

	SUBJECT: <h2 style="text-align: center;">USE OF FORCE</h2>		DIRECTIVE NUMBER: <h2 style="text-align: center;">10</h2>	
	CALEA/IACLEA STANDARDS: 1.3.1, 1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.10, 1.3.11, 1.3.12 PLEAC STANDARDS: 1.3.1, 1.3.2, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.9, 1.3.10		PAGE 1 OF 10	
BY ORDER OF: Pete Anders Chief of Police	EFFECTIVE DATE: Jan 19, 2018	ANNUAL REVIEW DATE: Jan 19, 2019	RESCINDS: Prior Manual/ Directive	REVISED:

I. PURPOSE

The purpose of this directive is to provide police officers with general guidelines on the use of lethal and less-lethal force. It shall serve as a general guideline, which under unusual circumstances may warrant departure from in order to respond accordingly, in accordance with the best law enforcement standards. This policy should not be construed as a creation of a higher level of standard or safety or care than is otherwise created through federal and state statute/law.

II. POLICY

The Millersville University Police Department recognizes and respects the value of human life. In vesting police officers with the lawful authority to utilize force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of the MUPD that officers shall use only that force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of the officer(s) and/or others placed in harm's way. Police Officers are responsible for the review and knowledge of Pennsylvania law on the authority for the use of force as contained in Pa.C.S.A, Title 18, Chapter 5, "General Principles of Justification." Specifically, police officers are governed under sections 505, 506, 507, and 508, and shall only utilize deadly force when necessary and justified to effect lawful objectives in conformance to the provisions of the Pennsylvania Crimes Code, other Pennsylvania statutory provisions, and Pennsylvania and Federal Court decisions.

III. SCOPE

This directive shall affect all sworn police officers, and security officers who are authorized to carry OC Aerosol Restraint Spray, collapsible batons or firearms.

IV. DEFINITIONS

- A. **CONTROL**: The method(s) an officer uses to neutralize the unlawful actions of a subject, or to protect the subject from injuring himself or others.
- B. **DEADLY FORCE**: Force, which under the circumstances in which it is used, is likely to result in death or serious physical injury.
- C. **FORCIBLE FELONY**: A felony involving actual or threatened serious physical injury. The following crimes are forcible felonies:

- (1) Murder

- (2) Rape
- (3) Robbery
- (4) Aggravated Assault
- (5) Kidnapping
- (6) Arson

- D. **LAST RESORT**: Last resort situations are those wherein certain immediate and drastic measures must be undertaken by an officer in order to protect human life. Force used in these situations may involve the use of techniques or weapons not covered by policy. However, they remain to be measured by “reasonable” and “necessary” use of force standards.
- A. **LESS-LETHAL WEAPON**: Any weapon, other than a lethal weapon, used to control persons or defend an officer or persons from harm. The department authorizes the use of the following Less-Lethal Weapons: Oleoresin Capsicum (OC) Aerosol Restraint Spray, and Collapsible Batons.
- B. **LETHAL WEAPON**: Any weapon, item, or implement considered by the courts to be deadly. An example of a lethal weapon is a firearm.
- C. **NON-DEADLY FORCE**: That amount of force that is not intended to or not likely to result in death or serious physical injury.
- D. **PHYSICAL FORCE**: The overcoming of resistance by the exertion of physical strength or power.
- E. **REASONABLE BELIEF**: When the facts or circumstances the officer knows, or should know, are such to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- F. **RESISTANCE**: Is defined as the subject’s attempt to evade an officer’s attempts to establish control.
- G. **SERIOUS PHYSICAL INJURY**: A physical injury that creates a substantial risk of death, or causes serious, permanent disfigurement, or results in long-term loss or impairment of any bodily member or organ.
- H. **USE OF FORCE**: Use of force is the amount of effort required by police to compel compliance from a person. This includes any use of force occurring while the member is acting in an official law enforcement capacity, while on or off duty. The force used must be objectively reasonable based on the facts and circumstances confronting the officer(s) and judged from the perspective of a reasonable officer on the scene. The force used shall be employed in accordance with the training that has been received by the officer and in accordance with all written directives regarding the Use of Force.
- I. **PARAMETERS FOR USE OF LETHAL FORCE**: Officers shall only utilize lethal force when necessary and justified to affect lawful objectives in conformance with the provisions of the Pa. Crimes Code, other statutory provision, and Pa. and Federal Court decisions. Lethal Force is justified when it is reasonably believed that such force is necessary to prevent death or serious bodily injury to himself or another person.
- J. **PARAMETERS FOR THE USE OF LESS-LETHAL FORCE**: All officers are responsible for the review and knowledge of Pa. Statute Title 18, Chapter 5 General

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Principles of Justification. Specifically, officers are governed by 505, Use of Force in Self-Protection, 506 Use of Force for Protection of Other Persons; 507 Use of Force for the Protection of Property; and 508 Use of Force in Law Enforcement.

