

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify in advance the exact amount or type of reasonable force to be applied in any situation, every member of this Department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include (UAC R728-507-3):

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Force** - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The DepartmentOffice recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests (UAC R728-507-5).

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#### 300.2.1 DUTY TO INTERCEDE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force (UAC R728-507-10).

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible (UAC R728-507-10).

#### 300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (UAC R728-507-10).

### **300.3 USE OF FORCE**

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (UAC R728-507-5).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident (UAC R728-507-5).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose (UAC R728-507-5).

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force (UAC R728-507-5).

#### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force to effect arrest, to prevent escape, or to overcome resistance. An officer who makes or attempts to make an arrest need not retreat or desist from the officer's efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose the officer's right to self-defense by the use of

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reasonable force to effect the arrest or to prevent escape or to overcome resistance (Utah Code 77-7-7; UAC R728-507-5).

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to (UAC R728-507-5; UAC R728-507-7):

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and the individual's ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed departmentoffice-approved training (UAC R728-507-7). Officers utilizing any pain compliance technique should consider:

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- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved (UAC R728-507-7).

#### 300.3.4 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following (UAC R728-507-7):

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had the carotid control hold applied, regardless of whether the individual was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

#### 300.3.5 USE OF FORCE TO SEIZE EVIDENCE

When faced with a subject ingesting possible drugs or other physical evidence, officer(s) will not use physical force to remove the contraband. If a subject is suspected of placing anything in his/her mouth, the officer(s) should request the subject voluntarily remove the article and:

- (a) In cases when the subject is under arrest for other violations and refuses to eject the materials from his/her mouth, or has swallowed the material, medical personnel will be requested to evaluate the subject. The subject should be transported to the hospital for evaluation by a doctor prior to jail booking.
- (b) In cases when a subject is not under arrest, medical personnel will be requested to evaluate the subject. Every effort should be made to convince the subject to seek medical treatment if he/she has swallowed a substance. If he/she refuses medical treatment and

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there is no indication of physical distress, the subject should be released and a report written documenting the incident and the medical refusal.

This policy in no way prevents officers from using life-saving techniques in cases where the subject is choking and unable to breathe.

#### 300.3.6 PROHIBITIONS

A. The use of excessive force, unwarranted physical force, or unlawful force by officers is prohibited and will not be tolerated.

B. Officers are prohibited from using force based on bias or any other protected characteristic as outlined in the Bias-Based Policing policy.

C. Force used as punishment or retaliation (e.g., force used to punish or retaliate for fleeing, resisting arrest, or insulting a Department member) is prohibited.

D. Force used in response to a person's lawful exercise of First Amendment rights (e.g., protected speech, lawful demonstrations, observing or filming police activity, or criticizing a Department member or conduct) is prohibited.

NOTE: First Amendment rights are not absolute and are subject to reasonable time, place, manner restriction. Further guidance may be found in the the First Amendment Assemblies policy.

#### 300.3.7 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion) (UAC R728-507-5).

#### 300.3.8 DEFENSIVE TACTICS

Officers who have successfully completed departmentoffice-approved training may apply defensive tactic techniques, including but not limited to focused strikes that involve the use of empty-hand techniques and contact control measures (UAC R728-507-8).

### **300.4 RESISTANCE AND CONTROL**

Force situations are dynamic and require an officer to continually assess the subject's actions to ensure a proper response. Officers will transition to differing degrees or types of force as appropriate.

#### LEVELS OF RESISTANCE

A. Cooperative - The subject responds appropriately to the officer's presence and instructions as well as to the way the officer has taken control of the situation.

B. Passive Resistance - The subject, with little or no overt physical actions, refuses to obey the officer's instruction. This behavior can be exercised by verbal objection as well as by intentional physical inertia.

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C. Active Resistance - The subject physically resists or physically displays their refusal to comply with the officer's order(s) without being assaultive. For example, the subject may abruptly step aside to avoid/escape the officer; he or she may overtly walk toward the officer, or on the contrary away from them. To run away is another example of active resistance.

D. Assaultive - The subject attempts or threatens, by an act or gesture, to use force, or uses force against someone else, or leads the officer on reasonable grounds to believe that he or she has the ability to carry out their intentions. For example, the subject may kick or punch, or display threatening body language showing the intention to do so.

E. Serious Bodily Injury or Death - The subject's behavior leads an officer to believe on reasonable grounds that he or she has the intention to, or is at imminent risk of, causing serious bodily injury or death to the officer or another person. For example, the subject may commit an assault with a weapon such as a knife, a bat, or a firearm, or may act in a manner likely to cause serious injuries to an officer or another person, or may state that they intend to hurt an officer or another person.

