness such police actions whether directly involved or not, shall document their observation on a supplemental report. A copy will be submitted through their chain of command to their division commander and Internal Affairs within 24 hours of the event.

1. The offense report will include:

- a. A detailed description of the events leading to the necessity for the use of police action;
- b. The amount and type of action used;
- c. The nature and extent of injuries and treatment rendered to the officers and subjects;
- d. The identity of combatants, officers involved, witnesses and medical personnel involved, if applicable, and
- e. Other pertinent information.

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2. If an officer is unable to write the report, the on duty supervisor will ensure the necessary report is properly prepared and forwarded.

C. Notification of Supervisor

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In all instances when deadly force is used or the discharge of a firearm occurs (other than in training, by EOD personnel during a render-safe procedure, or for authorized recreational purposes), officers shall immediately notify their supervisor or the next available supervisor in the chain of command.

D. Supervisor Responsibility

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1. Supervisors will ensure that a written report is submitted in all instances where a firearm is discharged other than in training or for authorized recreation purposes.
2. Supervisors (this will be the officer's immediate supervisor, if working. If the officer's immediate supervisor is not working, the on-scene supervisor will complete the Use of Force form) will be required to complete the Use of Force Report form for all types of force applied to a given incident including:
 - a. hand-to-hand action resulting in injury,
 - b. baton strike,
 - c. canine bite,
 - d. mace,
 - e. ERD (taser),
 - f. less lethal munitions,
 - g. lethal munitions
3. The Use of Force Report and a copy of the offense/incident report will:
 - a. Be submitted for review to the Operations Review Lieutenant within 72 hours after the incident.
 - b. Be distributed by Operations Review to the appropriate units, i.e., Internal Affairs, Risk Management, Legal, Tactical Teams, Academy, etc.
 - c. The Operations Review Lieutenant will ensure that the Use of Force Report is reviewed by the Department's Legal Advisor prior to forwarding the report to Internal Affairs.

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- E. Commander's Responsibility
 - 1. Will ensure that supervisors and subordinates conform to policy regarding the use of force.
 - 2. Will ensure that copies of all documents concerning ALL USE OF FORCE INCIDENTS are submitted to the Department's Legal Advisor as outlined in subsection "D."
 - 3. Will document reportable police action(s) on their subordinate's Police Action Card.
- F. Reporting Use of Less than Lethal Munitions
 - 1. Whenever less than lethal munitions are used, officers shall initiate an Offense/Incident Report to include:
 - a. A detailed description of the events leading to the necessity for the use of lethal/less lethal munitions;
 - b. The nature and extent of any injuries to the suspect;
 - c. The identity of the combatants, officers, witnesses, and medical personnel involved.
 - 2. A copy will be submitted within 24 hours of the incident through their chain of command to their deputy chief or area commander and to the Department's Legal Advisor.

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[N/A]

DEPARTMENT RESPONSE

A. Deadly Force Incident

- 1. The Department shall conduct both a criminal and an administrative investigation of the incident.
- 2. Whenever an officer is a principal participant in a critical incident involving great bodily injury, the officer shall be placed on administrative leave with pay for three days. The director of the Behavioral Science Division (BSD) may authorize up to seven additional days of administrative leave on Form P-30-V.
 - a. While officer(s) are on administrative leave, they will make themselves available to Department investigators.

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- b. The officer's deputy chief or area commander must authorize returning to former duty status. Following a return-to-duty interview with BSD, the officer will be responsible for arranging his/her return to duty. Should an extension of leave beyond three days become necessary, the officer will be responsible for having his/her chain of command sign the P30-V Form and conveying this form to Police Payroll/Personnel.
- c. It will be the responsibility of the BSD to contact the officer approximately 30, 90, and 180 days after the incident to ascertain the need for further follow-up.

B. Administrative Review of Use of Force Incidents

1. All reported uses of force will be reviewed by the Internal Affairs Unit to determine whether:
 - a. Departmental policies, rules, or procedures were violated;
 - b. the relevant policy was clearly understandable and effective to cover the situation;
 - c. Department training was adequate.
2. All findings of policy violations or training inadequacies shall be reported to the Chief of Police for resolution and/or discipline.

C. Less Lethal Incidents

If the use of less lethal munitions results in death or great bodily harm of a suspect, the reporting and investigation process will be followed as outlined in Section 3-41, Internal Affairs Unit Responsibility, of the Administrative Orders.

- D. In all other instances that do not result in death or great bodily harm to a suspect, the investigation will be handled as any other use of force incident. Appropriate reports will be completed and a field investigator will be called to complete the proper crime scene investigation.

[5] E. Rendering Medical Aid Following Use of Deadly or Non-Deadly Force

1. Emergency medical attention will be immediately rendered, consistent with officer safety, following any police action which results in the injury of any individual. This aid will include but not be limited to:
 - a. The officer administering first aid, and
 - b. Requesting of any additional advanced first aid which may be required, i.e. Rescue, Lifeguard I, etc.