- When effecting an arrest, members need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to arrest. Officers are justified in the use of any force objectively reasonable to affect the arrest, and any force objectively reasonable to defend themselves or another from bodily harm while making the arrest.
- When the use of force is objectively reasonable, the degree of force that is employed should be in direct proportion to the amount of resistance employed by the person or the immediate threat the person poses to the officer or others.
- The force continuum illustrates the variety of options that may be available to an officer when presented with a given level of subject resistance.
- The Theory utilized is the “one plus” theory, which generally provides that an officer may utilize a force option, with the exception of lethal force, one level higher than the resistance demonstrated by the actor. Lethal force is authorized as directed pursuant to this policy.
- The officer’s assessment of the current threat level may justify rapid acceleration through the levels of force continuum, and might even dictate a need to skip certain levels. Officers need not feel compelled to dispel one level on the continuum before moving to a higher level, as the situation may dictate. Nor are officers required to use the least intrusive degree of force possible, but are required to use reasonable force.
- Officers shall receive training in, and demonstrate proficiency with, all weapons that they are authorized to use. Officers initially unable to exhibit proficiency with an authorized weapon will receive individual remedial training until they become proficient.

K. **USE OF FORCE CONTINUUM:** The use of force continuum is a logical progression of force that, whenever possible, should be progressive in nature.

- When the use of force is reasonable and necessary, officers should, to the extent possible, use an escalating scale of options and not employ more forceful means unless it is determined that a lower level of force would not be, or has not been, adequate.
- It is not the intent of this policy to require officers to try each of the options before moving to the next, as long as the level of force used is reasonable under the circumstances.

L. **LEVELS OF RESISTANCE (SUBJECT’S ACTIONS):**

1. **Psychological Intimidation:** Non-verbal cues indicating a subject’s unwillingness to comply with control through apparent resistive attitude, appearance, and physical readiness to resist.
2. **Verbal Non-Compliance:** Verbal cues indicating a subject’s unwillingness to comply with control through resistive statements, threatening statements, or other “fighting words”.
3. **Passive Resistance:** Is a civil disobedience technique where an actor offers resistance in the form of non-compliance or inaction that hinders or prevents an officer’s attempt at control.

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4. **Defensive Resistance**: Includes actions that attempt to prevent an officer from taking control of an actor, such as evasive actions, tensing of muscles, pulling away, bracing, grasping an object, etc... The actor's action never rises to the level of being assaultive towards the officer but his never-the-less is resistive, sometimes requiring substantial force to overcome. For the purpose of this policy defensive resistant behavior includes "active resistance" behavior and the difference is more a matter of terminology than actions.
5. **Active Aggression**: Assaultive behavior by the subject with personal or other weapons not perceived to be lethal. It includes the verbal threats of imminent assault or associated body language consistent with the substantial step towards that assault.
6. **Lethal Force**: Involves actions where the actor is assaulting or threatening an imminent assault to the officer or someone else; with a weapon, techniques or object that is likely to cause death or serious bodily injury.

**N. LEVELS OF CONTROL (OFFICER'S RESPONSE): (PLEAC 1.3.1, 1.3.4)
1.3.10(a)**

1. **Officer Presence**: Identification of authority. The control manifested by the presence of an officer, whether uniformed or not, on the scene.
2. **Verbal Control**: The control manifested by the officer's use of spoken commands and directions. Officer should make every effort to gain voluntary compliance, in the form of advice, persuasion, admonitions, and/or orders.
3. **Soft Empty Hand Control**: The use of empty hand techniques that is unlikely to result in physical injury. Examples include control holds and pressure point touch pressure. The use of neck restraints or similar weaponless control techniques (choke holds) is prohibited. **(PLEAC 1.3.10)(f)**
4. **Soft Intermediate Weapon Control**: The use of an implement to affect control, in a manner that is unlikely to result in physical injury. Examples include handcuffs and aerosol restraint spray (Less Lethal Weapon).
5. **Hard Empty Hand Control**: The use of empty hand techniques that have an increased likelihood of resulting in physical injury. Examples include punches, strikes and kicks.
6. **Hard Intermediate Weapon Control**: The use of an implement to affect control, in a manner that manifests an increased likelihood of physical injury. Example: the use of a collapsible baton.
7. **Deadly Force**: The use of an implement or technique in a manner that is reasonably likely to result in death or serious bodily harm. Examples include firearms, motor vehicles, and impact weapon strikes to the head or throat.