#### USE OF FORCE OPTIONS

A. Officer's Presence - As much as it is not representative of a use of force option, the mere presence of an officer can have effect on, or influence over, the subject and the situation at hand. Visible signs of authority such as an officer in uniform or a marked police vehicle can have an influence on a subject, or cause them to modify their behavior.

B. Communication - An officer can use both verbal and non-verbal communication to take control of a situation.

#### C. Physical Control

1. Soft Techniques - Used to contain subject behaviors and are less likely to cause injury. These include immobilization techniques such as escort techniques, articulation control, and pressure points.

2. Hard Techniques - Used with the intention of preventing the continuation of a behavior, to allow the application of a control technique, and they present a higher risk of injury. These can include bare hand techniques such as punches, kicks or grounding.

D. Intermediate Weapons - This use of force option entails the use of all weapons available to an officer that are not designed, nor of a nature, to cause serious bodily injury or death to the subject. This category specifically includes impact weapons, aerosols, and conductive energy devices.

E. Lethal Weapons - This use of force option includes the use of all weapons and techniques designed, or of a nature, to inflict serious bodily injury or death.

Officers have the ability to impact the direction and the outcome of many situations they handle. In their interaction with subjects, officers should use advisement, warning, and verbal persuasion when practicable and reasonable. However, a person need not strike or attempt to strike an officer

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to be considered a physical threat as long as an officer has an objectively reasonable belief that the person is physically threatening and has the present ability to harm the officer or another. The Department relies on the officer's judgment and discretion to employ objectively reasonable force under each unique circumstance.

#### 300.4.1 USE OF FORCE MODEL

The attachment below is the Use of Force Model utilized by this Department. The Level of Resistance being displayed by an offender determines the Use of Force Options authorized for use by an officer. The fact that there is more than one Use of Force Option available for a given Level of Resistance does not imply that each available option must be followed in a tiered order. While each option that is available should be considered, when practicable, a subject's actions and the situation's circumstances may dictate an officer's immediate use of the highest option authorized for a given Level of Resistance.

[See attachment: MCPD Use of Force Model 1120.jpg](#)

#### **300.5 DEADLY FORCE APPLICATIONS**

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify the officer as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (UAC R728-507-6).

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk (Utah Code 76-2-404; UAC R728-507-6):

- (a) An officer may use deadly force to protect the officer or an individual other than the suspect from what the officer reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to an individual other than the suspect if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the suspect has a weapon or is attempting to access one and intends to use it against the officer or an individual other than the suspect. An imminent danger may also exist if the suspect is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

#### 300.5.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, such as the hazard of an uncontrolled vehicle, and are rarely effective (UAC R728-507-6).

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When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants (UAC R728-507-6).

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (UAC R728-507-6).

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle (UAC R728-507-6).

#### **300.5.2 SHOOTING FROM A MOVING VEHICLE**

Officers must not discharge a firearm from a moving vehicle unless a person is immediately threatening the officer or another person with deadly force.

#### **300.5.3 WARNING SHOTS**

Warning shots are prohibited.

### **300.6 REPORTING THE USE OF FORCE**

Any use of force by a member of this department office shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why the officer believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department Office may require the completion of additional report forms, as specified in department policy, procedure, or law (UAC R728-507-7). See the Report Preparation Policy for additional circumstances that may require documentation.

#### **300.6.1 NOTIFICATION TO SUPERVISORS**

An officer using force must make supervisory notification as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The individual subjected to the force complained of injury or continuing pain.
- (c) The individual subjected to the force indicates intent to pursue litigation.
- (d) Any application of the TASER® device or control device.
- (e) Any application of OC spray.
- (f) Any application of a baton.
- (g) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (h) The individual subjected to the force was rendered unconscious.
- (i) An individual was struck or kicked.

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- (j) An individual alleges unreasonable force was used or that any of the above has occurred.

### 300.6.2 REPORTING THE THREAT OF FORCE

When an officer points a firearm at an individual, the officer shall report the incident in accordance with Utah Code 53-13-116 and UAC R728-507-12.

Reports shall be submitted within 48 hours of the incident and should include at a minimum (Utah Code 53-13-116; UAC R728-507-12):

- (a) A description of the incident.
- (b) The identification of the individuals involved in the incident.

### 300.7 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious (UAC R728-507-7; UAC R728-507-11). Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel (UAC R728-507-11). If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away (UAC R728-507-11).

See the Medical Aid and Response Policy for additional guidelines.

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#### **300.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to (UAC R728-507-12):

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived the individual's *Miranda* rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
  1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate (UAC R728-507-10).

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### **300.9 TRAINING**

Officers must receive annual training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on:

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- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.
- (c) Implicit-bias.

#### **300.10 USE OF FORCE ANALYSIS**

Annually, the Assistant Chief of Police will prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

## Attachments

## **MCPD Use of Force Model 1120.jpg**