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2. If the subject complains of an injury or if the officers suspect injury, the officer will request rescue at the scene to medically evaluate the subject.

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- A. Deployment of less lethal force options should correspond with the Reactive Control Model (RCM). In order to determine which technique or weapon to reasonably de-escalate the incident and bring it under control safely personnel should:

1. Always consider the actions of the subject and the desired outcome when considering force options.
2. Use only that force which is reasonably necessary to effect lawful objectives.

- B. Officers will only use less lethal force munitions after receiving training in their proper use.

- C. Every effort will be made by officers deploying the munitions to inform other involved officers that a less than lethal munitions is being used.

- D. The use of less lethal munitions is authorized against animals that pose a threat to public safety.

- E. In order to keep records of all incidents pertaining to the use of less lethal "Bean Bag" rounds, supervisors will forward copies of all report to the Operations Review Section.

1. The Operations Review Section will maintain a log of all cases and the respective reports.
2. Any problems encountered with the use of these rounds should be noted on a separate memo attached to the report.

- F. Oleoresin Capsicum (OC) Aerosol Restraint Spray

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1. Authorization - Use/Carrying of OC Spray:

In order to use/carry Oleoresin Capsicum(OC) restraint spray, officers are required to complete an approved course of instruction on it's use.

- a. OC spray is an additional use of force option to gain compliance of resistant or aggressive individual(s) during an arrest and/or other enforcement situation.
- b. OC spray will be use as warranted, but only in accordance with the Department's guidelines and procedures.

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c. Officers whose normal duties/assignments may require them to make arrests or supervise arrestees shall be required to carry OC spray while on duty.

d. Non-uniformed officers may carry OC spray in alternative devices only after receiving written authorization from the Chief of Police.

2. Usage Criteria

OC spray shall be deployed in a manner consistent with the Department's use of force policy and training guidelines.

a. Whenever practical and reasonable, officers should use their Department issued tape recorder during the events surrounding the deployment of OC spray.

b. The use of OC spray is no longer authorized once a suspect is compliant and non-combative.

c. Use of OC spray should be limited, if possible, under conditions where it is not likely to effect innocent bystanders.

d. Due to the high volume output of the large OC spray canister, its use should be limited to well ventilated areas and at a distance of no less than 10 feet from the combatant.

This will reduce the risk of eye injury to the combatant, and lessen the risk of contaminating officers, which could render them unable to perform their duties.

3. Officers Responsibilities

a. The effects of OC spray vary among individuals. Therefore, after being sprayed, all suspects shall be handcuffed as soon as possible.

b. Officers should also be prepared to employ other means to control the suspect, to include, if necessary, other force options consistent with policy.

c. Suspects who have been sprayed shall not be left alone, and must be continuously monitored for indications of medical problems, which include, but are not limited to:

- 1) breathing difficulties,
- 2) profuse sweating, and
- 3) loss of consciousness

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- d. AFD Rescue Personnel will be requested immediately to attend to any medical need.
- e. Within a reasonable amount of time following the deployment of OC spray, AFD Rescue Personnel will be requested to decontaminate the arrestee.
- f. Air will normally begin reducing the effects of OC spray within several minutes after exposure, however, once the suspect has been physically restrained, officers may assist them by rinsing the exposed area with clean water.
- g. Assistance, as described above, shall be offered to any individual that feels the effects of OC spray when they have been accidentally exposed. All such incidents shall be reported to the officer's immediate supervisor and shall be detailed in an incident report.

G. ELECTRONIC CONTROL DEVICE (TASER)

- 1. The **ECD** is part of the Reactive Control Model (RCM) **and has the ability to** be used as a variable force option.
- 2. **ECD** use will vary, based upon the situation. It has three different force modes:
 - a. Show Force Mode – **Showing the device, laser sight, and/or arc, to include “painting” the subject with the laser.**
 - b. Drive Stun – **Close quarter deployment with or without probes.**
 - c. Standoff Mode – **Deployment of probes outside of close quarter engagement.**
- 3. Use of the **ECD/TASER**
 - a. Use of the **ECD/TASER** in a drive or standoff mode is considered equivalent to oleoresin capsicum (OC) spray on the use-of-force continuum, and decisions to use an **ECD** involve the same basic justification. As such, **personnel will:**
 - 1. **Never use the ECD** in a punitive or coercive manner.
 - 2. **Never use the ECD** on a handcuffed prisoner **unless they continue to use physical force or violence against the officer, another person or themselves which cannot be controlled by other means.**
 - 3. **Not deploy the ECD on any subject who does not communicate through words or actions the immediate intention to (1) use physical violence or force against the officer, another person, or themselves; or (2) to physically resist or oppose an officer making a lawful detention or arrest.**

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4. Be advised that a subject fleeing an officer making a lawful detention or arrest shall not be the sole justification for police use of an ECD/Taser. Severity of offense and other circumstances should be considered before an officer uses an ECD on a fleeing subject.