V. REPORTING THE USE OF FORCE: (PLEAC 1.3.6)(a)(c)

1. In addition to required arrest and incident reports, all officers involved in, or alleged to have been involved in, any incident requiring the use of force above the use of Verbal Control, shall report to their supervisor the use of any of the following:

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- a. Firearms
- b. OC Aerosol Restraint Spray
- d. Collapsible baton
- e. Other implements or objects used to apply force in a Last Resort situation
- f. NOTE: Handcuffing of a compliant individual does not require such report.
- g. Any use of force in which the individual/actor makes verbal complaint of injury to the officer.
- h. Any use of force in which the officer is assaulted and/or injured

- 2. The reports must articulate, at minimum, a description of the incident, the reason for the use of force, the officer(s) involved, type and amount of force utilized, where the device struck the actor if applicable, response of the actor, obvious injuries, as well as circumstances surrounding medical treatment.
- 3. Supervisors shall review the use of force and forward on to the Chief of police a copy of such report along with any applicable comments that include any suspicions that the force utilized may have been excessive. Supervisors should photograph any reported injury of either an individual/actor or officer involved in a use of force incident. At that point any indications that force was excessive shall be investigated by the department's criminal investigator, or the Pa. State Police as determined by the Chief of Police.
- 4. Any time a weapon is brandished, the Chief or Dep. Chief shall be notified. (Notifications are made as soon as possible after the incident. The Chief or Dep. Chief will then make the appropriate university notifications.)

VI. AUTHORIZED USE OF DEADLY FORCE (PLEAC 1.3.2)(1.3.10)(a)

- 1. Deadly force refers to any physical force – not only firearms – that under the circumstances is readily capable of causing death or serious physical injury. An officer may use deadly force only when the officer reasonably believes that the action is:
 - a. In defense of human life, including the officer's life; or
 - b. In defense of any person in immediate danger of serious physical injury; or
 - c. In the apprehension of a fleeing felon only where in defense of human life, including the officer's, or in defense of any person in immediate danger of serious physical injury; or
 - d. To euthanize a dangerous animal or one that is so badly injured that humanity dictates an end from further suffering.
 - e. If available, a local Animal Control Officer should be requested to respond to determine if the animal can be saved or should be euthanized in a safe manner (Protected or Endangered Species or Pet) If the officer must destroy an animal, it shall be at the direction of a supervisor with notice to Chief or Dep. Chief if there is not imminent danger to persons in the area.
- 2. **Equipment (PLEAC 1.3.9)**
Officers may be required to utilize any or all department issued weapons or weapons which have been approved in writing by the Chief/ Dep. Chief. In all circumstances, officers may only use weapons for which they have been trained and are currently qualified with.
 - 1. Whenever any of the conditions described above are present, where feasible, officers shall identify themselves and provide a verbal warning before the force is applied *when feasible* – i.e., when to do so would not significantly increase the danger to the officer or others.

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3. USE OF DEADLY FORCE PROHIBITED

- a. Shooting from a moving vehicle is strictly prohibited.
- b. Under NO circumstances will MUPD officers fire “warning shots”. (PLEAC 1.3.3)

4. USE OF OLEORESIN CAPSICUM (OC) (PLEAC 1.3.4)

- a. The Millersville University Police Department (MUPD) issues OC Aerosol Restraint Spray to provide police officers and other authorized members of the department with additional control options within the use of force continuum. It is MUPD policy that those members authorized to carry and use OC ARS shall deploy it only when authorized, and in accordance with the guidelines and procedures set forth here and in the OC Policy
- b. Unless otherwise authorized by the OC instructor and the Chief of Police, the OC ARS approved for use by MUPD personnel is Defense Technology Aerosol Spray, 10% concentration
- c. OC is a force option following officer presence and verbal direction, and can be deployed before Hard Empty Hand Control on the use-of-force continuum
- d. All MUPD officers MUST be trained and certified by an OC instructor prior to carrying OC on duty (PLEAC 1.3.10)(c)

5. USE OF COLLAPSIBLE BATON (PLEAC 1.3.4)

- a. Prior to carrying the collapsible baton, MUPD officers must be commissioned and have been trained in PA Act 120 academy or approved training course for the collapsible baton. (PLEAC 1.3.10)(c)
- b. MUPD officers will utilize only department approved/authorized police collapsible batons
- c. Officers should avoid striking any person on or about the head with the collapsible baton, except as necessary as a last resort for defense of any person
- d. The collapsible baton will NOT be used for:
 - i. The intentional striking of any person who is under control by an officer
 - ii. To perform a “choke hold” capable of interfering with or terminating the breathing of another person, except as a last resort to defend oneself from death or serious physical injury
- e. When an officer draws the collapsible baton from its holster/carrier, extends the baton, and utilizes it in defense of him/herself or in defense of another, or utilizes the baton as a means of physical restraint or control, the officer shall submit a Subject Resistance Report (MUPD-18) to the Shift Supervisor as soon as circumstances permit.

