

LANCASTER BUREAU OF POLICE
Lancaster, Pennsylvania

SUBJECT: Use of Force		NO. 499/05
EFFECTIVE DATE: June 2018	REVIEW DATE: June 2018	E Leanza klf 502
REFERENCES: – 400/04 (Less Lethal Munitions), 409/01 (CEW), 493/01 (OC Spray), 493/02 (Use of the Police Canine), 497/03 (Impact Weapons), 499/06 (Chemical Munitions) & 597/02 (Firearms)		

PURPOSE: The purpose of this directive is to set forth Department policy in the use of force. The policy will provide guidelines and instruction to law enforcement officers in the use of force. It is recognized that some individuals will not comply with the law or comply with lawful orders unless compelled to do so through the use of force. Officers are justified in the use of force, based upon what is objectively reasonable given the officers evaluation of the situation in light of the totality of the circumstances known to the officer at the time and within the limits permitted by law. United States Supreme court case **Graham v. Conner, 490 U.S. 386 (1989)** states in part that “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The Calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgements – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

POLICY: It is the policy of the Lancaster Bureau of Police that officers may only use force when it is **Objectively Reasonable, Proportional and Necessary** given the totality of the circumstances. These circumstances include but are not limited to the force necessary to effect an arrest, control an individual, lawfully detain a subject, prevent escape, or to protect themselves or others. Officers will attempt to gain the voluntary compliance of subjects when feasible and consistent with personal and public safety. Officers will use de-escalation techniques to reduce or prevent the need for force when it is safe and feasible to do so based on the totality of the circumstances. Officers will continually assess the situation, modifying the use of force as circumstances dictate and increasing or decreasing the level of force as circumstances evolve. Officers may enter or exit the use of force continuum at whichever level of force is appropriate. While no policy can anticipate every possible situation or exceptional circumstance which an officer will face, officers are expected to exercise critical decision making and sound judgement. It is the policy of the Lancaster Bureau of Police to protect and serve the community with professionalism, respect and courtesy. This policy is to be reviewed annually.

PROCEDURE: The following procedures will be followed to insure that officers use force that is Objectively Reasonable, Proportional and Necessary.

I. Definitions

The following policy terms are defined as:

- A. Objectively Reasonable – Is the legal standard used to determine the lawfulness of the force used. Using *Graham v. Conner* and from articulated facts it is the determination that the need to use force and the level of force used was objectively reasonable in light of the totality of the circumstances known to the officer at the time.
- B. Deadly force – Any force that creates a substantial risk of causing death or serious bodily injury.
- C. De-escalation – Action or communication intended to increase the likelihood of voluntary compliance and potentially resolve the situation without the need for force or with a reduced amount of force when safe and feasible.
- D. Feasible – Capable of being done or carried out to successfully achieve the desired result without increasing the risk to the officer or public.
- E. Immediate Threat – A subject is an immediate threat if the officer reasonably believes the person has the present intent, means, opportunity and ability to complete the threat regardless if the threatened action has been initiated.
- F. Vulnerable Population – Includes but are not limited to children, elderly persons, pregnant women, people with physical and mental disabilities and people with limited communication ability.
- G. Proportional – The amount of force utilized being rationally related to the severity of the offense committed, the level of resistance applied by the suspect and to the totality of the circumstances known or perceived by the officer.
- H. Necessary Force – The level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.
- I. Imminent – Black’s Law Dictionary defines imminent as, “near at hand; impending, on point of happening.”
- J. Excessive Force – Use of force greater than which a reasonable officer, in the same situation would use under the circumstances that existed and were known to the officer at the time of the incident.
- K. Resistance – Varying levels of conduct intended by a person to prevent an officer from effecting a lawful arrest or discharging any other lawful duty.

- L. Serious Bodily Injury – Is bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.
- M. Use of Force Continuum – Is the scale of force options available to an officer in response to varying degrees of resistance offered by a subject. An officer can move up or down the scale as is appropriate, necessary and reasonable. An officer may begin at whichever level of force is initially appropriate and then move up or down the use of force continuum as is objectively reasonable and necessary given the totality of the circumstances.
- N. Intervene – Come between so as to prevent or alter a result or course of events.
- O. Excited Delirium – A state of extreme mental and physiological excitement, characterized by extreme agitation (including shouting and disruptive behavior), hyperthermia, excessive watering of the eyes, hostility, paranoia or panic, inappropriate nudity, exceptional strength and endurance without fatigue.
- P. OIC – Officer in Charge

II. Use of Force

- A. It is the guiding value of the Lancaster Bureau of Police to act with the highest regard for the preservation of human life and the safety of the community.
- B. Officers may only use force that is objectively reasonable, necessary and proportional for a lawful purpose which includes but is not limited to effecting a lawful arrest, overcoming resistance or preventing escape, in defense of others or in self-defense, to gain compliance with a lawful order, or to ensure the safety of the public.