5. Not utilize a ECD in any environment where an officer knows that potentially flammable, volatile, or explosive material is present (including but not limited to OC spray with volatile propellant, gasoline, natural gas, drug lab flammables, or propane).

6. Not utilize a ECD in any environment where the subject's fall could reasonable result in death (such as in water or on an elevated structure).

b. A ECD/TASER will not be used on subjects who are passively resistant.

4. Authorization

Only officers who have completed an approved certification course of instruction on the use of the ECD are authorized to carry the device.

5. Holster and Securing

a. Under no circumstances will the ECD/Taser be holstered next to a firearm.

b. The ECD/Taser will be carried on the support side; also known as the weak side (while on duty).

c. ECD's will be secured in a Department issued or personal holster.

d. Officers may elect to secure the holster belt hanger adapter to the under belt or to their Sam Brown belt.

e. Holsters may be worn full or part time.

6. Usage Criteria

The ECD is considered a use of force and shall be deployed in a manner consistent with the Department's use of force policy and training guidelines.

a. As in all uses of force, certain individuals may be more susceptible to injury. Officers should be aware of the greater potential for injury as outlined in ECD training.

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- b. Upon firing the device, the officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective.
- c. The subject should be secured as soon as practical while disabled by **ECD** power to minimize the number of deployment cycles. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
- d. In standoff mode, center mass of the subject's back should be the primary targeted area where reasonably possible; in situations where a frontal deployment is inevitable the lower center mass or legs should be the targeted area.
- e. The device may also be used in certain circumstances in a "drive stun" mode. This involves removing or not removing the cartridge, based on the situation, and pressing the unit against an appropriate area of the body based on training. It is important to note that when the device is used in this manner, it is:
 - 1. Primarily a pain compliance tool.
 - 2. Minimally effective compared to conventional stand off cartridge type deployments.
 - 3. More likely to leave marks on the subject's skin.
 - 4. Subject to the same deployment (use) guidelines and restrictions as those of the **ECD** in cartridge deployments.

7. Post-Deployment of the **ECD**

- a. AFD Rescue Personnel will be called to the scene and will remove probes if necessary. AFD shall determine (per their protocol) if the person needs to be transported to a medical facility for high-risk/sensitive probe removal and/or other medical care. If it is determined that the person should be transported, transportation shall be provided as soon as possible.
- b. Supervisors will ensure that an officer accompanies the person to the medical facility.
- c. The officer will request that medical personnel conduct an examination to determine whether the individual has suffered any injury, either directly from the **ECD** discharge, or indirectly such as falling after incapacitation.
- d. Photographs will be taken as outlined in section 2-12-2 of the Procedural Orders.

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This will include photographs for the deployment of the **ECD** in a Drive Stun **or Standoff** Mode.

- e. The deploying officer shall notify his/her supervisor as soon as practical after using the device.

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8. Reporting

Procedures outlined in subsection 2-52-6 F of this section will be adhered to.

- Officers shall specifically articulate the rationale in their report for any instance in which an **ECD** is energized, **including when energized in the show force mode.**

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AUTHORIZED PERSONNEL

The following personnel are authorized to carry Less Lethal Munitions:

- A. Field Services Supervisors and officers who have been selected and trained (Bean Bag and Rubber Pellet Rounds only).
- B. SWAT team members
- C. K-9 unit members
- D. Other officers designated by the Chief of Police
- E. Officers trained and authorized to carry less than lethal munitions will be required to carry the less lethal munitions, and have them readily available should the need arise.

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SHOTGUN TRAINING/ QUALIFICATION, USE OF FORCE POLICY TRAINING

A. Lethal/less Lethal Shotguns

1. All shotguns firing less lethal munitions will be dedicated to this purpose. Designated shotguns will be marked on the stock and barrel with yellow duct tape. Once marked, these shotguns will not be loaded with any rounds other than less lethal munitions. The exception will be at the Range during practice or qualifications.
2. All officers will inspect their designated shotguns prior to each watch. Additionally, when practical, officers will check the shotgun they are using prior to deploying it.
3. Officers wishing to have an additional shotgun that can be used to fire regular 12 gauge shotgun ammunition will gain approval through their deputy chief or area commander.

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4. Each officer will receive training in the proper use and deployment of the less lethal munitions prior to their use.

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- a. Officers will receive training in the use of 12 gauge "bean bag" and rubber pellet rounds. The bean bag rounds will be carried by each authorized officer in their shotgun, and will be issued by the Firearms Range. Rubber pellet rounds will be kept in the riot kits at the substations and will be issued through the Metro Section, Tactical Team commander.
 - b. Commanders will ensure strict accountability of all munitions. Munitions will only be fired during training or during actual incidents. Unauthorized use of the munitions is forbidden.
5. To show proficiency with the shotgun and to ensure its proper mechanical operation, each officer will be required to pass the regular shotgun qualification course designated by the Department with the "less lethal shotgun." This will be in addition to the qualification with the regular shotgun.