6. MOTOR VEHICLES AS FORCE

- a. Officers must be aware, and acknowledge, that in many instances the motor vehicle can be viewed as an instrument of force. Intentional collisions, partial or complete roadblocks, the use of spike strips or sharp instruments, or other similar methods, techniques, or actions have been ruled to be the use of force. The use of these methods, techniques or actions has a high probability of causing death or serious physical injury.
- b. Therefore, MUPD officers are prohibited from using these methods, except as a “Last Resort” under extreme circumstances. Spike strips should only be used upon the approval of a working supervisor or lead officer and will require immediate notice to the Dep. Chief or Chief following use.

7. RENDERING MEDICAL AID (PLEAC 1.3.5)(1.3.6)(b)

- a. Officers using force on a subject(s) shall:

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- i. Immediately assess the subject's injuries as soon as the scene has been determined safe
- ii. Request an emergency medical response for a subject(s) who has serious injuries or potentially fatal injuries
- iii. Request that a Shift Supervisor be dispatched to the scene

b. Officers using force on a subject shall ensure that the subject(s) is transported to a medical facility by ambulance, if necessary, prior to being taken to any investigatory or detention facility when:

- i. The subject requests medical treatment
- ii. The subject complains of injury or continued pain
- iii. Any officer observes or suspects injury to the subject
- iv. The subject is exposed to Oleoresin Capsicum (OC), Collapsible Baton, or
- v. Directed by a superior officer

c. Officers who have requested the transport of a subject to a medical facility shall:

- i. Prior to removing the subject from the medical facility, receive authorization (written if possible) from the attending physician to do so;
- ii. Notify the on-duty Shift Supervisor of the injuries sustained as a result of the incident; and
- iii. Document same, along with the nature of the injury or complaint of injury, in the Incident Report and **Subject Resistance Report (MUPD-18)**.
(PLEAC 1.3.6)(b)

d. If the subject(s) refuses medical treatment, note the refusal in the Incident Report.

e. Shift Supervisors will ensure that two (2) officers not directly involved in the Use of Force incident guard the prisoner that is admitted to, or is being treated at, a medical facility, if manpower allows.

9. INVESTIGATING THE USE OF FORCE (PLEAC 1.3.7)

a. The investigation of the discharge of a firearm by a MUPD officer shall be conducted and directed as follows:

- i. If the discharge of a firearm occurs on-duty and results in the death or serious bodily injury of any person, the investigation shall be conducted by the agency designated by the Chief of Police. This policy will conform to the Lancaster County District Attorney's Office Policy on officer involved shootings toward investigation and supervision at scene. The Police Chief will provide current DA's office protocol to all officers.
- ii. If an unintentional discharge of a firearm occurs on-duty, or when used for the destruction of an injured or dangerous animal, the investigation shall be conducted by the Police Supervisor who responds to the scene, or as otherwise directed by the Chief of Police.

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iii In the event of the discharge of a firearm by a MUPD officer, the firearm will likely be secured by a supervisor or investigating officer related to the discharge. The officer will be provided with a secondary firearm when on duty as defined with the DA's protocol.

- b. Any officer whose actions result in the death of or serious physical injury to a person shall be temporarily re-assigned to other non-patrol/non-enforcement duties. The Chief of Police shall be responsible for determining the nature of such reassignment, and the determination as to when the involved officer is returned to his previous regular duties/assignment.

10. MANDATORY REFERRAL (PLEAC 1.3.7)

- a. Every officer who is directly involved in an on-duty use of force incident resulting in death or serious physical injury to a person will be referred for counseling to a mental health professional.
- b. Such counseling is intended to assist in the prevention of any adverse emotional effect resulting from the officer's experience. Consequently, such counseling is made mandatory to ensure that the officer receives some form of timely assistance.
- c. The Employee Assistance Program would provide a list of providers for the officer to select a mental health professional qualified to meet the perceived need.
- d. The Shift Supervisor assigned to the investigation of the use of force incident shall ensure that the involved officer is provided contact information prior to the officer checking off duty on the day of the incident.
 - i. If the officer's emotional state immediately after the incident raises a concern, the Shift Supervisor shall contact the on-call professional from the university's State Employee Assistance Program, and provide a private location for the officer to communicate with a mental health expert.
 - ii. The Shift Supervisor shall provide the officer with the phone number of and strongly recommend that the officer contact the university's state employee assistance program – SEAP – as soon as possible.
- e. The officer's work schedule may be altered on a day-to-day basis at the officer's request to attend any non-mandatory support activities or counseling sessions arranged by/through SEAP, so that the officer may attend during the officer's duty time, if practical.

Sources:

Anders
MUPD
WMS
RFD
ELH
US DOJ
UPenn PD Dir. #1
Geo. Mason Univ. Police, G.O. #01A
UMd PD G.O. #2.0800
Cmupd G.O. #1.3

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