III. Use of Deadly Force

Officers are authorized to use deadly force to:

- A. Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury.
- B. Prevent a crime where the suspect's actions place people in imminent jeopardy of death or serious bodily injury.
- C. Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practicable, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

IV. De-Escalation

- A. When safe and feasible to do so given the totality of the circumstances officers shall attempt to take action to prevent or decrease the need to use force during an incident and to increase the likelihood of voluntary compliance.

Such techniques include but are not limited to:

1. Persuasion, advice and provide a warning prior to using force.
2. Establishing a rapport and engaging in communication with the subject.
3. Evaluating whether the use of time, distance and positioning to create a buffer zone or create a reactionary gap will stabilize the situation.
4. When appropriate request additional resources.

V. Duty to Intervene

- A. When in a position to do so, officers shall intervene when they know or have reason to know that another officer is about to use or is using unnecessary force. Officers shall promptly report any use of unnecessary force, and the efforts made to intervene, to a supervisor.

VI. Factors Used to Evaluate The Use of Force

These factors include but are not limited to:

- A. The severity of the crime at issue
- B. The immediate level of threat the subject poses to the officer or the community
- C. The potential of injury to citizens, officers and subjects
- D. The level of resistance the subject is offering
- E. Whether the subject is armed and his proximity to weapons
- F. Whether the subject is attempting to evade arrest, and if the subject's escape poses a threat to community.
- G. The conduct of the subject as objectively and reasonably perceived by the officer at the time.
- H. Number of subjects in comparison to the number of officers
- I. Subjects history, if known
- J. Presence of hostile crowd or agitators
- K. Injury or exhaustion of officer

- L. Weather or terrain conditions
- M. Influence of drugs or alcohol
- N. Officer/subject size and gender
- O. Exigent circumstances

VII. Authorized Weapons

- A. Hands, feet and body.
- B. Oleoresin Capsicum (OC) Spray and Chemical Munitions (See Policies 493/01 & 499/06)
- C. Conducted Electronic Weapon (CEW) (See Policy 409/01)
- D. Impact Weapons (See Policies 497/03 & 400/04)
- E. Firearms (See Policy 597/02)
- F. All the above will be utilized in accordance with all state and federal laws as well as Bureau policy and training

VIII. Firing at or From a Moving Motor Vehicle

Officers shall not discharge their weapon except in instances where the officer's life or life of others is in immediate peril and there is no other reasonable or apparent means of avoiding the threat.

IX. Levels of Resistance

- A. Psychological Intimidation – Nonverbal cues indicating the subject's attitude, appearance and physical readiness
- B. Verbal Noncompliance – Verbal responses indicating unwillingness or threats
- C. Passive Resistance – Physical actions that do not prevent officers attempt to control (e.g. Sit In)
- D. Defensive Resistance – Physical actions that attempt to prevent the officer's exercise of control.
- E. Active Aggression – Physical actions of assault
- F. Deadly Force Assault – Deadly force encounters

X. Levels of Control

- A. Officer Presence – Identification of authority
- B. Verbal Direction – Commands of direction or arrest
- C. Soft Empty Hand Control – Techniques that have a minimal probability of injury
- D. Hard Empty Hand Control – Techniques that have a high probability of injury
- E. Intermediate Weapons – Impact weapon strike
- F. Deadly Force – Deadly force actions

XI. Reporting Use of Force

A “Use of Force Report” will be submitted by the officer using force under the following circumstances:

- A. Anytime a person has been physically struck by an officer
- B. Anytime a chemical agent is used against a person
- C. Anytime a CEW is used against a person, including an unintentional discharge
- D. Anytime an impact weapon is used against a person
- E. Anytime a firearm is pointed in the direction of a person
- F. Anytime a firearm is discharged, intentionally or unintentionally, during a use of force situation
- G. Anytime a canine bites a person even if no injury results
- H. Anytime there is bleeding or other visible injury to a person resulting from the use of force
- I. Anytime a person complains of force being used against them by an officer
- J. Anytime a person requires or requests medical treatment for an injury they allege is the result of force used against them by an officer
- K. Anytime an officer is directed by a supervisor to submit a report

XII. Use of Force Report Procedure

BlueTeam – Use of Force Procedure

DEFINITIONS

- A. Officer – Any Police Officer, Detective, or Ranking Officer that uses reportable force per Lancaster Bureau of Police, policy.
- B. Officer-In-Charge (OIC) – Any supervisor reviewing a Use of Force (UOF) report for content, grammatical errors and obvious conflicts with other use of force and/or CODY reports.
- C. Appropriate Division Captain – The currently assigned Division Captain of the officer who completed the use of force report.
- D. TASER-Conducted Electrical Weapon Report – A digital PDF file that is created when an authorized person logs in to Evidence.com and downloads data from a TASER-CEW X26P
- E. Use of Force Cadre – A panel of instructors that reviews use of force actions for compliance with department policies and training standards
- F. Approval Chain – Use of Force Reporting Officer,
 - 1. Officer-in-Charge – OIC
 - 2. Use of Force Cadre. UOF Cadre
 - 3. Appropriate Division Captain
 - 4. Chief of Police,
 - 5. Professional Standards.

PROCEDURE

- A. STAGE 1 – The Officer completes the Use of Force Report and submits the report to the Officer-in-Charge (OIC), upon approval the Officer-in-Charge (OIC) shall Forward the report to the Use of Force Cadre.
 - 1. When an Officer uses reportable force he will complete the use of force report. After the Officer completes the use of force report in the BlueTeam program, the officer shall Forward the report to the Officer-in-Charge (OIC). The Officer-in-Charge shall review the use of force report for completeness, grammatical errors and compliance with department policy, training and standards. The Officer-in-Charge will also review the use of force report for conflicts with other use of force reports and CODY reports. The Officer- in-charge will make certain that all appropriate documentation (i.e. TASER-CEW report) is attached to any Use of Force report prior to approving and Forwarding via BlueTeam. If there are no corrections or issues to be addressed, the Officer-in-Charge will Forward the use of force report to the use of force cadre within BlueTeam.

2. Should a use of force report need correction, the Officer-in-Charge shall notify the officer through BlueTeam messaging. The Officer-in-Charge will Forward a non-specific message, such as “See returned hard copy for corrections” to the officer. The Officer-in-Charge will then print a hard copy of the use of force report and provide guidance in person, or via notes on the printed hard copy, to the officer. The officer will make corrections in BlueTeam and re-send (Forward) the use of force report to their Officer-in-Charge. The Officer in Charge will re-check the use of force report, and if approved, Forward to the Use of Force Cadre for additional review.
- B. STAGE 2 – The Use of Force Cadre reviews the report and upon approval shall Forward the report to the appropriate Division Captain. Upon approval, the Division Captain shall Forward the report to the Chief of Police for review.
 - C. STAGE 3 – The Chief of Police will review the Use of Force report. Upon approval, the Chief of Police shall Forward the report to the Office of Professional Standards.
 - D. STAGE 4 – Professional Standards will review the completed use of force report. Once reviewed, Professional Standard will enter the report into the IAPro (Internal Affairs Professional Standards) software database.
 - E. UOF Reports will go up the “Approval chain” for approval, and come back down the “Approval chain” for corrections, this way there is 100% accountability at all levels of supervision for each use of force report.

XIII. Failure to Act

- A. Officers are restricted to using only that force that is necessary and reasonable, but officers will not avoid using force, including deadly force, if failure to do so unnecessarily permits the defeat of arrest or other law enforcement, or endangers the safety of themselves or others.

XIV. Training

- A. The Policy Manager/ Training Coordinator along with the Training supervisor will annually review and evaluate this policy in order to update and revise the policy as necessary.
- B. All officers will receive regular and periodic training. This training will include instruction in the use of the assigned equipment listed in this policy. Officers will also be trained in the provisions of the policy and any updates or revisions. This will be the responsibility of the Training Supervisor and the Policy Manager/Training Coordinator.
- C. It will be the responsibility of the Training Supervisor to record and preserve the training records. The training will comply with all state and federal laws, regulations and Bureau policy.

“This online policy or procedure is the only accurate/official policy or procedure.” All copies of this policy or procedure or other drafts of this policy and procedure are not officially recognized.

NOTICE:

This directive is for Police Bureau use only and does not apply in any criminal or civil proceeding. This Police Bureau policy should not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this policy will only form the basis for Police Bureau administrative sanctions.

A definitive policy to cover all eventualities cannot be created. This policy and procedure is meant to serve as a guide to personnel in matters not specifically covered herein.

By Order of: Jarrad P. Berkihsier
Jarrad P. Berkihsier
Chief of Police